

# MAHARASHTRA METRO RAIL CORPORATION LTD.

(NAGPUR METRO RAIL PROJECT)

## Volume II - Draft License Agreement

For

Operate, Maintain and Transfer of the Convention Hall located at  
Airport-South Metro Station of Nagpur Metro Rail Project for a  
License Period of 03 Years

Tender No: N1PD-77/2023



August – 2023

MAHARASHTRA METRO RAIL CORPORATION LTD.

“Metro Bhavan”,

VIP Road, Near Dikshabhoomi, Ramdaspath, Nagpur-440010

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

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**DRAFT 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, 2013, having its registered office at “Metro Bhavan”, VIP Road, Near Dikshabhoomi, Ramdaspath, Nagpur-440010 (hereinafter referred to as “Maha-Metro”), 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/Society/Trust incorporated/registered under the provisions of the ..... Act, ..... bearing registration Number ..... and 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 permitted assigns and substitutes) of the Other Part.

**WHEREAS:**

- (A) Maha-Metro, with a view to augment its revenues through non-operating measures/earnings, had invited open bids (by its Tender No. N1PD-77/2023 Dated: / /2023 (the “Request for Proposal” or “RFP”)) from the interested parties for “Operate, Maintain and Transfer of the Convention Hall located at Airport-South Metro Station of Nagpur Metro Rail Project for a License Period of 03 Years” (hereinafter to be referred to as the ‘Project’). After considering the offers, Maha-Metro has selected M/s. \_\_\_\_\_ as “Licensee” for assigning Operation and Maintenance rights of the Convention Hall at Airport South Metro Station and other project area as given in ‘**Annexure – 1 : Details of Project Area and Site Plan**’, hereinafter called “**Project Area**”, on “**as is where is basis**”.
- (B) Maha-Metro has agreed to provide to the Licensee, the Licensing Rights to ‘Operate, Maintain and Transfer of the Convention Hall located at Airport-South Metro Station of Nagpur Metro Rail Project for a License Period of 03 Years’ on “**as is where is basis**”, on payment of Fixed Fees and Annual License Fees and other charges to Maha-Metro on the terms and conditions hereunder contained in this License Agreement.
- (C) The Licensee shall be responsible to manage, operate and maintain the Project Area, licensed to them as specified in this Agreement, at its own cost and expense.
- (D) It is deemed necessary and expedient to enter into this Agreement to record the terms of the said Agreement..

**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 Licensee hereby covenants as follows: -
- i. Licensee hereby assumes responsibility for the Project Area to be handed over to him to him by Maha-Metro at Airport South Metro Station of Nagpur Metro Rail project as given in ‘**Annexure – 1 : Details of Project Area and Site Plan**’. The Licensee shall be responsible to manage, operate, maintain and use, the Convention Hall along with other Project Area as specified in this Agreement at its own cost and expense.
  - ii. Licensee irrevocably agrees to make all payments including the applicable Annual 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 of the Project in detail and fully understands and comprehends the technical requirements of the Convention Hall. The

Licensee also confirms full satisfaction as to the business viability of the Convention Hall and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration, whatsoever on this account. The 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 or excuse grounds for non-payment of Fixed Fees and Annual License Fees and other amounts payable to Maha-Metro under this License Agreement.

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

**The terms and conditions on which the license agreement is based are as follows:-**

## **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:

**“Accounting Year”** means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

**“Agreement” or “License Agreement”** means this License Agreement to be executed between Maha-Metro and the Successful/Selected Bidder in the format approved by Maha-Metro and includes any amendments, annexure hereto made in accordance with the provisions hereof, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

**“Applicable Laws”** means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

**“Applicable Permits”** means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the respect to O&M of Project Area during the subsistence of this Agreement;

**“As is where is basis”** means License of the said Convention Hall and other Project Area including all equipment's, installations, fittings and fixtures is given on 'as is where is basis';

**“Arbitration Act”** means the Arbitration and Conciliation Act, 1996 and shall include amendments 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;

**“Bid”** means the documents in their entirety comprised by the bid submitted by the Selected bidder in response to the Request for Proposals in accordance with the provisions thereof;

**“Bid Security”** means the security provided by the Licensee to the Maha-Metro along with the Bid, in



accordance with the Request for Proposals, and which is to remain in force until substituted by the Security Deposit;

**“Commencement Date ” or “Effective Date”** means the date of signing of License Agreement;

**“Change in Law”** means the occurrence of any of the following after the date of Bid:

- (a) the enactment of any new Indian law;
- (b) the repeal, modification or re-enactment of any existing Indian law;
- (c) the commencement of any Indian law which has not entered into effect until the date of Bid;
- (d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid; or
- (e) any change in the rates of any of the Taxes that have a direct effect on the Project;

**“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.

**“Drawings”** means all of the drawings, calculations and documents pertaining to the Convention Hall at Airport South Metro Station and shall include ‘as built’ drawings;

**“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 14 FORCE MAJEURE’**;

**“GOI” or “Government”** means the Government of India;

**“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 observance of License Agreement and the payment of all dues as per terms and conditions of the License Agreement.

**“License”** means the licensing rights granted by Maha-Metro to the Selected Bidder with respect to the Convention Hall and other allied Project Area along with plants & machinery, equipment’s, Lifts, Escalators etc. as detailed in Annexure – 1 : Details of Project Area and Site Plan, based on the terms and conditions of the License Agreement.

**“Licensee”** means the Selected Bidder/Successful Bidder, who has executed the license agreement with Maha-Metro pursuant to bidding process for carrying out commercial activities (any activity excluding banned list of usage of premises) within the Project Area.

**'License Period'** means a period of 03 Years from the Date of signing of License Agreement and ending on the Transfer Date;

**"License Fees"** shall have the meaning set forth in ARTICLE 4 CONSIDERATION TO MAHA-METRO;

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

**"Permits"** shall mean and include all applicable statutory, regulatory licenses, authorization, permits, consents, approvals, registrations and franchises from concerned authorities.

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

**"Scope of the Project"** shall have the meaning set forth in ARTICLE 2 SCOPE OF WORK;

**"Selected Bidder/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, government orders, 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 accrued 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 the essence in the performance of the Parties’ of 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 SCOPE OF WORK**

The broad Scope of Work for the project is Running, Operation and Maintenance of Convention Centre / Hall developed by Maha-Metro at Airport-South Metro Station for license period of 03 Years. The License period shall commence from the date of signing of agreement as per provisions of this License Agreement.

Except with prior approval of Maha-Metro, the Licensee shall not be allowed to renovate/refurbish/alter/ modify the Convention Hall partly/fully. At the end of License period the Licensee shall hand over the entire project area/site and project assets in good condition to Maha-Metro free of all encumbrances. The detailed Scope of work for the Project is as under;

### **2.1. Preliminary Activities**

Before handover of project to Licensee, Maha-Metro and Licensee shall carry out Joint Inspection visit to project location and take stock of existing condition of the project assets and all allied facilities. Upon Joint Inspection visit by Officer-In-Charge and Licensee, Maha-Metro shall handover the Project assets/ area to the Licensee for Running, Operation and Maintenance in accordance with conditions defined in this RFP Document and Draft License Agreement.

### **2.2. Project Area/Site and Project Facilities**

The "Project Area" of Convention Hall available at Airport South Metro Station of Nagpur Metro Rail Project shall include:

<b>At First Floor</b>	
<b>Area of Convention Hall</b>	600.00 Sqm
<b>Area of Dining Hall</b>	208.00 Sqm
<b>Green Rooms</b>	4 Nos @ 12.73 Sqm each, with 2 Toilets of 8.99 Sqm
<b>Circulation Lobby (between Dining and Convention Hall)</b>	39.00 Sqm
<b>Lounge/ Waiting Area</b>	44.34 Sqm
<b>At Mezzanine Level</b>	
<b>Store</b>	34.00 Sqm
<b>Washing Area</b>	14.80 Sqm
<b>Cooking Space</b>	17.90 Sqm
<b>At Ground Floor: Road Level Parking (Common for Metro Station and Convention Hall)</b>	

**The Project Facilities installed at Convention Hall include –**

- One LED Screen of size 6.91m x 2.59m
- One Escalator of Schindler make, installed at the entrance of Convention Hall
- Centralised Air-Conditioning System  
(Air-conditioning unit: Capacity of 88 Tones(main hall), 30 tons (Side passages) and 20 Tons (Dining Area), Two chiller plants)
- 2 Lifts, one at Entrance (Schindler make) and other lift (for service) (Johnson Make).
- Gas Bank installed on the exterior of the Hall. Etc.
- PA System (ATEIS Make)
- 18 watt - 400 lights,

**2.3. Scope of Work**

The scope of work under this License agreement shall mean, carrying out Running, Operations and Maintenance of the Convention Hall along with all the associated areas and facilities/installations as mentioned in Annexure – 1 : Details of Project Area and Site Plan. The Licensee shall exercise its rights in accordance with the License granted as defined in this agreement for use of project to carry out its business for a period of 03 Years from the date of signing of License Agreement.

**The General Terms and Conditions for Operation and Maintenance of project is as follows;**

- 2.3.1. The Licensee shall be provided with License rights for carrying out running, operations and maintenance of Convention Hall for 03 Years from the date of signing of License Agreement. Subsequent to the fitment period, the Project Area can be utilised for carrying out activities stated at Annexure – 2 : Usage of the Convention Hall and Project Area.
- 2.3.2. The Licensee shall be allowed to start commercial operations like accepting bookings, other permissible operations, only after handing over of the premises by Maha-Metro.
- 2.3.3. The Licensee shall be solely responsible for procuring all the permissions/ licenses etc. required from the statutory/ regulatory/ civic authorities concerned, to be able to use the Project Area as per desired use. MAHA-METRO shall not be responsible for any such procurement and shall not entertain any claims in this regard.
- 2.3.4. The Licensee shall obtain necessary license, permission etc., in connection with Marriages/Receptions/Parties/Events/Gatherings in the Convention Hall from all concerned Department & shall be liable to pay fees, taxes levied by the govt. authorities from time to time. It will be sole responsibility of Licensee to get timely renewal of license, permission etc.. In case of penalty, prosecution due to delay of such payment, the Licensee alone shall be responsible and liable for the same.
- 2.3.5. The Licensee shall have to comply with provisions of all the relevant and applicable Laws/Acts/addendums issued from time to time by competent authorities/agencies.
- 2.3.6. Carrying out activities/operations that are strictly non-permissible under law, shall be considered as breach of this agreement and will lead to termination of agreement without prior notice. Some of the identifiable restrictive/non-permissible uses are as follows -

- i. Indulgence or promoting or facilitate any type of "anti-social activity" as defined and identified under The Maharashtra Prevention of Communal, Anti-Social and Other Dangerous Activities Act, 1980;
- ii. Use of project premises to indulgence or promote or facilitate act of gambling, betting, Obscene Acts, immoral traffic and any other Acts of similar nature etc.;
- iii. Sell or consumption of liquor or drugs or in-toxicating substances;
- iv. Any activity that creates nuisance for public; and
- v. Any sort of illegitimate business.

In case of any such event occurring in the building premises, the responsibility of the same shall be solely borne by the Licensee. Maha-Metro shall not be responsible for any such activities.

In case, the Licensee wishes to carry out some new activities which could potentially be of non-permissible nature at public utility areas, the Licensee must take prior approval/permission of the Maha-Metro/ and other Govt. Authorities/Police Department.

- 2.3.7. The following activities shall be of restrictive nature and shall be permitted only with prior permission from Maha-Metro and/or the Concerned Authority;
- i. Use of firecrackers (only in open area outside the Metro Station Premises), and
  - ii. Loud Music within project premises.

Kindly note that use of firecrackers will not be permitted within the Convention Hall Building or any part thereof.

- 2.3.8. For use of Music and Audio System, it shall be the responsibility of the Licensee to take all the necessary permission/approval or provide guidance/support to event management team/organiser of event at the proposed premises for getting necessary permission from concern authorities before the event takes place.
- 2.3.9. The Licensee is free to decide tariff to be charged to its customers based on its market and business considerations for commercial services being offered. Also, its highlighted that Licensee may recover applicable local taxes (GST), utility charges, etc. from its customer based on its own financial consideration, deem fit to run its operations.
- 2.3.10. The Licensee should display the terms and conditions for the booking of Convention Hall along with the terms and conditions regarding payments. The public information display board & contents should be approved by the Officer-In-Charge of Maha-Metro publishing same at the hall premise.

