

SERVICE PROVIDER AGREEMENT

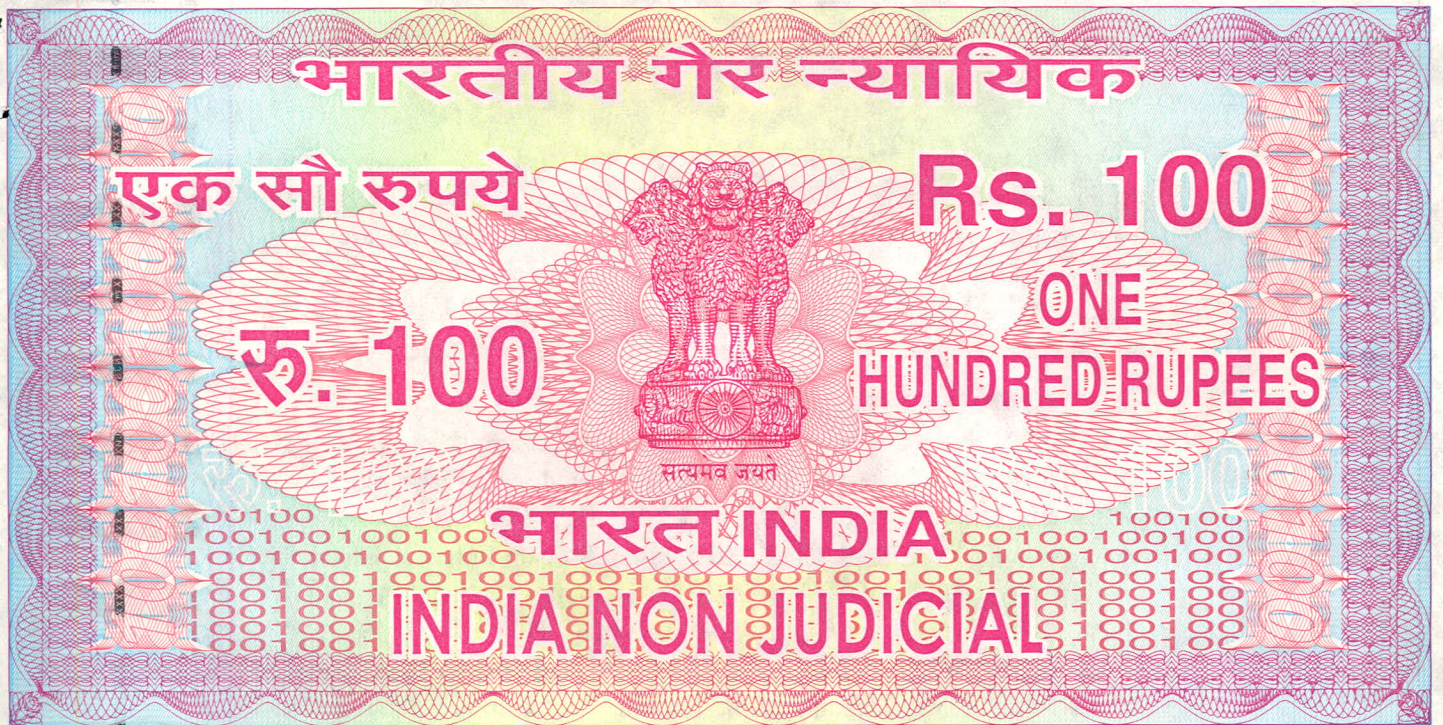
BETWEEN

RAJKOT RAJPATH LTD.

AND

MATESHWARI TRAVELS

Date: October 1ST, 2012,



गुजरात गुजरात GUJARAT

Y 630537

[Handwritten signature]

श्री... *[Signature]* ...
प्रतिष्ठान... *[Signature]* ...
...*[Signature]* ...
...*[Signature]* ...

PRELIMINARY

(विनय यमनलाल शाह)
जा.नं. ५६/०२, स्टैम्प वेयर, सत्य मेमो, ...
मोर्बा जंक्शन रोड, राजकोट.

THIS AGREEMENT is entered into on this 1st day of October, Two Thousand and Twelve (01-10-2012),

BETWEEN

RAJKOT RAJPATH LTD, a company incorporated under the provisions of the Companies Act, 1956, and wholly owned by Rajkot Municipal Corporation, having its registered office at Rajkot Municipal Corporation, Shri Harisinghji Gohil Zone office, West Zone, 150' Ring Road B/h Big Bazaar, Rajkot-360005 (hereinafter referred to as "Rajkot Rajpath Ltd. " which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of One Part;

AND

M/s MATESHWARI TRAVELS, a registered firm registered under section 58 of The Indian Partnership Act, and having its registered office at 1/34, Nand Nagar, Street No. 1, Beawar:305901, Rajasthan (hereinafter referred to as the "Service Provider " which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Other Part.