The Licensee shall not be allowed to make any changes/modification, in any/part of the building or within the project premises.

The Licensee shall not be permitted to erect any permanent/temporary structure in the premises. If any temporary structure is required to be erected, the same shall be subjected to approval of the Maha-Metro. The right to accept or reject such request is reserved with the Maha-Metro.



2.3.11. The Maha-Metro authorised staff shall have access to the Convention Hall and all allied facilities at all time and during events or activities being performed within the premises for inspection and vigilance purpose only. The Licensee and/or his representative shall abide by directions or instruction from Maha-Metro staffs in good faith of the project. Instruction book in duplicate shall be maintained in the premises of the Convention Hall.

- i. Licensee is expected to prepare Operations & Management guidelines manual for effective and better management of the Convention Hall. Copy of same needs to be submitted to the Officer-In-Charge in 30 Days from the date of signing of License Agreement.

2.3.12. Under no circumstances, shall the Project Area or facilities constructed or installed at the Project Area 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.

Maha-Metro in any way shall not be responsible for repayment/providing guarantee for any loans/debt borrowings taken by the Licensee for purpose of running, operation and maintenance of the project. The Licensee shall be solely responsible for the same.

2.3.13. If Licensee is accepting bookings for period beyond the License period, shall be treated as breach of agreement and shall lead to termination of agreement by Maha-Metro and the Licensee shall be blacklisted from participating in the Maha-Metro's all future tendering process/ procurement programmes in future. In such event all the payments/fees/charges/deposits made by the Licensee with Maha-Metro till date shall be forfeited.

2.3.14. The use of fuels within the Project Area shall be in accordance with the directives set by Maha-Metro. The Fuel/Gas Bank and dedicated pipeline is developed by Maha-Metro at a location outside the Metro Station Building. The Fuel/Gas should be carried through proper piping only. Carriage of Gas Cylinder, Storage of Fuels and other combustible items within the Convention Hall is strictly prohibited.

2.3.15. The Licensee shall act as prime/principal employer for all the persons employed for running, operation, management and maintenance of Convention Hall. The said labours shall in any case will not be treated as employees of Maha-Metro nor is Maha-Metro answerable to Licensee's staff. The Licensee's staff shall not agitate for any claim/ benefits of employment with Maha-Metro at any time within the License period nor in future. The Licensee shall be solely responsible for the payment of wages/staff salary etc. to the staff engaged by the Licensee. Maha-Metro shall not be responsible for such payment or any claim in any manner.

- i. Licensee is expected to carry out basic documentation and maintain records for each of the employee deployed for this project.
- ii. Licensee should try and get Background Verification (BGV) Check carried out.
- iii. Necessary and Basic documents e.g. Aadhar card, driving license, correspondence & permanent address, copy of resume, Bank account details, etc. shall be maintained for each of the employee deployed.

- 2.3.16. Maha-Metro may designate any officer/3rd party to inspect the Booking register & Hall premises and other activities. The Licensee shall be bound to permit such officer to carry out the inspection and shall comply with all the instructions and suggestion given by the said officer from time to time.
- 2.3.17. In case any dispute arises between the Maha-Metro and Licensee, in respect of terms and condition of the agreement, the matter shall be referred to the Director (Strategic Planning), Maha-Metro and its decision shall be final and binding upon the Licensee.
- 2.3.18. The project, building and land is owned by Maha-Metro and will be the rightful owner, along with having permanent rights of possession of same with Maha-Metro. Maha-Metro will have full control on premises, the Licensee will act only as Licensee having provided certain Licenses/rights to possess and use the project for License period to carry out its commercial business. Licensee won't have any semblance of right on project and land of whatsoever nature. It is to be clearly understood that no Tenancy rights shall be created in the Convention Hall with respect to this agreement.
- i. The Licensee shall have no right on the land, building and premises.
  - ii. The Licensee is neither allowed to sublet the part or whole of scope of work as defined hereof in this agreement nor sub-lease (long term lease) any part of the project area to any third party. If it is observed it Licensee engaging/subletting/sub-leasing any part of the project it shall be treated as breach of agreement and lead to immediate termination of the agreement and Maha-Metro will forfeit the Performance Security and/or Security Deposit of the Licensee.
- 2.3.19. The Bidder can use the parking facility available/provided at the Airport-South Metro Station. The usage of parking shall be subject to availability and payment of applicable parking charges as decided by Maha-Metro/nominated agency from time to time.
- 2.3.20. The Licensee ensures that no polythene baggage is utilised/used at the Project Area. Moreover, Licensee shall ensure the proper segregation of food waste i.e. dry and wet waste (if any) before disposal of same.
- 2.3.21. The Licensee shall be responsible to keep the project area and surrounding area neat and clean. The Licensee shall comply with all statutory requirements in connection with this tender document.
- 2.3.22. The Licensee shall be responsible to Operate, manage and maintain the entire Project Area with adequately trained and experienced team for responsibilities as defined in this tender document.
- 2.3.23. Submit following documents to the Maha-Metro by 1st week of April each year during License period;
- i. Copy of receipts of payment of all taxes made applicable by relevant departments during the License period.
  - ii. Copy of receipt of payment of property tax to NMC, if applicable.
  - iii. Copy of receipts of premium of Janta Group Insurance/Employees State Insurance (any other applicable insurance for Licensee's employees), professional tax (if applicable), GST and other taxes as applicable from time to time.

- iv. Copy of any other document which may be necessary in the opinion of Maha-Metro.

#### **2.3.24. Maintenance of Project**

- i. The Licensee shall be responsible for Maintenance of complete project. The Licensee shall have to carry out regular maintenance of the project and all related assets (structures, interior finishing, electro-mechanical systems, carpets, public utilities systems, parking etc.). In the event client observe/notice/receives complaint of Licensee for not maintaining the project premises in hygienic condition, Licensee shall be liable to pay penalty as defined under Clause 2.10 of this agreement.
- ii. The cleaning of carpets and upholstery in the Project area should be cleaned and maintained on regular basis. Any damaged carpet/upholstery (either partly or fully) should be replaced immediately with same/similar design.
- iii. The Licensee shall take utmost care to ensure safety of the public at large. If it is found that any accident/mishap occurs owing to poor maintenance or negligence on the part of Licensee or his staff, the Licensee shall remain solely responsible for the same and shall bear all cost associated with such accident/mishap and losses arising thereof, Maha-Metro may impose penalty for such incident as per the applicable charge. Maha-Metro shall not be liable for payment for claim raised by affected person/s or 3rd party due to damage to them due to occurrence of any such event/mishap.
- iv. In the event of any damage/loss/theft etc., the Licensee shall be solely responsible for the same and shall bear all the expenses to be incurred for restoring all the assets/facilities present at the Convention Hall premises. Licensee or its representatives are expected to do necessary due diligence in case of such events.
- v. Firefighting and other infrastructure so created within the Project Area must be kept in working condition throughout the License Period. The MAHA-METRO reserves the right to inspect the Project Area at any time during the License Period in connection with fire-fighting readiness. MAHA-METRO may also issue directives in this regard, which shall have to be adhered to and complied by Licensee. Any additional works as may be indicated on this account will also be carried out by the Licensee at its own cost. No claim for damages or compensation for inconvenience in this regard will be entertained by the MAHA-METRO.
- vi. The Licensee will be completely responsible for any loss of life or property in case of an emergency and/or due to the non-functioning of the fire safety system that is exclusively under scope and control of Licensee. The MAHA-METRO shall not be responsible for any loss of life and property in Project Area due to any malfunctioning of the fire system in case of any fire emergency within the Project Area.

#### **2.4. Hall Booking and Reservations**

- 2.4.1. The Licensee shall levy user charge/fee for Commercial Services proposed to generate revenue to meet its financial obligations towards the operation and maintenance of the Convention Hall and making payments to Maha-Metro as per provisions of this agreement.

- 2.4.2. The Licensee shall provide Maha-Metro the Convention Hall on priority basis for maximum 15 days in a calendar year without charging any fees. For rest of the days, the Licensee shall be allowed to carry out its Commercial Business. Maha-Metro shall intimate Licensee well in advance for blocking dates for use of hall. Licensee shall oblige such request of Maha-Metro and be fair in sharing its actual booking chart and shall try to accommodate Maha-Metro's requirement.
- 2.4.3. The licensee will provide preference to Maha-Metro employees and shall provide 25% discount for Maha-Metro employees. The discount will be provided on standard rate charged by the Licensee.

## **2.5. Insurance Requirements**

- 2.5.1. If during the License period, any loss of property and/or life and/or assets takes place, the loss on 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 the payments arising out of any third party claims. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.
- 2.5.2. The Licensee shall insure the project in the name of Maha-Metro and shall pay insurance premium towards loss, theft, fire, damages, flood as permissible under prevailing norms of Insurance policy. In the event of any loss, theft, fire or damages of equipment, building and premises which are uncovered under the Insurance Policy or are kept unpaid by the Insurance Company, the cost of the same shall be recovered from the Licensee at the prevailing market rate or rate as decided by The Maha-Metro within a period of 30 days of occurrence of such event and the Licensee shall be bound to bear the cost. The value of insurance covered for projects with respect to loss caused due to fire, earth quake or other natural calamities should be not less than **INR 2500.00 Lakhs**.

## **2.6. Accidents & Other Liabilities:**

- 2.6.1. It shall be the sole responsibility and liability of the Licensee to make good any claim by any person for damage / injury, loss of life compensation of any kind whatsoever whether in a court of law or otherwise. The Maha-Metro shall not be responsible or liable for the same as the day-to-day running & maintenance is being given to the Licensee under this License. The Licensee shall always indemnify the Maha-Metro of any such claims damages/compensation any kind of claim whatsoever by any person. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.

## **2.7. Property Tax and Registration of License Agreement**

- 2.7.1. If applicable, the Property Tax proportionate to the Project Area shall be paid by Maha-Metro and shall be recovered from Licensee on actual basis.
- 2.7.2. Payment of stamp duty for execution & registration charges in pursuance of the license agreement shall be solely borne by Licensee.

## **2.8. Infrastructure Services**

### **2.8.1. Electricity:**

- i. The Licensee shall have to take power connection from Maha-Metro grid. The Sub-Meter shall be installed by the Licensee at the Convention Hall Premises. The tariff and all terms and conditions will be as per the approved electricity policy of Maha-Metro as applicable from time to time. Licensee shall have to maintain its power demand within the power allocated.
- ii. DG power available in MAHA-METRO network will not be made available to Licensee.
- iii. All costs of shifting of existing lighting/small power sockets circuits/ AHUs etc. if any, would be borne by the Licensee. This would include all cost involved in shifting/modification/addition.
- iv. Any addition / up-gradation/ modification of existing electrical power system works if required, are to be taken up subjected to technical feasibility and approval from MAHA-METRO, If approved, same work can be carried out by Licensee along with associated costs.

### **2.8.2. Water supply:**

Water Supply arrangements are made by Maha-Metro within the Project Area. The Licensee shall have to make its own arrangement for storage and purification at its own cost after taking all necessary approvals. The water charges shall be charged on actual basis and shall be charged as per commercial rate of water, as decided by Nagpur Municipal Corporation from time to time.

### **2.8.3. Civil Utilities:**

- Toilets for Men and Women are available at the Project Area.
- Water drainage and sewerage system for the existing space utilization is also made available.
- If any augmentation to the existing civil utilities such as toilets, drainage, sewer and water supply system etc becomes necessary within the Project Area, it shall be done by licensee at their cost subject to prior approval of MAHA-METRO. Maha-Metro reserves the right to accept or reject the request made by Licensee.

### **2.8.4. Disposal of Waste:**

The licensee shall have to make their own arrangements for daily disposal of waste (after segregation of dry and wet waste) out of MAHA-METRO premises. The wastes shall be dumped at sites approved by concerned civic agencies to ensure perfect cleanliness. If any kind of waste is found disposed off on MAHA-METRO land or premises a penalty/fine of Rs. 7,500/- per instance shall be imposed by MAHA-METRO for each occasion.

### **2.8.5. Security and other services:**

- i. All the security arrangements within the Project Area shall be arranged by Licensee at its own cost.

ii. Maha-Metro shall perform general cleaning & has provided adequate lighting in the common areas and compound lighting outside the building. 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.

iii. Installation of Integrated Security System at Built up area:

**1. Surveillance and Monitoring of Vehicles by Integrated Security system.:**

All vehicles entering the building premises will be scanned and monitored. The Surveillance system will have the following features:

- Identification of Registered and non-registered vehicles.
- o Hassle free entry to Registered vehicle by reading RF-Tags pasted on them.
- o Conditional Access for visitor's vehicle.
- o Handheld Explosive Detector for detection of any explosive in vehicle's body.
- o Capture and Storage of images of the driver of unregistered vehicle.
- o Recording the details of duration of stay of vehicles, their registration No. etc.
- o Automatic activation of boom barriers and bollards when any vehicle tries to make forced entry.
- o Automatic & manual control alarm system.
- o Provision of having different levels of security depending upon the security threat perception.

**2. Personnel Monitoring System:**

- I. Provision of unique Access Card having biometric read facility.
- II. Surveillance and recording of entry and exit of personnel at the Project premises and Maha Metro building through various gates.
- III. Video surveillance of all the gates, outer periphery, parking areas and corridors inside the building.
- IV. Unobtrusive scanning of employee and visitor's baggage for unauthorized equipment and explosives.

**2.9. Signage's and Advertisements**

2.9.1. The Licensee shall have the right to display signage(s) of suitable size for displaying its generic name of the Convention Hall ((the generic name to be given to Hall should be pre-approved from Maha-Metro). The signage may be illuminated or non-illuminated at the Licensee's option, however it shall need to confirm to all governmental laws, regulations or ordinance relevant thereto. The Licensee shall also need to obtain a written approval from MAHA-METRO before putting up any form of signage.

2.9.2. No advertisement in any format shall be permitted on the outer surface of the Building.

2.9.3. It will be mandatory for licensee to install Logo and Name of Maha Metro along with the Name / Logo of Licensee and highlighting as Project of Maha-Metro on the designated location approved by Maha-Metro.

## 2.10. Penalty Charges

2.10.1. In the light of situation/event where Licensee fails on performance of its obligations or doing due diligence related to its obligations, will be treated as non-performance of obligations as stipulated under this RFP and License agreement. Under such circumstances, Maha-Metro may impose penalty charges; and some of the events/occurrences of non-performance of obligations and due diligence can be identified are as mentioned in table below;

2.10.2. Table for Non-performance of obligations and due diligence attracting penalty charges

Type of Occurrence	Penalty Charges
Performance Breach Occurrence during License period	
In the event of misbehaviour of any staff of the Licensee with Maha-Metro Staff/Guests/ 03 <sup>rd</sup> party/Staff of any other concern authorities.	INR 5,000/- per incident. <b>Note:</b> If more than 03 complaints are received regarding misbehaviour by any staff member of Licensee, it is expected that Licensee will take necessary action against such staff member to the extent of relieving him/her of its duty on immediate basis.
Licensee accepting booking for tenure before the signing of License agreement and/or after expiry of License agreement.	INR 50,000/- per booking. Additionally, any amount collected by Licensee from customer for any such booking.
In the event wherein, negligence is observed in up-keeping & maintenance for the below listed infrastructure (on standalone basis); - Drinking water system - Lawn, plantation, green spaces - Electrical fittings - Plumbing system - Drainage system - Pathways, lobbies, roads within the premises  In such of event where more than one of the infrastructure systems are not maintain in good and working condition	INR 7,500/- per incident. INR 20,000 per incident  <b>Note:</b>  If more than 03 incidents recorded/observed during in a year during the operational phase of the License period, amount equivalent to 5% of the respective year's Confession Fee shall be payable by Licensee or shall be deducted as penalty from Security Deposit.
In the event of any complaint received against Licensee for Nuisance activity like Loud Music, illegal activities etc.	INR 10,000 per incident
Use of fire-crackers within the Convention Hall/Station Building Premises.	Rs. 25,000/- per incident
In the event Licensee fails to handover the rightful possession of project to Maha-Metro within 45 days of the expiry of the License period.	Amount equivalent to 50% of the Security Deposit shall be retained from such deposit as Penalty charges

### **ARTICLE 3 GRANT OF LICENSE**

#### **3.1. The License**

3.1.1 Subject to and in accordance with the terms and conditions set forth in this Agreement, and in particular subject to the due fulfillment of all the obligations assumed towards Maha-Metro by the Licensee, Maha-Metro hereby grants and authorizes the Licensee to the following (the "Specified Purpose") :

- a. To have access to Project during the License Period, operate, manage and maintain the Project Area(s) during the License Period at the cost and risk of the Licensee. Any development made by the Licensee on the Project Area shall be deemed to be the property of Maha-Metro and all the rights of the Licensee in the Project Area shall relinquish in the favour of Maha-Metro.

Subsequent to the fitment period, to utilise the Project Area, at its own costs and risk, for carrying out activities stated at Annexure – 2 : Usage of the Convention Hall and Project Area



b. Annexure – 2 : Usage of the Convention Hall and Project Area

c. during the License Period on the terms and conditions stated herein and derive income from it.

3.1.2 The Licensee shall not in any manner sell, transfer, assign, sub-lease, sub-license, mortgage, charge, create any lien or otherwise encumber or deal with the Project / Project Area in any manner whatsoever.

3.1.3 Subject to and in accordance with the provisions of this Agreement, the License is hereby granted and shall oblige or entitle (as the case may be) the Licensee to:

- (a) Right of Way, access and licence to the Project Area for the purpose of and to the extent conferred by the provisions of this Agreement;
- (b) manage, operate and maintain the Project Area allotted and regulate the use thereof by third parties;
- (c) demand, collect and appropriate revenue from the users for the use of Project Area or any part thereof;
- (d) perform and fulfil all the Licensee's obligations under and in accordance with this Agreement;
- (e) bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Licensee under this Agreement; and
- (f) neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the License hereby granted or on the whole or any part of the Project nor transfer, License or part possession thereof.

**3.2. Grant subject to obligation**

3.2.1 It is clarified that the rights granted in respect of operation and maintenance of the Convention Hall under this Article 3 to the Licensee are subject to the conditions attached to exercise of such rights and performance of its obligations as set out in the Agreement and other documents executed pursuant to the Agreement.

**3.3. License Period**

3.3.1. Licensing rights of said Project Area shall be for a period of three (03) years unless otherwise terminated by Maha-Metro or surrendered by the Licensee, in term of provisions of License Agreement.

3.3.2. The tenure of License Agreement shall commence from the date of handing over of Project. If in event of, delay in handing over of premises by Maha-Metro, the License Period may be extended suitably, as in the opinion of Maha-Metro are reasonable having regard to the nature and period of delay. Apart from above, the Licensee shall not be eligible for any other compensation.

3.3.3. Nevertheless, in the event of the delay being due to reasons being attributable to Licensee, or its failure to complete its obligations within specified time as per the License Agreement, for the reasons other than the reasons attributable to MAHA-METRO, Licensee shall not be entitled for any extension of date or License Period.

- 3.3.4. There shall be a lock in period of 12 months from the date of commencement of agreement/handing over of project area.
- 3.3.5. The Licensee shall have option to exit from the License Agreement immediately after completion of lock in period of 12 months. For it, the Licensee shall have to issue 90 days prior notice to MAHA-METRO. Such prior notice intimation can be given after 09 months however option to exit will be available only after 12 months only.
- 3.3.6. At the end of License period the Licensee shall hand over the project and project assets (tangible and non-tangible) in good and working condition to Maha-Metro, free of all encumbrances on its own, within 07 days from date of expiry of the License -
- Handover the complete project in good/working condition to Maha-Metro.
  - Handover the project, free of any encumbrance to the Maha-Metro.
  - There shall not be any further renewal of the License period by the Maha-Metro.
  - At the time of termination/natural completion of license period, the Project shall be handed over in "Ready to Start Business" condition. Any rectification/ renovation required before handing over of the premises back to Maha-Metro shall have to be done by the Licensee. Maha-Metro shall not be hold responsible or shall not be asked to invest to rectify/repair such assets.
- 3.3.7. In the event if the Licensee fails to handover the premises along with all its assets/facilities to Maha-Metro, the event will be treated as a "Default" and a penalty shall be recovered by Maha-Metro for such Default as per penalty charges provided in Clause 2.10 of this agreement.
- In case the Licensee continues to be in Default for a period more than 07 days from the date of expiry of License, Maha-Metro shall forcefully vacate the premises and take the rightful possession of the said premises. The amount of penalty shall be recovered from the Security Deposit.
- 3.3.8. At the time of termination/natural completion of license, MAHA-METRO reserves the right to ask the Licensee to restore the Project Area as per original allotment.

### **3.4. Restriction on sub-leasing/sub-licensing the use of the Project Area or any part thereof**

- 3.4.1. The Licensee shall not be entitled to sub-license the Project Area to any person or entity (the "Sub-Licensee"), during the subsistence of the license agreement.

### **3.5. First Right of Refusal**

- 3.5.1. 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 CONSIDERATION TO MAHA-METRO**

The Consideration to Maha-Metro shall be a combination of Fixed Fees and Annual License Fees.

**4.1. Fixed Fees**

- 4.1.1. The Licensee shall pay to Maha-Metro the Fixed Fees amounting to Rs. 35.00 Lakhs per annum for the base year.
- 4.1.2. The Fixed Fees shall be paid in advance and shall be paid on half yearly basis.
- 4.1.3. The Fixed Fees shall be escalated by 5% every year, on compounding basis.

**4.2. Annual License Fees**

- 4.2.1. In lieu of the rights transferred to the Licensee for the Convention Hall at Airport South Metro Station (the Project), the Licensee on has quoted an Annual License Fees of Rs. .... per annum (for the base year).
- 4.2.2. The Annual License Fees shall be paid to Maha-Metro in advance, on half yearly basis and shall be paid during the entire license period.
- 4.2.3. The charging of Annual License Fees shall commence immediately after the end of Fitment Period (30 days) and shall be charged until the termination/completion of agreement/Contract.
- 4.2.4. The Annual License Fee shall be escalated by 5% every year, on compounding basis.

**4.3. Payment of Fixed Fees and License Fees**

- 4.3.1. The Fixed Fees and Annual License Fees shall be computed for Twelve calendar months from 1<sup>st</sup> day of April to 31<sup>st</sup> day of March for payment of License Fees.
- 4.3.2. The aforesaid Fixed Fees and Annual License Fees shall be paid in two instalments and shall be due on 1<sup>st</sup> April and 1<sup>st</sup> October of each Calendar year and shall be paid in advance within 15 days before the commencement of the respective half year.

This has also been illustrated below for better understanding of licensee:

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

- 4.3.3. The first payment of Fixed Fees and Annual License Fees as applicable for initial 06 months from the date of signing of License Agreement shall be paid within 30 days of issuance of LOA by Maha-Metro.
- 4.3.4. The adjustment of Fixed Fees and Annual License Fees duly considering the pro-rata adjustment to fit the billing period and the rent free fitment period as mentioned in

Clause 10.2 shall be taken into consideration while charging of License Fees applicable for second half of first year tenure (i.e. 06 months to 12 months of the License Tenure.)

- 4.3.5. The Fixed Fees and Annual License Fees shall be paid for complete 06 months tenure from the 3<sup>rd</sup> payment due to Licensee/ Licensee.
- 4.3.6. In the event if the license tenure at the end of the agreement is lesser than the period of six months, then the license fees shall be charged on pro-rata basis.
- 4.3.7. 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 to commission the Project.
- 4.3.8. Along with License Fee, Licensee shall also pay other dues i.e. Goods and Service Tax, Statutory dues / liabilities, electricity charges, damage/ penal charges, pending arrears, etc. as applicable time to time.
- 4.3.9. 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.
- 4.3.10. In case of default in payment of any amount due, the Licensee shall have to pay the same along with interest within 90 days of due date failing which Security Deposit shall be forfeited and the license shall be liable for termination.
- 4.3.11. Any delay in payments of Licensee Fees shall attract penal 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.
- 4.3.12. 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.
- 4.3.13. In the event of default of Licensee in making payments of License fees, maintenance charges (as applicable), charges for electric supply, air conditioning charges, taxes or any other dues towards MAHA-METRO in prescribed time, MAHA-METRO shall be entitled to discontinue / disconnect the service of electricity /air conditioning / water / sewer etc in the project premises and debar the Licensee from availing the use of common areas / facilities (viz., use of stair case / lifts, etc). Apart from the said rights as stated, MAHA-METRO shall also have the rights including but not limited to restrict the access of Licensee in Project Premises and recover all dues along with interest.