For, Rajkot Rajpath Limited

[Handwritten signature]

Director.

Mateshwari Travels

[Handwritten signature]
Partner

WHEREAS:

- A. Rajkot Rajpath Ltd. has been entrusted the task of implementing the Bus Rapid Transit System in phases the city of Rajkot by the Rajkot Municipal Corporation. For this purpose, along with other procurements, it sought a Service Provider for Purchase, Supply, Operations, Maintenance etc of 40 + 4 standby Buses of given specifications, with responsibilities better defined in the accompanying clauses in this Agreement, through an open competitive bid in August 2012.
- B. After evaluation of the bids received, Rajkot Rajpath Ltd. accepted the bid of the M/s Mateshwari Travels as the successful bidder duly approved by Standing committee wide resolution No:323 Dt.31/08/2012 and administrative approval order No:299 dt. 04/09/2012 Rajkot Rajpath Ltd. has issued its letter of acceptance No.369.dated 10/09/2012 (hereinafter called the "LOA") to the Agency, requiring, inter alia, the execution of this Agreement within 30 days of the issuance of the LOA, or such time extended time as extended by Rajkot Rajpath Ltd. at its sole discretion. Looking to the time required for finalizing the details in the Agreement, Rajkot Rajpath Ltd. agreed to extending the date of signing of the Agreement to the above date.
- C. By its letter dated 15/09/2012, M/s. **Mateshwari Travels**, has also joined in the said request of the firm to Rajkot Rajpath Ltd. to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the firm including the obligation to enter into this Agreement pursuant to the LOA.
- D. Rajkot Rajpath Ltd. has agreed to the said request of the firm and **Mateshwari Travels** has accordingly agreed to enter into this Agreement with Rajkot Rajpath Ltd. for execution of his rights and responsibilities, subject to and on the terms and conditions set forth hereinafter.

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

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner.

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For, Rajkot Rajpath Limited

Director.

Mateshwar Travels

Partner

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For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

(Signature)
Partner

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SCHEDULES

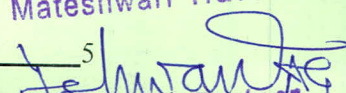
SCHEDULE I: REQUEST FOR PROPOSAL FOR PROCUREMENT & MAINTENANCE OF CITY BUSES & OPERATION OF BUS SERVICES FOR RAJKOT RAJPATH LTD. (BRTS) IN RAJKOT	
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For, Rajkot Rajpath Limited



Director.

Mateshwari Travels


Partner

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 ascribed to them hereunder:

"Bus" means a Passenger Bus unit that meets the Technical Specifications described in this Agreement and is to be procured, maintained, and operated as part of the BRTS by the Service Provider in accordance with the terms of this Agreement.

"Agreement or Service Provider Agreement" shall mean this Service Provider Agreement as defined in Clause 1.3 hereof.

"Annual Assured Bus Kilometers" means the minimum Bus Kilometers that Rajkot Rajpath Ltd. assures the Service Provider that a Bus will be made to travel by Rajkot Rajpath Ltd. in a period of twelve consecutive calendar months.

"Arbitration tribunal" means an organ composed of an odd number of persons known as arbitrators, who decide on the solution of a conflict in which the parties have expressly waived recourse to the ordinary civil courts

"Applicable Laws" means all statutes and laws promulgated or brought into force and effect by the Central Government of India or any State Government(s) or Local Government(s), including regulations and rules made by them, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

"Applicable Permits" means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under Applicable Laws in connection with the BRTS Project during the subsistence of this Agreement.

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 as in force today and shall include any and all modifications/ amendments thereto or any re-enactment thereof as in force from time to time.

"Applicable Kilometer Charge" means the rate that is to be paid by Rajkot Rajpath Ltd. to the Service Provider per Bus Kilometer operated for a given payment period.

"Base Kilometer Charge" means the rate of the Kilometer Charge payable for travel by a Bus up to the Annual Assured Bus Kilometers.

"Bus Kilometer" means a Kilometer travelled by a Bus of the Fleet as part of its operations in the BRTS pursuant to the Operating Plan.

"BRTS or BRT System or BRTS Project" means the Bus Rapid Transit System for the city of Rajkot and their surrounding areas that is being implemented by Rajkot Rajpath Ltd. in various phases.

"BRTS Corridor" means the roads which have been modified or are planned to be modified for the purpose of enabling smooth operation of the BRTS.

"Bus" means an air conditioned Bus that meets the Technical Specifications described in this Agreement and is to be procured, maintained, and operated as part of the BRTS by the Service Provider in accordance with the terms of this Agreement.

For, Rajkot Rajpath Limited

Mateshwari Travels

Director.