#### **4.4. Other Financial Conditions**

- 4.4.1. The account shall be reconciled by Maha-Metro on annual basis.
- 4.4.2. The Licensee agrees voluntarily and unequivocally to make all payments to Maha-Metro as may be due before the due date, without waiting for any formal advice from Maha-Metro. In the events of non-receipt of any invoice, the Licensee agrees to collect the same from the office of authorized representative of the Licensor.

- 4.4.3. 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 i.e. statutory dues/ liabilities shall be settled (mandatory liabilities of Maha-Metro), then others dues/ liabilities like electricity, etc. and lastly the Fixed Fees and Annual License fee shall be accounted for.
- 4.4.4. If the Licensee fails to pay or partly pay the Fixed Fees and Annual license fee and/or any other dues required to be paid as per terms and condition of License Agreement by the due date, a 30 (thirty) days Cure Notice shall be issued to pay the outstanding Annual license fees and/or other dues along with an interest @ SBI base rate plus 3% or 15% per annum, whichever is higher on the outstanding dues after the due date and falling in arrears.
- Interest shall continue to be accrued until all the payable amount of Annual License Fees and/or other dues are finally squared up. Such interest shall be charged on outstanding dues for the actual day(s) of delay in payment.
- 4.4.5. In the event of the Licensee failing to deposit the outstanding License Fee and other dues within the 30 (thirty) days' cure notice, Maha-Metro shall issue a termination notice to make payment of outstanding License Fee and other dues within next 30 (thirty) days.
- i. In the event of Licensee failing to deposit the outstanding License Fee and other dues within fifteen (15) days from the date of issue of 30 (thirty) days termination notice, on 16<sup>th</sup> day of issuance of aforesaid termination letter, Maha-Metro shall disconnect all utilities provided to the Licensee.
  - ii. In the event of Licensee failing to deposit the dues within thirty (30) days from the date of issue of termination notice, it shall constitute Material Breach of Contract and Licensee's Event of Default under this Agreement and shall entitle Maha-Metro to encash the Security Deposit and terminate the License Agreement as per provisions stipulated in Chapter-15 of the License Agreement.
- 4.4.6. In the event of default of Licensee in making payments of Fixed Fees and License fees, fixed rental charges, taxes or any other dues towards Maha-Metro in prescribed time, Maha-Metro shall be entitled to discontinue / disconnect the service of electricity /air conditioning / water / sewer etc in the Project premises and debar the Licensee from availing use of common areas / facilities (viz., use of stair case / lifts, etc). Apart from the said rights as stated, Maha-Metro shall also have the rights including but not limited to restrict the access of Licensee in Project Area and recover all dues along with interest.
- 4.4.7. In case Licensee makes default in payment of License Fees for 3 (three) times during the entire License Period, the agreement shall be liable for termination by the Maha-Metro.
- 4.4.8. Other charges as applicable and detailed in the License agreement will have to be borne by the Licensee.
- 4.4.9. 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.

#### **4.5. Utility Charges**

- 4.5.1. The utility charges including consumption of electricity, water etc. shall also be payable by licensee to Maha-Metro in addition to the Fixed Fees and Annual License Fees and shall be 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.
- 4.5.2. Electricity
- i. Any addition / up-gradation/ modification of existing electrical power system works if required, are to be taken up subjected to technical feasibility and approval from Maha-Metro, If approved, same work can be carried out by Licensee along with associated costs.
  - ii. If required, The sub-meter shall be installed by the licensee for calculating the consumption of electricity, if any. Necessary charges for the same shall be borne by the Licensee.
  - iii. The licensee will have to pay fixed rental charges as per approved rate as per Maha-Metro's policy. The charges will be levied based on actual consumption and shall be payable on monthly basis.
  - iv. The Licensee shall have to deposit an advance of Rs. 2,00,000/- towards electricity/ Fixed Rental Charges, which shall be deposited at the time of compliance of LoA.
- 4.5.3. Water
- i. The charges for utilization of water shall be payable by licensee to Maha-Metro in addition to the Fixed Fees and Annual License Fees and shall be in accordance with terms & conditions of the agreement. These charges shall be payable by Licensee during the whole tenure of Licensee agreement as and when the demand raised by Maha-Metro.
  - ii. The sub-meter shall be installed by the licensee for calculating the consumption of water, if any. Necessary charges for the same shall be borne by the Licensee.

#### **4.6. Taxes, Penalties and Third Party Dues**

- 4.6.1. The applicable Goods and Service Tax (GST) along with applicable cess (if any) or any other taxes as applicable shall be payable extra, as applicable, from time to time.
- 4.6.2. All other statutory taxes, Statutory dues / liabilities, local levies, third party dues (i.e. electricity, water consumption charges etc.), damage/ penal charges, pending arrears, etc. as applicable from time to time shall be charged extra and shall have to be remitted along with the license fees for onward remittance to the respective Government agencies.
- 4.6.3. 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 or Govt. guidelines will be imposed on the Project separately.
- 4.6.4. In the event of termination of the license agreement before the completion of the Lockin period, the License Fees and any other payment along with Security Deposit submitted with the Maha-Metro till date, shall be forfeited and the Licensee shall be blacklisted.

- 4.6.5. Along with License Fee, Licensee shall also pay other dues i.e. Goods and Service Tax, Statutory dues / liabilities, other charges, damage/ penal charges, pending arrears, etc. as applicable time to time.

#### **4.7. Other Conditions**

- 4.7.1. 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 or Govt. guidelines will be imposed on the tendered space separately.
- 4.7.2. The 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.
- 4.7.3. 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 Project. All civil and criminal liability shall be the responsibility of the Licensee.
- 4.7.4. The Licensee shall not employ any person who is under the age of 18 years.
- 4.7.5. The Licensee shall not have any right to infringe the Maha-Metro premises (other than the area licensed to him) and 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, the Maha-Metro shall have right to impose a penalty of Rs. 10,000/ 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 more than 03 times during the entire License tenure, then the agreement shall be liable for termination, subject to decision of Maha-Metro.

## **ARTICLE 5 OBLIGATIONS OF THE LICENSEE**

### **5.1. Obligations of the Licensee**

5.1.1. The Licensee's Responsibilities and Duties shall include the following, in addition to and without prejudice to other obligations under this Agreement:

- a. to obtain due permits, necessary approvals, clearances and sanctions from Maha-Metro and all other competent authorities for all activities or infrastructure facilities including interior decoration, power, water supply, drainage & sewerage, telecommunication, etc.;
  - b. to comply and observe at all times with all Applicable Permits, approvals and Applicable Laws in the performance of its obligations under this Agreement including those being performed by any of its contractors;
  - c. to operate and maintain the Project Area at all times in conformity with this Agreement;
  - d. 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.;
  - e. to take all reasonable steps to protect the environment (both on and off the Project Area) and to limit damage and nuisance to people and property resulting from operations and maintenance, within guidelines specified as per Applicable Laws and Applicable Permits;
  - f. to duly supervise, monitor and control the activities of contractors, agents, etc., if any, under their respective License Agreements as may be necessary;
  - g. to take all responsible precautions for the prevention of accidents on or about the Project Area and provide all reasonable assistance and emergency medical aid to accident victims;
  - h. not to permit any person, claiming through or under the Licensee, to create or place any encumbrance or security interest over whole or any part of the Project Area and/or other installed assets, or on any rights of the Licensee therein or under this Agreement, save and except as expressly permitted in this Agreement;
  - i. to keep the Project Area free from all unnecessary obstruction during O&M of the Project and to store the equipment or surplus materials, dispose of such equipment or surplus materials in a manner that causes least inconvenience to the Metro Station, metro commuters or Maha-Metro's activities.
  - j. at all times, to afford access to the Project Area to the authorised representatives of Maha-Metro, other persons duly authorised by any Governmental Agency having jurisdiction over the business of the Convention Hall, to inspect the Project Area and to investigate any matter within their authority and upon reasonable notice; and
  - k. use non-combustable material in the allotted space for creation/erection/installation of any kind of furniture, fixtures and or partitions within the space. Use of combustible material within the Project Area shall not be permitted under any circumstances.
  - l. to hand over the Project Area to Maha-Metro upon Termination of the Agreement;
- (w) The Licensee shall be solely and primarily responsible to Maha-Metro for observance of all the provisions of this License Agreement on behalf of its employees and representatives and agents and any person acting under or for and on behalf of the Licensee, contractor (s)



appointed for the Project Area as fully as if they were the acts or defaults of the Licensee, its agents or employees.

- (x) **Sub-Licensing:** The Licensee shall be not entitled to sub-license the Project/Project Area to any person or entity (the "Sub-Licensee"), with due permission from Maha-Metro. Further sub-licensing by a Sub-Licensee is not permitted.
- (y) 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.
- (z) 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 and declared by/ between the parties hereto that:
  - a. The Licensee shall not have or claim any interest in the said Project Area as a tenant/sub-tenant or otherwise.
  - b. The rights, which Licensee shall have in relation to the said Project Area, are only those set out in this Agreement.
  - c. 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 Principal Agent or 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 business to be operated by Licensee at the said premises.

## **5.2. Employment of trained personnel**

- 5.2.1. 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.
- 5.2.2. 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.

## **5.3. Authorised Representative and Project Manager**

- 5.3.1. 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.
- 5.3.2. 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 alongwith his 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 Contractor, are otherwise deemed to be employees of Maha-Metro.

#### **5.4. Obligation with respect to Taxes, duties**

- 5.4.1. The Licensee shall be solely responsible to pay all other statutory taxes, statutory dues, local levies, Property tax (proportionate to the Project Area) as applicable on the agreement. The said taxes and all other third party dues (i.e. Electricity, water consumption charges etc.) as applicable shall be charged extra and shall have to be remitted along with the license fees for onward remittance to the Government. 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 like introduction of GST as per Govt. guidelines will also be applicable.
- 5.4.2. 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.
- 5.4.3. 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 Licensee.
- 5.4.4. 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 15% (Fifteen 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.

#### **5.5. Approvals & Licences for the Project**

- 5.5.1. The Licensee shall observe and conform to all Applicable Laws relating to the Project Area, in any way and in particular but not limited to all public and labour related issues including health and sanitation in force for the time being. The Licensee shall ensure and shall remain responsible that its Contractors and End Users shall also adhere with Applicable Laws as required in the Agreement.
- 5.5.2. The Licensee shall at all times, obtain and keep valid all Applicable Permits, which are required by Applicable Law, to undertake the Project.
- 5.5.3. Without prejudice to the foregoing:
  - i. The Licensee and its Contractors shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 and the Rules made thereunder.
  - ii. The Licensee and its Sub-Contractors shall comply with the provisions of the Payment of Wages Act, 1936 and the rules thereunder.
  - iii. The Licensee shall comply with the provisions of all labour laws, rules & Regulations in force and as modified from time to time, where ever applicable..

- iv. The Licensee shall be responsible for the safety of all employees / labours employed by it on the Project and shall report serious accidents to any of them however and wherever occurring on the Project Area to Maha-Metro Representative or Maha-Metro Representative's Representative and shall make every arrangement to render all possible assistance.
- v. For the purposes of all Applicable Laws, the Licensee shall be deemed to be the principal employer of all workers working at the Project Area. The Licensee shall indemnify Maha-Metro from and against any Liabilities under any of the Acts or Rules thereunder mentioned in this Article or any other Applicable Laws, and in case through order of any Government Authority, Maha-Metro or the Railway has to pay any compensation in respect of the Project Area, Maha-Metro shall recover such amount of compensation so paid from the Security Deposit or otherwise from the Licensee under these conditions.

## **ARTICLE 6 OBLIGATIONS OF MAHA-METRO**

### **6.1. Obligations of Maha-Metro**

- 6.1.1. 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.
- 6.1.2. 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 right of way to the respective Project / Project Area where the Licensee is selected as Highest Bidder.
  - (b) ensure that no barriers are erected or placed on or about the Project 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 usage, operation and maintenance of the Project allotted in accordance with the provisions of this Agreement;

## **ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

### **7.1. Representations and warranties of the Licensee**

The Licensee represents and warrants to 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 O&M of the said Project in accordance with the terms of this Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) 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 Project Area shall pass to and vest in 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 Maha-Metro, and that none of the Project Area 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 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.

## **7.2. Representations and warranties of Maha-Metro**

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 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 Project Area up to the Effective Date; and
- (h) it has good and valid ownership of the Project Assets/Area, and has power and authority to grant a licence in respect thereto to the Licensee.

## **7.3. 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 8 DISCLAIMER**

### **8.1. Disclaimer**

- 8.1.1. The Licensee acknowledges that prior to the execution of this Agreement, the Licensee has, after a complete and careful examination, made an independent evaluation of the Request for Proposal, Scope of the Project Area, Specifications and Standards, built-up space, existing structures, local conditions, traffic volumes and all information provided by Maha-Metro or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Maha-Metro makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Licensee confirms that it shall have no claim whatsoever against Maha-Metro in this regard.
- 8.1.2. Licensee acknowledges that prior to execution of this Agreement, they have extensively studied and analysed and satisfied itself about all the requirement of this License Agreement including but not limited to market and market conditions.
- 8.1.3. Licensee acknowledges that prior to execution of this Agreement, they have carefully assessed of intended earnings from said business and that they will be fully responsible for all its assessment in this regard.
- 8.1.4. Licensee confirms having seen / visited / assessed the intent of this License Agreement and fully understands and comprehends the technical, financial, commercial and investment requirements.
- 8.1.5. Licensee also confirms that it has fully analyzed to their fullest satisfaction, business viability of the Licensee and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration, whatsoever on this account.
- 8.1.6. Licensee hereby undertakes that as on date Maha-Metro/MOUD/MOUHUA/Gol/Govt. of Maharashtra has not banned business with the Licensee or Any Central/State Government Department/PSU/Other Government entity or local body has not have banned business with the licensee which is applicable to all ministries (approved by the Committee of Economic Secretaries, Ministry of Commerce).
- 8.1.7. The Licensee acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that Maha-Metro shall not be liable for the same in any manner whatsoever to the Licensee or any person claiming through.

## **ARTICLE 9 SECURITY DEPOSIT**

### **9.1. Security Deposit**

- 9.1.1. The Licensee shall, for the performance of its obligations hereunder during the entire License Period, has made the payment of Security Deposit, as applicable for the first year, amounting to Rs. .... (cumulative sum of 1<sup>st</sup> Year's Fixed Fees (i.e. Rs. 35.00 Lakhs) plus Annual License Fees for 1st year amounting to Rs. ....) is paid in the form of ..... bearing .....transaction reference No. .... from ..... Bank.
- 9.1.2. Security Deposit shall be submitted in the form of either in the form of online transfer or Bank Guarantee and shall be retained by Maha-Metro for the entire license period.
- 9.1.3. The EMD/ Bid Security already submitted with bid shall be adjusted with the Security Deposit, in case of Licensee, balance amount shall be paid by the Licensee to "Maharashtra Metro Rail Corporation Limited"
- 9.1.4. The Security Deposit shall be with Maha-Metro for the entire License Period and shall be treated as "Interest Free deposits".
- 9.1.5. Maha-Metro shall encash/adjust the Security Deposit against penalties as levied upon the Licensee during the entire License period.

### **9.2. Appropriation of Security Deposit**

- 9.2.1. Upon occurrence of a Licensee's Default, 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 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, Maha-Metro shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 15.

### **9.3. Release of Security Deposit**

- 9.3.1. The Security Deposit shall remain in force and effect for the entire License period. This Security Deposit shall be released upon Completion of entire License period 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 10 ENTRY TO COMMERCIAL SERVICE**

**10.1. Effective Date**

10.1.1. The Effective Date shall mean the date of signing of License Agreement.

**10.2. Fitment period**

10.2.1. The Licensee shall be provided with rent free fitment period of 30 days from the date of signing of License Agreement.

## **ARTICLE 11 OPERATION AND MAINTENANCE**

### **11.1. O&M obligations of the Licensee**

- 11.1.1. During the Operation Period, the Licensee shall operate and maintain the premises in accordance with this Agreement and if required, modify, repair or otherwise make improvements to the premises to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Specifications and Standards and Good Industry Practice. The obligations of the Licensee hereunder shall include:
- (a) permitting safe, smooth and uninterrupted flow of visitors on the premises during normal operating conditions;
  - (b) undertaking routine maintenance including prompt repairs;
  - (c) undertaking routine maintenance of equipment if any;
  - (d) preventing, with the assistance of concerned law enforcement agencies, any unauthorised use of the premises;
  - (e) preventing, with the assistance of the concerned law enforcement agencies, any encroachments on the premises;
  - (f) protection of the environment and provision of equipment and materials therefore;
  - (g) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the Project Area;
  - (h) maintaining a public relations unit to interface with and attend to suggestions from the Users, government agencies, media and other agencies; and
  - (i) complying with Safety Requirements in accordance with Article 18.
- 11.1.2. The usage of Project Area shall be in accordance with the activities as listed in Annexure – 2 : Usage of the Convention Hall and Project Area
- 11.1.3. Licensee shall keep and maintain the Project Area in neat & clean, safe & sound condition by maintaining it properly at their own cost during the License Period. Licensee shall bear the cost of minor day-to-day repairs, annual refurbishing and routine special repairs required due to normal wear & tear with the efflux of time or due to planning/ constructional defects. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency and after taking due approval from Maha-Metro.
- 11.1.4. 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.
- 11.1.5. Licensee shall ensure that fire detection and suppression measures installed inside their premises are kept in good working condition at all times. The Fire extinguishers must be regularly checked & refilled and must be visible & easily accessible at all times of emergency. The Licensee's staff must be capable of addressing the safety issues during any emergency including operation of fire extinguisher.
- 11.1.6. 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), pay compensation without prejudice to other actions under this Agreement at the sole discretion of Maha-Metro, including termination of Agreement.
- 11.1.7. 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.
- 11.1.8. The overall control and supervision of the premises shall remain vested with Maha-Metro who shall have right to inspect the whole or part of the Project Area as and when considered necessary, with respect to its bonafide use and in connection with fulfilment of the other terms and conditions of the license agreement.
- 11.1.9. The Licensee voluntarily and unequivocally agrees to provide un-fettered access to the fire officer & other officials of Maha-Metro for inspection of Project Area or for repair of Maha-Metro utilities passing through the Project Area at any time and to abide by and comply with all instructions as may be indicated by the fire officer & other officials. If any fixtures or utility relating to operation of the MRTS (Metro) is running through the Project Area, proper protection as advised by Maha-Metro shall be done by Licensee.
- 11.1.10. 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.
- 11.1.11. The Licensee and their authorized representatives shall have free access to the Project Area at all the times. The necessary identity cards to such person(s) shall be issued by Maha-Metro in accordance with its extant policy. However, entry into paid area or travelling by Metro trains shall be as per general policy to Maha-Metro commuters.
- 11.1.12. Encroachment: The Licensee shall not encroach up common areas/circulating areas or any other space, and restrict their operation to within the area licensed. In case, the Licensee encroaches upon the common area, circulating area or any other space then a fine/compensation as defined in Clause 2.10 of this Agreement shall be shall be imposed by Maha-Metro. Thereafter Maha-Metro reserves the right to revoke the license for breach of contract.
- 11.1.13. Further, Maha-Metro can impose the fine on Licensee up to Rs.5,000/- per offence per week on the following offenses:
- i. Any staff of Licensee found in drunken condition/ indulging in bad conduct.
  - ii. Any staff of the Licensee found creating nuisance.
  - iii. Improper maintenance & defacement of the Metro Property.
  - iv. Dishonor of drafts and Cheques given by Licensee in favour of Maha-Metro.
  - v. Misbehavior with staff and commuters of Maha-Metro.
  - vi. Not following safety and security norms as may be indicated by authorized representative of Maha-Metro.
  - vii. Any staff of the Licensee found without uniform and ID Card and/or found creating nuisance on duty.
  - viii. Not following the instructions issued by Maha-Metro authorities from time to time

- 11.1.14. The option to impose fine, penalty, etc. under this License Agreement shall be exercised by Maha-Metro official not below the rank of Deputy General Manager (DGM).
- 11.1.15. It shall be sole responsibility of the Licensee to maintain law and order in its Project Area. Maha-Metro shall, in no way, will be responsible/accountable of any mis-happenings in the premises given on license basis to the Licensee.

## **11.2. Maintenance Requirements**

- 11.2.1. The Licensee shall be responsible for Maintenance of complete project. The Licensee shall have to carry out regular maintenance of the project and all related assets (structures, interior finishing, electro-mechanical systems, carpets, public utilities systems, parking etc.). In the event client observe/notice/receives complaint of Licensee for not maintaining the project premises in hygienic condition, Licensee shall be liable to pay penalty as defined under Clause 2.10 of this agreement.
- 11.2.2. The cleaning of carpets and upholstery in the Project area should be cleaned and maintained on regular basis. Any damaged carpet/upholstery (either partly or fully) should be replaced immediately with same/similar design.
- 11.2.3. The Licensee shall take utmost care to ensure safety of the public at large. If it is found that any accident/mishap occurs owing to poor maintenance or negligence on the part of Licensee or his staff, the Licensee shall remain solely responsible for the same and shall bear all cost associated with such accident/mishap and losses arising thereof, Maha-Metro may impose penalty for such incident as per the applicable charge. Maha-Metro shall not be liable for payment for claim raised by affected person/s or 3rd party due to damage to them due to occurrence of any such event/mishap.
- 11.2.4. In the event of any damage/loss/theft etc., the Licensee shall be solely responsible for the same and shall bear all the expenses to be incurred for restoring all the assets/facilities present at the Convention Hall premises. Licensee or its representatives are expected to do necessary due diligence in case of such events.
- 11.2.5. Firefighting and other infrastructure so created within the Project Area must be kept in working condition throughout the License Period. The MAHA-METRO reserves the right to inspect the Project Area at any time during the License Period in connection with fire-fighting readiness. MAHA-METRO may also issue directives in this regard, which shall have to be adhered to and complied by Licensee. Any additional works as may be indicated on this account will also be carried out by the Licensee at its own cost. No claim for damages or compensation for inconvenience in this regard will be entertained by the MAHA-METRO.
- 11.2.6. The Licensee will be completely responsible for any loss of life or property in case of an emergency and/or due to the non-functioning of the fire safety system that is exclusively under scope and control of Licensee. The MAHA-METRO shall not be responsible for any loss of life and property in the Project Area due to any malfunctioning of the fire system in case of any fire emergency within the Project Area.
- 11.2.7. Licensee shall maintain all the utilities provided by Maha-Metro for Conventional Hall in excellent working condition. The expenditure required to maintain such utilities (beyond warranty) shall be borne by Licensee at his own cost. It will be mandatory for the licensee

to keep the utilities in good working conditions till entire licensee period. In case it is found that the provided utilities are not working in good specified condition / lost / misused / etc. a penalty/fine of Rs. 10,000/- per instance shall be imposed by MAHA-METRO for each occasion. The Penalty amount shall be over and above the cost required for such repairs/maintenance.

- 11.2.8. In case the provided utilities are lost / misplaced / damaged / made non-operational the licensee will have provide / install the same with new one with the same matching specifications at Licensee's cost.
- 11.2.9. For Escalators, Elevators, Lifts, LED Screen (Video Wall), HVAC, Music System (PA System), and other equipments installed within the Project Area, the Licensee is advised to execute Annual Comprehensive Maintenance Contract (AMC) with the Manufacturer or his authorised representative up-to the Contract Period. Replacement of Spares if required shall only be procured only from the original manufacturer. It shall be the responsibility of the Licensee to see that the equipment/systems/machinery/electronic devices remains in working condition at the time of expiry of the contract period. In the event of default, the cost of the repairs and maintenance shall be recovered from the Security Deposit submitted by the Bidder.
- 11.2.10. The list specifying the equipment's /utilities installed/provided in the Convention Centre are provided at Annexure - 3 : Specifications for Video Wall, P A System, Escalator and Lifts.