Partner

"Bus Service" means the service of operating the Buses as part of the BRTS, in accordance with this Agreement, including providing public carriage in accordance with the performance standards stipulated by Rajkot Rajpath Ltd..

"Bus Specification" shall mean the specifications of the Bus stipulated by the RAJKOT RAJPATH LTD. in the RFP, and any amendments thereto.

"Commercial Operations Date or COD" means the date on which each lot of 10+1 Buses shall be put into regular operation after the completion of Training and Testing Period for each Bus. This agreement shall expire on the date seven years from the COD as detailed in Clause 2.1.

"Encumbrance" shall mean any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss, payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the BRTS Project, physical encumbrances, claims for any amounts due on account of taxes, cesses, electricity, water and other utility charges and encroachments on the Premises.

"Expiry Date" shall mean the date on which the Agreement expires in the normal course with the efflux of time.

"Fleet" means the total number of Buses that are procured, maintained, and operated by the Service Provider in accordance with the provisions of this Document.

"Good Industry Practice" shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the BRTS Project.

"RAJKOT RAJPATH LTD." means the Rajkot Rajpath Ltd. an entity incorporated as a company under The Companies Act, 1956 for the purpose of planning, establishment, implementation, management, supervision and control of the BRTS and its authorized successors and assigns at all times.

"Letter of Acceptance" means the letter issued by RAJKOT RAJPATH LTD. to the Successful Bidder to undertake and execute the BRTS Project in conformity with the terms and conditions set forth in the RFP and in prebid minutes.

"MD" means the Managing Director of RAJKOT RAJPATH LTD.

"Bus" means a Bus that meets the Technical Specifications described in this Agreement and is to be procured, maintained, and operated as part of the BRTS by the Service Provider in accordance with the terms of this Document

"Parties" shall mean the parties to this Agreement and **"Party"** shall mean either of them, as the context may admit or require.

"Project Implementation Requirements" shall mean and include the provisions of the Obligations of the Service Provider.

"Project Implementation and Management Plan" shall have the meaning ascribed to it in Clause 4.1 (r).

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner

"Operating Plan or Operations Plan" means the detailed Route plan and trip schedule for the Bus Service that is developed and finalized by Rajkot Rajpath Ltd. based on travel demand data, in consultation with the Bus operators with which Rajkot Rajpath Ltd. has entered into a contract.

"Routes" means the routes, as determined by Rajkot Rajpath Ltd. from time to time, on which the Buses will operate as part of the BRT System.

"RFP" and / or "RFP Document Package" means the Request for Proposal documents for the BRTS Project annexed hereto as Schedule 1.

"Schedule of Bus Supply" shall mean the time schedule according to which the Bus Provider shall need to make available the Buses to be put into Bus Service as per the provisions of this Agreement.

"Service Provider" means MATESHWARI TRAVELS with whom RAJKOT RAJPATH LTD. has entered into this Agreement.

"Agreement Period" shall be the period as defined in Clause 2.1.

"Vehicle Tracking System" is the satellite and or other communication system or any other procedure or device which allows to locate/track the position of the vehicles at all/any times.

"Termination" shall mean early termination of this Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course.

"Termination Date" shall mean the date specified in the Termination Notice or Notice of Termination as the date on which Termination occurs.

"Training and Testing Period" with respect to each Bus supplied by the Bus Provider, shall mean a period of 30 days from the date of supply of the Bus and which shall be used by Rajkot Rajpath Ltd. for carrying out requisite training and testing in each bus.

Any other term(s), not defined herein above but defined elsewhere in this Agreement shall have the meaning(s) ascribed to such term(s) therein and shall be deemed to have been included in this Section.

1.2 Principles of Interpretation

- a. The table of contents, numbers, headings and marginal headings in this Agreement are solely for the purpose of facilitating reference and shall not impact the construction or interpretation of this Agreement.
- b. Words importing Persons or Parties shall include firms, companies, corporations, trusts, associations and any organizations, having legal capacity to sue and be sued in their names.
- c. Words importing the singular also include the plural and vice versa where the context requires.
- d. Words importing one gender also include other gender.
- e. In case of ambiguities or discrepancies in this Agreement, the following shall apply:

- (i) Between two Articles of this Agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles.

- (ii) Between the Articles and the Schedules, the Articles shall prevail.

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner

- (iii) Between the written description on the drawings and the System Requirements/Bus Specifications, the latter shall prevail
- (iv) Between any value written in numerals and that in words, the latter shall prevail

1.3 Meaning of "Service Provider Agreement"

The Service Provider Agreement comprises of the following and accordingly it shall mean and include the following:

1. This Agreement along with all Schedules hereto.
2. Request for Proposal (RFP) in its entirety including all its Sections, Appendices and Schedules, and Addendums thereto.
3. Letter of Acceptance
4. Performance Guarantee

It may be clarified that repetition, clarification or mention of any RFP provisions in the Agreement does not obviate, for either party, the need to observe the other provisions of the RFP. In the event of any discrepancy / conflict in the terms of the above referred documents or interpretation thereof, the provisions in the Agreement shall prevail.