### **11.3. Safety, breakdowns and accidents**

- 11.3.1. The Licensee shall ensure safe conditions within the premises and surrounding areas, and in the event of unsafe conditions, breakdowns and accidents, it shall follow the relevant operating procedures. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

### **11.4. De-commissioning due to Emergency**

- 11.4.1. If in the reasonable opinion of the Licensee, there exists an Emergency which warrants de-commissioning and closure of the whole or any part of the Project Area, the Licensee shall be entitled to de-commission and close the whole or any part of the Project Area allotted to him so long as such Emergency and the consequences thereof warrant; provided that such decommissioning and particulars thereof shall be notified by the Licensee to Maha-Metro without any delay, and the Licensee shall diligently carry out and abide by any reasonable directions that Maha-Metro may give for dealing with such Emergency.
- 11.4.2. The Licensee shall re-commission the operations and maintenance of the premises or the affected part thereof as quickly as possible after the circumstances leading to its decommissioning and closure have ceased to exist or have so abated as to enable the Licensee to re-commission the Project Area. However, the recommissioning of the Project Area be done only after the written approval of Maha-Metro.

### **11.5. Authority's right to take remedial measures**

- 11.5.1. In the event the Licensee does not maintain and/or repair the Project Area and such breach is causing or likely to cause the safety and security of a public at a large, Maha-Metro shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Licensee, and to recover its cost from the Licensee. In addition to recovery of the aforesaid cost, a sum equal to 25% (twenty five percent) of such cost shall be paid by the Licensee to Maha-Metro as Damages.
- 11.5.2. Maha-Metro shall have the right, and the Licensee hereby expressly grants to Maha-Metro the right, to recover the costs and Damages specified in Clause 11.5.1 above .

### **11.6. Overriding powers of Maha-Metro**

- 11.6.1. If in the reasonable opinion of Maha-Metro, the Licensee is in material breach of its obligations under this Agreement and, in particular, the maintenance requirements, and such breach is causing or likely to cause material hardship or danger to the Users, Maha-Metro may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Licensee to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.
- 11.6.2. In the event that the Licensee, upon notice under Clause 11.6.1, fails to rectify or remove any hardship or danger within a reasonable period, Maha-Metro may exercise overriding powers under this Clause 11.6.2 and take over the performance of any or all the obligations of the Licensee to the extent deemed necessary by it for rectifying or removing such hardship or danger; provided that the exercise of such overriding powers by Maha-Metro shall be of no greater scope and of no longer duration than is reasonably required hereunder; provided further that any costs and expenses incurred by Maha-Metro in discharge of its obligations hereunder shall be deemed to be O&M Expenses, and Maha-Metro shall be entitled to recover them from the Licensee in accordance with the provisions of Clause 11.5 along with the Damages specified therein.
- 11.6.3. In the event of a national emergency, civil commotion or any other act specified in Clause 11.4, Maha-Metro may take over the performance of any or all the obligations of the Licensee to the extent deemed necessary by it or as directed by the Government, and exercise such control over the Project Area or give such directions to the Licensee as may be deemed necessary; provided that the exercise of such overriding powers by Maha-Metro shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by Maha-Metro. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisions of Article 26. It is also agreed that the Licensee shall comply with such instructions as Maha-Metro may issue in pursuance of the provisions of this Clause 11.6, and shall provide assistance and cooperation to Maha-Metro, on a best effort basis, for performance of its obligations hereunder.

**11.7. Restoration of loss or damage to Project Area**

- 11.7.1. Save and except as otherwise expressly provided in this Agreement, in the event that the Project Area or any part thereof suffers any loss or damage during the License Period from any cause whatsoever, the Licensee shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project Area allotted conforms to the provisions of this Agreement.

## **ARTICLE 12 INDEMNITY AND INSURANCE**

### **12.1. Insurance**

If during the License period, any loss of property and/or life and/or assets takes place, the loss on 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 the payments arising out of any third party claims. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.

12.1.1. The Licensee shall, at its own cost and expense, purchase and maintain during the License Period insurance to cover against:

- i. Loss, damage or destruction of the Project Area, at replacement value;
- ii. The Licensee's general liability arising out of this Agreement;
- iii. Liability to third parties in the form of Injury, disability and death;
- iv. The risks that may devolve on Maha-Metro as a consequence of any act of negligence or omission by the Licensee or its employees, agents, contractors etc.; and

Any other insurance that may be necessary under and in accordance with the financing documents, Applicable Laws to protect the Licensee and its employees, including all Force Majeure Events that are insurable, and not otherwise covered in items above.

12.1.2. The aggregate of the maximum sums insured under the insurance taken out by the Licensee pursuant to this Article 12 are herein referred to as the "Insurance Cover". The value of insurance covered for projects with respect to loss caused due to fire, earth quake or other natural calamities should be not less than INR 2500.00 Lakhs.

12.1.3. The Licensee shall, immediately upon obtaining any insurance policy as per the requirement of this Agreement, provide to Maha-Metro copies or appropriate endorsements, certifications or other satisfactory evidence of insurance including copies of all premium payment receipts or renewals of all such insurance policies.

12.1.4. Such insurance shall not be cancelled, changed or terminated until the expiration of at least 45 (forty five) days after written notice of such cancellation, change or Termination has been given to Maha-Metro in writing. If at any point of time the Licensee fails to maintain in force and effect any or all of the insurance policies required under this Agreement, Maha-Metro may, at its option, purchase and maintain such insurance at the cost and expense of the Licensee. All sums incurred by Maha-Metro thereon shall be reimbursed by the Licensee forthwith on demand, failing which the same shall be recovered by the Maha-Metro from the Security Deposit of the Licensee.

12.1.5. In the event of default i.e. failure of the Licensee to maintain the Insurance Cover, the Licensee agrees and undertakes to indemnify and hold the Maha-Metro harmless against any and all liabilities, losses, damages, claims, expenses suffered by the Maha-Metro.

12.1.6. In the event of any loss, theft, fire or damages of equipment, building and premises which are uncovered under the Insurance Policy or are kept unpaid by the Insurance Company, the cost of the same shall be recovered from the Licensee at the prevailing market rate or rate



as decided by The Maha-Metro within a period of 30 days of occurrence of such event and the Licensee shall be bound to bear the cost.

## **12.2. Indemnity**

- 12.2.1. The Licensee hereby undertakes to indemnify, defend, save and hold harmless the Licensor and its officers, servants, agents, (hereinafter referred to as the “Licensor’s Indemnified Persons”) against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatsoever kind and nature, whether arising out of any breach by the Licensee of any of its obligations under this Agreement or any related agreement or Applicable Laws or from any negligence of the Licensee under contract or tort or on any other ground whatsoever.
- 12.2.2. The Licensee hereby undertakes to indemnify and hold Licensor Indemnified Persons harmless against all costs, damages, liabilities, expenses arising out of any third party claims, relating to non- completion of the Fit-Out Activities; quality of the Fit-out Activities, the activities related to operations and maintenance of the Project Area.
- 12.2.3. The Licensee hereby undertakes to indemnify Licensor Indemnified Persons against all losses and claims in respect of death or injury to any person or loss or damage to any property which may arise out of or in consequence of the execution and completion of works and remedying defects therein and against all claims, proceedings, damages, costs charges and expenses whatsoever in respect thereof or in relation thereto.
- 12.2.4. The Licensee hereby indemnifies Licensor Indemnified Persons against any loss or damage to Project Site or otherwise for any act and omission of the Licensee including for breach of License Agreement or any Applicable Law by Licensee as the case may be.
- 12.2.5. The Licensee hereby undertakes that Licensor Indemnified Persons shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of Licensee or any of its contractors / sub contractors. The Licensee shall indemnify and keep indemnified Licensor Indemnified Persons against all such damages and compensation, all claims proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.
- 12.2.6. Survival on Termination  
The provisions of this Clause ‘12.2’ shall survive Termination.

## **ARTICLE 13 UNSUSAL OCCURANCE AND LIABILITIES**

### **13.1. Reports of unusual occurrence**

13.1.1. The Licensee shall, prior to the close of each day, send to 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 Area 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 Aurthority;
- (d) communication failure affecting the operation of premises;
- (e) smoke or fire;
- (f) flooding of Project Area; and
- (g) such other relevant information as may be required by Maha-Metro.

### **13.2. Accidents & Other Liabilities:**

It shall be the sole responsibility and liability of the Licensee to make good any claim by any person for damage / injury, loss of life compensation of any kind whatsoever whether in a court of law or otherwise. The Maha-Metro shall not be responsible or liable for the same as the day-to-day running & maintenance is being given to the Licensee under this License. The Licensee shall always indemnity the Maha-Metro of any such claims damages/compensation any kind of claim whatsoever by any person. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.

## **ARTICLE 14 FORCE MAJEURE**

### **14.1. Force Majeure**

- 14.1.1. Neither Maha-Metro nor Licensee shall be liable for any inability to fulfill 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 Licensee.
  - 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.

### **14.2. Notice of Force Majeure Event**

- 14.2.1. As soon as practicable and in any case within 3 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Party which is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event (the "Affected Party") shall notify the other party of the same, setting out, inter alia, the following in reasonable detail:
- a) The nature and extent of the Force Majeure Event ;
  - b) The estimated period for which the Force Majeure Event is expected to last;
  - c) The nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
  - d) The measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
  - e) Any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.

### **14.3. Performance of Obligations**

- 14.3.1. The Affected Party shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:
- a. Due notice of the Force Majeure Event has been given to the other party as required by the preceding Clause 14.2;

- b. The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- c. There shall be no Termination of this Agreement due to Force Majeure Event except as provided in Clause 14.4;
- d. Where the Licensee is the Affected Party, the various deadlines set forth in this Agreement and the License Period shall be extended by the period for which such Force Majeure Event shall subsist.
- e. Where the Licensee is the Affected Party, it has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the facilities in the Project Area as a result of the Force Majeure Event and to restore the facilities in the Project Area , in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- f. When the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder. The non issue of such notice being no excuse for any delay for resuming such performance;
- g. The Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement; and
- h. Any proceeds of Insurance taken to safeguard force majeure events, received by the Licensee shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with Good Industry Practice, unless otherwise agreed to by Maha-Metro.

#### **14.4. Termination due to a Force Majeure Event**

- 14.4.1. In case a Force Majeure Event subsists for a period of 180 (one hundred eighty) days or more within a continuous period of 365 (three hundred sixty five) days, either Party may in its sole discretion terminate this Agreement by giving 30 (thirty) days prior Termination Notice in writing to the other Party without being liable in any manner whatsoever.

## **ARTICLE 15 BREACHES/SURRENDER/TERMINATION OF LICENSE AGREEMENT**

### **15.1. Surrender of License Agreement:**

- 15.1.1. No partial surrender of Project or part of the Project Area which has been handed over to the Licensee by Maha-Metro shall be permissible during the tenure of the License Agreement.
- 15.1.2. The Licensee shall have option to surrender the license agreement after twelve (12) months lock-in period provided -
- The Licensee successfully completes initial twelve (12) months lock in period.
  - There is no arrear pending with the Licensee on the date of issue of surrender notice.
  - Maha-Metro receives a 180 days advance notice, in writing, from licensee for its intention to surrender the license agreement. Such notice of 180 days can be given as per the provisions of this license agreement.
  - Licensee continues to pay all dues as per schedule to Maha-Metro till the date of premature closure of License Agreement.
  - Licensee hand over peaceful possession of the all the Project Area to Maha-Metro free from all encumbrances within 30 (thirty) days from the termination of License agreement.

If Licensee satisfies the above said conditions, Maha-Metro shall terminate the Agreement and refund interest free Security Deposit/ Performance Security after adjusting any outstanding amount on the part of Licensee.

- 15.1.3. If the Licensee is desirous of terminating the license hereby created before expiry of the lock-in period of twelve (12) months, the License Agreement shall deemed to be terminated on the date mentioned in termination/ surrender notice, subject to confirmation by Maha-Metro. In such a case, the balance Interest Free Security Deposit shall be forfeited in favour of Maha-Metro after adjustment of outstanding dues, if any, payable to Maha-Metro. No grace period shall be provided to Licensee in such a case. Maha-Metro may also recover the balance outstanding dues, if they are more than Interest Free Security Deposit, from the other contracts of Licensee in Maha-Metro. Balance outstanding dues, if are more than Interest Free Security Deposit, shall also be recoverable from the Licensee before Licensee is permitted to remove their establishment(s) or else Maha-Metro will seize their property at nil/ zero value. Maha-Metro shall be free to dispose-off the said property / goods in whatsoever manner as it deems fit. Licensee shall have no claim for compensation or consideration / damages on this account.
- 15.1.4. There shall be a lock in period of twelve (12) months from the date of commencement of agreement. The Licensee shall have option to exit from the License Agreement immediately after completion of the lock in period. For it, the Licensee shall have to issue 180 days prior notice to Maha-Metro. Such prior notice intimation can be given after six months however option to exit will be available only after twelve (12) months. In this case, Security Deposit of the Licensee shall be refunded after adjusting the dues, if any, to be payable by Licensee. In this case, Security Deposit of the Licensee shall be refunded after adjusting the dues, if any, to be payable by the Licensee. Maha-Metro may also recover the balance outstanding dues, if are more than Interest Free Security Deposit, from the other contracts of Licensee

in Maha-Metro. Balance outstanding dues, if are more than Interest Free Security Deposit, shall also be recoverable from the Licensee before Licensee is permitted to remove their establishment(s) or else Maha-Metro will seize their property at nil / zero value. Maha-Metro shall be free to dispose-off the said property / goods in whatsoever manner as it deems fit. Licensee shall have no claim for compensation or consideration / damages on this account.

- 15.1.5. If the Licensee is desirous of terminating the license after expiry of above said lock-in period without serving any prior intimation period or shorter intimation period than 180 days, the agreement shall deemed to be terminated on completion of such short / irregular intimation period. In such cases, the Interest Free Security Deposit shall be refunded to the Licensee after adjustment of license fee for period shorter than 180 days (notice period) and outstanding dues, if any. Maha-Metro may also recover the balance outstanding dues, if are more than Interest Free Security Deposit, from the other contracts of Licensee in Maha-Metro. Balance outstanding dues, if are more than Interest Free Security Deposit, shall also be recoverable from the licensee before Licensee is permitted to remove their establishment(s) or else Maha-Metro will seize their property at nil/ zero value. Maha-Metro shall be free to dispose-off the said property / goods in whatsoever manner as it deems fit. Licensee shall have no claim for compensation or consideration / damages on this account.

## **15.2. Breach of License Agreement/ Licensee's Events of Default:**

- 15.2.1. Following shall be considered as Material Breach of the License Agreement by Licensee resulting in Licensee's Events of Default:
- a. If the Licensee has failed to perform or discharge any of its obligations in accordance with the provisions of License Agreement, unless such event has occurred because of a Force Majeure Event, or due to reasons solely attributable to Maha-Metro without any contributory factor of the Licensee.
  - b. If the Licensee fails to pay Fixed Fees, Annual License Fee, utility charges, penalty or Damage herein specified or any other dues to be paid by the Licensee to Maha-Metro by the stipulated date.
  - c. If the Licensee during pendency of the License Agreement becomes insolvent or is put under receivership by a competent court.
  - d. If the Licensee is in persistent non-compliance of the written instructions of a Maha-Metro officials.
  - e. 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.
  - f. If the Licensee is in violation of any of the other Clauses of License Agreement and after three written notice (unless otherwise specifically mentioned therein) from Maha-Metro fails to cure the Default to the satisfaction of Maha-Metro.
  - g. If any representation made or warranties given by the Licensee under this Agreement is found to be false or misleading.
  - h. If the Licensee engaging or knowingly has allowed any of its employees or agents to engage in any activity prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.

- i. If the Licensee has created any encumbrance, charges or lien in favour of any person or agency, over the Project Area except expressly permitted under this Agreement.
- j. If a resolution for voluntary winding up has been passed by the shareholders of the Licensee.
- k. If any petition for winding up of the Licensee has been admitted and liquidator or provisional liquidator has been appointed or the Licensee has been ordered to wind up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of Maha-Metro, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Licensee under this Agreement.
- l. If the Licensee has abandoned the Project.
- m. If the licensee violates the allowed usage as per provisions of the license agreement.
- n. If the licensee submitted false undertaking (as detailed on Clause No. 3.5 of Chapter-3) regarding not blacklisting / ban Licensee by Central/ State Government Department/ Public Sector Undertaking/ Other Government Entities or Local Body or termination of contract due to their nonperformance after award of contract during last three (03) years.

### **15.3. Termination of License Agreement by Maha-Metro:**

- 15.3.1. Provided that in the event of application of clauses 15.2 (a) and (b) above, Maha-Metro shall give to the Licensee 30 days time to cure the default prior to considering the events specified therein as Licensee's events of default and in the event the Licensee remedies the default to the satisfaction of the Maha-Metro within the cure period, the event shall not be considered as a Licensee Event of Default. In case the licensee fails to remedy the default to the satisfaction of the Maha-Metro within the cure period, then Maha-Metro shall be within its rights to disconnect the utility services & terminate the License Agreement. The Licensee voluntarily agrees not to seek any claim, compensation, damages or any other consideration whatsoever on any ground in this regard.

### **15.4. On Operational Ground:**

- 15.4.1. Maha-Metro reserves the right to terminate the License Agreement by giving three months advance notice on operational ground. The License agreement shall stand terminated after expiry of three months notice and the Security Deposit shall be refunded after adjusting outstanding dues, if any, payable by the Licensee. The Licensee voluntarily agrees not to seek any claim, compensation, damages or any other consideration whatsoever on any ground in this regard.

### **15.5. Termination for Force Majeure:**

- 15.5.1. The License Agreement may be terminated for Force Majeure Reasons as specified in Article -14.

**15.6. Other Terms & Conditions:**

15.6.1. On termination of License Agreement:

- a. All third party agreements, entered by the Licensee with respect to the said Project, shall stand terminated with immediate effect ;
- b. In case of termination of agreement on account of Licensee's Events of Default, the interest free Security Deposit shall be forfeited in favour of Maha-Metro. Any outstanding dues payable to Maha-Metro shall be adjusted/ recovered from the advance license fee and forfeited interest free Security Deposit. Balance outstanding dues, if remaining after adjustment of outstanding dues from the advance license fee and interest free Security Deposit, shall be recovered from the licensee.
- c. All utilities shall be disconnected with immediate effect, unless otherwise specified elsewhere, and

15.6.2. A notice of vacation shall be issued to the Licensee to vacate the premises within 30 days.

- i. On termination of the license agreement, the Licensee shall handover the vacant possession of Project Area/Premises to the Maha-Metro's authorized representative within 30 days from the date of termination of License Agreement. The Licensee shall be allowed to remove their temporary structures, assets like furniture, almirahs, air-conditioners, DG sets, equipments, etc without causing damage to the structure. However, the Licensee shall not be allowed to remove any facility, equipment, fixture, etc. which has become an integral part of the Project Area. The Licensee agrees voluntarily and un-equivocally not to seek any claim, damages, compensation or any other consideration whatsoever on this account. If the premise is not handed over in good condition as required under this clause, Maha-Metro reserves the right to deduct/ recover damage charges.
- ii. After vacating the premises, the Licensee shall submit a vacation certificate from the Maha-Metro's authorized representative as a proof of Licensee having vacated the site. Licensee's statement regarding vacation, without a vacation certificate from the Officer in-charge or its authorized representative, shall not be accepted.
- iii. The termination of this Agreement shall not relieve either party from its obligation to pay any sums then owing to the other party nor from the obligation to perform or discharge any liability that had been incurred prior thereto. The Licensee shall be liable to pay all dues outstanding to Maha-Metro including electricity, Water and other utility charges under this agreement without prejudice to rights and remedies applicable under the law. The final settlement of dues shall take place after submission of vacation certificate from the Officer In-charge or his authorized representative subsequent to termination of License Agreement.
- iv. Rights of Maha-Metro on Termination: Maha-Metro shall not have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or reemployment on any ground, in relation to any person in the employment of or engaged by the Licensee in connection with the Project Area.



- v. On termination of Agreement, Maha-Metro shall have rights to re-market or to seal/ lock the Project Area.

**15.7. Rights of Maha-Metro on Termination**

- 15.7.1. Notwithstanding anything contained in this Agreement, Maha-Metro shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Licensee in connection with the Project Area.
- 15.7.2. In cases of termination of License agreement due to default of Licensee, Maha-Metro shall have the exclusive rights to cut water supply, electricity, sewerage connection to the Project Area and also start process for eviction of Licensee from Maha-Metro property.

**15.8. Right to re-market the said Project on Termination**

- 15.8.1. Notwithstanding anything contained in this Agreement, Maha-Metro shall have right to remarket the Project on Termination of this Agreement for any reasons whatsoever.

## **ARTICLE 16 DISPUTE RESOLUTION/ARBITRATION**

### **16.1. Amicable Resolution**

#### **16.1.1. No legal action till Dispute Settlement Procedure is exhausted.**

Any and all Disputes shall be settled in accordance with the provisions of Article 16. 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 16 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.

#### **16.1.2. Notice of Dispute**

For the purpose of Sub-Clause 16.1.2, 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 Project Area by Maha-Metro.

#### **16.1.3. 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.

#### **16.1.4. 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.

**16.1.5. 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 Deputy HOD level officer and above. The Licensor and the Licensee shall in good faith co-operate with the Conciliator and, in particular, shall endeavor 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.

**16.1.6. 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) 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.

## **16.2. 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:

### **16.2.1. Number of Arbitrators: The arbitral tribunal shall consist of:**

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

### **16.2.2. 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.

16.2.3. Qualification and Experience of Arbitrators (to be appointed as per sub-clause 16.2.2 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.

- 16.2.4. 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.
- 16.2.5. 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.
- 16.2.6. 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.
- 16.2.7. 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.
- 16.2.8. 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.
- 16.2.9. 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 endeavor to adhere to time schedule for early finalization of Award.

16.2.10. 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.

16.2.11. 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.

16.2.12. 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.

16.2.13. 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.

16.2.14. 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 17 REPRESENTATIONS AND WARRANTIES**

### **17.1. The Licensee represents and warrants to Maha-Metro that -**

- a. It is duly organized, validly existing and in good standing under the laws of India;
- b. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- c. It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- d. It has the financial standing and capacity to undertake the Project (Operation and Maintenance of Convention Hall and allied area);
- e. This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- f. The execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Licensee Memorandum and Articles of Association or any Applicable Law or any covenant, agreement, understanding, decree or order to which the Licensee is a party or by which Licensee or any of its properties or assets are bound or affected;
- g. There are no actions, suits, proceedings or investigations pending or to the Licensee's knowledge threatened against the Licensee at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute the Licensee Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- h. 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 authority which may result in Material Adverse Effect;
- i. It has complied with all applicable law 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 Material Adverse Effect;
- j. No representation or warranty by the Licensee contained herein or in any other document furnished by the Licensee to Maha-Metro or to any government authority in relation to Applicable Permits contains or shall contain any untrue statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading;



- k. The Licensee also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that Maha-Metro shall not be liable for the same in any manner whatsoever to the Licensee.
- l. The Licensee shall make its own arrangements in engagement of its staff and labour and shall at no point represent to or claim that the staff, labour is being recruited for and on behalf of Maha-Metro. The Licensee shall at all times comply and represent to the staff and labour employed/ engaged by them the requirement for complying with Applicable Laws and applicable Permits, particularly in relation to safety and environmental regulations.

**17.2. Obligation to notify change:**

In the event that any of the representations or warranties made/given by the Licensee ceases to be true or stands changed, it shall promptly notify Maha-Metro of the same.

## **ARTICLE 18 MISCELLANEOUS**

### **18.1. Interest and Right of Set Off**

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at the rate of 15% per annum from the due date for payment thereof until the same is paid to or otherwise realized by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off. Provided that the stipulation regarding interest for delayed payments contained in this Clause 14.1 shall neither be deemed nor construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

#### **18.1.1. Governing Law and Jurisdiction**

This Agreement shall be governed by the laws of India. The Courts at Nagpur shall have exclusive jurisdiction over all matters arising out of or relating to this Agreement.

#### **18.1.2. Waiver**

Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

- a. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
- b. shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
- c. shall not affect the validity or enforceability of this Agreement in any manner.

Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

#### **18.1.3. Survival**

Termination of this Agreement (a) shall not relieve the Licensee or Maha-Metro of any obligations already incurred hereunder which expressly or by implication survives

Termination hereof, and (b) except as otherwise provided in any provision of this Agreement

expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination

18.1.4. Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

18.1.5. No Partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever. Maha-Metro is also not a principal employer in regard to the activities of the Licensee.

18.1.6. Language

All notices required to be given under this Agreement and all communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

18.1.7. Exclusion of Implied Warranties etc.

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

18.1.8. Counterparts

This Agreement may be executed in one part. Post Registration of Agreement, the original copy shall be retained by Maha-Metro and a copy of the same shall be shared with Licensee.

18.1.9. Employees of Licensee

The employees/ staff of the Licensee shall not be deemed or construed to be the employees of the Maha-Metro. The Licensee understands and undertakes that its employees/ staff shall make no claim against the Maha-Metro for any reasons whatsoever. Further, the Licensee also agrees that the Maha-Metro shall not be liable for any accident/injury or claims of the workers/ employees during the execution of the developmental works under this Agreement and the Licensee hereby indemnifies and undertakes to keep Maha-Metro

indemnified in respect of the same.

**18.1.10. Encroachment**

The Licensee shall have no exclusive rights for using the any area other than those permitted/authorised to him and restrict its operation to within the Project Area. The Common Areas/Metro Station Area shall not be allowed to be encroached or used for any other purpose and any encroachment shall be construed as breach of the License Agreement inviting action as applicable for breach of the License Agreement.

**18.1.11. Registration of Agreement:-**

The registration of License/lease agreements should be done within 30 days of signing of agreement, the licensee/ lessee (registration fees, stamp duty etc to be fully borne by the licensee/lessee) and the duly registered documents to be submitted to Maha-Metro for records. Any amendment in the contract agreement, if required to be registered, shall also be registered within 30 days from the date of amendment and duly registered documents shall be submitted to Maha-Metro for record.

In case the registration of the license/lease agreement /amendment is not done within the 30 days of signing of license/lease agreement/ amendment, it shall be treated as “Material Breach of Contract”. The Licensee will be given 30 days time to cure the defaults In case Licensee fail to remedy the default to the satisfaction of the Maha-Metro within the cure period, Maha-Metro may terminate the License agreement after expiry of cure period duly forfeiting the security deposit/ any other amount paid by Licensee.

**18.2. Miscellaneous**

- 18.2.1. All penalty amounts stipulated in the License Agreement shall become double after completion of every three (three) years from the date of commencement of License Agreement on rolling basis.
- 18.2.2. Licensee shall comply with the laws of land including Nagpur Pollution Control Board guidelines, building guidelines, fire norms etc. Maha-Metro shall not be held liable for any change/modification in these laws which adversely affect this agreement. Licensee shall have no right/ claim in this regard, whatsoever the reason may be.
- 18.2.3. 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.

18.2.4. 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.

18.2.5. Notices :

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 Authority:**

Address : Maharashtra Metro Rail Corporation Limited  
Metro Bhavan, Near Dikshabhoomi, Ramdaspath,  
Nagpur-440010  
Telephone : 0712 –2554217  
Fax : 0712 –2553300  
Email : pd@mahametro.org  
**Kind Attention : Managing Director**  
**Cc : Maha-Metro’s Representative**

**If to the Licensee**

Name : M/s .....

Address : “ .....”

Telephone : 0712 – .....

Fax : .....

Mobile : .....

**Attention** : .....

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:

No instruction/ notice of any party if not communicated in writing, shall be entertained by the other party.

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.

(.....)  
Authorized Signatory  
FOR AND ON BEHALF OF  
MAHARASHTRA METRO RAIL CORPORATION  
LIMITED

(.....)  
.....  
FOR AND ON BEHALF OF .....  
.....

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 – 1)

(Witness – 2)

.....

.....

Name:.....

Name: .....

Address:.....

Address: .....

.....

.....

# **Annexures**

## **Annexure – 1 : Details of Project Area and Site Plan**

### **1. Project Area**

The “Project Area” of Convention Hall available at Airport South Metro Station of Nagpur Metro Rail Project shall include:

<b>At First Floor</b>	
<b>Area of Convention Hall</b>	600.00 Sqm
<b>Area of Dining Hall</b>	208.00 Sqm
<b>Green Rooms</b>	4 Nos @ 12.73 Sqm each, with 2 Toilets of 8.99 Sqm
<b>Circulation Lobby (between Dining and Convention Hall)</b>	39.00 Sqm
<b>Lounge/ Waiting Area</b>	44.34 Sqm
<b>At Mezzanine Level</b>	
<b>Store</b>	34.00 Sqm
<b>Washing Area</b>	14.80 Sqm
<b>Cooking Space</b>	17.90 Sqm
<b>At Ground Floor: Road Level Parking (Common for Metro Station and Convention Hall)</b>	

### **The Project Facilities installed at Convention Hall include –**

- One LED Screen of size 6.91m x 2.59m
- One Escalator of Schindler make, installed at the entrance of Convention Hall
- Centralised Air-Conditioning System  
(Air-conditioning unit: Capacity of 88 Tones(main hall), 30 tons (Side passages) and 20 Tons (Dining Area), Two chiller plants)
- 2 Lifts, one at Entrance (Schindler make) and other lift (for service) (Johnson Make).
- Gas Bank installed on the exterior of the Hall. Etc.
- PA System (ATEIS Make)
- 18 watt - 400 lights,

### **Note:**

1. Areas indicated below are approximate.
2. All areas offered on license basis are available on “as is where is basis”.

### **2. Site Plan of Convention Hall**

Attached as separate PDF File.



## **Annexure – 2 : Usage of the Convention Hall and Project Area**

### **A. List of Preferable activities**

The Licensee shall be allowed to conduct following type of functions in Convention Hall premises

-

- i. Engagement/Marriages Functions
- ii. Receptions/Banqueting
- iii. Anniversary /Birthday Parties
- iv. Social Events
- v. Family Gatherings
- vi. Corporate events/ Conferences
- vii. Exhibitions
- viii. Seminars etc.

### **B. List of Banned/Dis-allowed Activities list**

1. Any Service the sale of which is unlawful /illegal or deemed unlawful under any Indian act or legislation.
2. Any product the storage and sale of which may lead to or be considered as a fire hazard; such as fire crackers, industrial explosives, chemicals etc.
3. Sale /Consumption of liquor and alcohol based drinks or beverages.
4. Slaughter House(s)/Butcher House
5. Sale of tobacco and tobacco products.
6. Coal/Gas Cylinder based cooking strictly prohibited.
7. Advertisement at any location and in any format.
8. Restaurants, Food Courts
9. Educational Institutes, Coaching/ Training Centre

### **Annexure - 3 : Specifications for Video Wall, P A System, Escalator and Lifts**

#### **1. The Project Facilities installed at Convention Hall include –**

- One LED Screen of size 6.91m x 2.59m
- One Escalator of Schindler make, installed at the entrance of Convention Hall
- Centralised Air-Conditioning System  
(Air-conditioning unit: Capacity of 88 Tones(main hall), 30 tons (Side passages) and 20 Tons (Dining Area), Two chiller plants)
- 2 Lifts, one at Entrance (Schindler make) and other lift (for service) (Johnson Make).
- Gas Bank installed on the exterior of the Hall. Etc.
- PA System (ATEIS Make)
- 18 watt - 400 lights,

#### **2. Details of Video Wall**

- a. Type of Video wall: LED Indoor video wall (3 mm pitch)
- b. Make & Model: Delta Electronics India Pvt. Ltd, LSM-031 DAALF
- c. Size of Video wall: 6.91 m x 2.59 m
- d. Video wall components:
  - i. 4 Rows X 12 Columns configuration of 576 mm X 648 mm lamp boards
  - ii. HD800 processor
  - iii. LED controller
  - iv. PC and TFT
  - v. Power distribution box
  - vi. Power cables, DVI cables and associated accessories.

#### **3. PA System Details**

- e. Make: ATEIS
- f. Components:
  - i. Line Array speakers- 300 W: 2 Qty
  - ii. Filler Speaker: 8 Qty
  - iii. 5" Metal Coax Ceiling Speaker: 18 Qty
  - iv. 500 W Amplifier: 6 Qty
  - v. DSP Audio Processor: 1 Qty
  - vi. Professional Audio Mixer- 24 channels: 1 Qty
  - vii. Wireless Mic Set-Handheld: 2 Qys
  - viii. Wireless Mic Set-Bodypack: 2 Qty
  - ix. PA Lecture System with inbuilt speakers, Amplifiers, Podium Mic, USB port: 1 Qty
  - x. Rack Mount Rolling stand and adjustable top mixer platform mount 19U: 1 Qty
  - xi. Rack for Amplifier & Controller: 1 Qty

#### 4. Details of Lift and Escalator

**Salient Features of Lift no.03 installed at Convention Hall Airport South Station:**

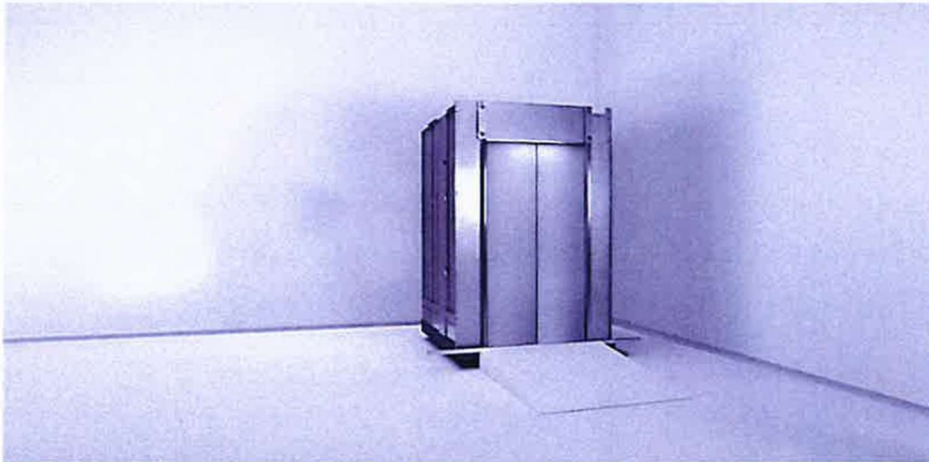


Item	Description
<b>Lift No.03</b>	<b>Serving from Basement to Ground to Convention Hall level</b>
<b>General</b>	Machine Room-Less and Gearless, energy efficient Heavy-duty type
<b>Speed</b>	1.0 m/s
<b>Car Capacity</b>	1000 Kg /13 Persons
<b>Motor Control</b>	VVVF
<b>Remote Monitoring</b>	Microprocessor based remote monitoring / controlling system & fault diagnostic system
<b>Material</b>	Corrosion proof and Fire rated material
<b>Safety Devices</b>	As per international & national standards
<b>Other Important Features</b>	Suitable for Passengers with different ability
	Vandal Resistant Interiors
	Intercom, Lift Announcement System
	Attendant and Fireman Drive Mode
	Anti-Man Trap Features

Make

M/s Schindler India Pvt. Ltd

**Salient Features of Lift no.04 installed at Convention Hall Airport South Station:**



Item	Description
Lift No.04	Kitchen Service Lift Convention Hall Serving from Ground to Mezzanine to Convention Hall
General	Machine Room-Less and Gearless, energy efficient Heavy-duty type
Additional Specs.	Through Car Arrangement
Speed	1.0 m/s
Car Capacity	1000 kg / 13 Passenger
Motor Control	VVVF
Remote Monitoring	Microprocessor based remote monitoring / controlling system & fault diagnostic system
Material	Corrosion proof and Fire rated material
Safety Devices	As per international & national standards
Other Important Features	Suitable for Passengers with different ability
	Vandal Resistant Interiors
	Intercom, Lift Announcement System
	Attendant and Fireman Drive Mode
	Anti-Man Trap Features

Mate

M/S Johnson Lifts Pvt. Ltd

**Salient Features of Escalator no.03 installed at Convention Hall Airport South Station:**



Item	Description
<b>ESC NO.03</b>	<b>Serving from Ground to Convention Hall level</b>
<b>General</b>	Heavy duty, bi-directional, semi-outdoor type
<b>Step width</b>	1000 mm
<b>Flat step</b>	4 nos. (both top & bottom landing)
<b>Speed</b>	0.65m/s (normal); 0.5 m/s (optional) & 0.2 m/s (idling)
<b>Carrying Capacity</b>	195 passengers/ min.
<b>Inclination</b>	30° (max.)
<b>Balustrade</b>	Glass - (for Escalators from Concourse to Platform) Stainless steel - (for Escalators from Ground to Concourse)
<b>Motor Control</b>	VVVF
<b>Step Chain Rollers</b>	Outside type for easy maintenance
<b>Remote Monitoring</b>	Microprocessor based remote monitoring / controlling system & fault diagnostic system
<b>Material</b>	Corrosion proof material for steps, rails, guide, etc.
<b>Safety Devices</b>	As per international & national standards

*Make*

*M/s Schindler India Pvt. Ltd.*