Further any matters extraneous to the Agreement which may be required to be added modified would be so rendered by an exchange of acknowledged letters, and such letters would be appended to the agreement to become integral part of the Agreement.

2 AGREEMENT

2.1 Agreement Period

The Agreement shall commence from the date when it is signed. The Agreement shall remain in force for a period of seven years from COD, which is the date when all forty buses with 4 standby buses supplied by the Service Provider are accepted for Bus Operations on completion of the Training and Testing Period for each Bus.

The date on which the Agreement ends shall be termed the Expiry Date and the period between the Date of Signing of the Agreement and the Expiry Date shall be termed the Agreement Period.

Rajkot Rajpath Ltd. agrees that, other than for reasons attributable to the Service Provider under the terms of this Agreement, or for reasons beyond its (Rajkot Rajpath Ltd.'s) control such as Force Majeure etc, it shall ensure to achieve the COD as decided by RRL.

Provided that in the event of Termination, the Agreement Period shall mean and be limited to the period commencing from the Date of Signing and ending on the Termination Date.

It is clarified that the COD has been defined for the purpose of fixing the Agreement Period. However, the regular operations for each bus which has been accepted and has completed its Training and Testing Period shall commence before COD.

2.2 Nature of Buses

The Buses referred to under this Agreement shall be air conditioned diesel buses of 890±10 mm floor height Bus corresponding to Design Option C of the RFP.

For, Rajkot Rajpath Limited



Director.

Mateshwari Travels



Partner

2.3 Undertaking

In consideration of the rights, privileges and benefits conferred upon the Service Provider, and other good and valuable consideration expressed herein, the Service Provider hereby accepts the Service Provider Agreement and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof.

2.4 Interpretation

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 Gujarat, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- c) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, 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) any discrepancy or change in meaning or description between the other documents such as the RFP and main Agreement shall be resolved in favour of the Agreement.

3 TERMS OF PAYMENT

3.1 Basis for Payments

Payment to the Service Provider by RAJKOT RAJPATH LTD. for the services rendered shall be as per the scheme given below. The Base Kilometer Charge, Base Year Price of Fuel/Unit and the Base Year Wholesale Price Index used for determining the Applicable K kilometer Charge are as follows:

Base Kilometer Charge:

For Air-conditioned Bus (Euro-III/BS- III):	Rs. 47.75 per km
For Air-conditioned Bus (Euro-IV/BS- IV):	Rs. 52.00 per km

Base Year Price of Fuel/Unit : Rs 44.28 Litre, being the wholesale price of High Speed Diesel as on 15th August, 2012 being a date prior to the last date of submission of the RFP on 16th August, 2012.

Base Wholesale Price Index for all commodities: 166.6 (as on August, 2012)

3.2 Payment Terms

- a) Invoicing Period:

For each Bus that has been put into regular operations at the end of the Training and Testing Period, the Service Provider shall submit an invoice at the end of each 10 days ("the Payment Period ") specifying:

For, Rajkot Rajpath L. mited

Director. Mateshwari Travels
Partner

- i. Registration number of each Bus that travelled as part of the Bus Service,
- ii. Bus Kilometers travelled by each Bus as part of the Bus Service in the relevant payment period (clearly identifying the Bus)
- iii. Applicable Kilometer Charge for the period
- iv. Service tax, and any applicable surcharge or cess on it, if applicable, payable on the amount.

b) Payment Period

Rajkot Rajpath Ltd. will, within a period of seven days from receipt of the invoice, verify the invoice against the records that it has on the Bus operations and make the payments (adjusted against any errors or fines or other adjustments as may be applicable against the invoice under the terms of the Agreement). All payments shall be made by Rajkot Rajpath Ltd. to the Service Provider after making any tax deductions at source as applicable under Indian law.

c) Method for Payment Calculation

The payment for Bus Kilometers up to Annual Assured Bus Kilometers per Bus as part of the fleet shall be calculated as

$$\text{Payment} = [R] \times [\text{KM-period}]$$

Where

R is Applicable Kilometer Charge

KM-period is Bus Kilometers Operated by Fleet as part of the Operating Plan during the relevant 10 day period

Any Fines levied shall be adjusted from the payment. Annual Assured Payment Amount, if applicable, shall be paid in addition to the above.

d) Service Tax and Cess

Service tax, and any applicable surcharge or cess if applicable on payment for services rendered by the Service Provider, if any, shall be levied and billed over and above the payment amount based on the number of operated kilometers in the given period multiplied by the applicable kilometer charge. RRL is liable to pay this additional amount on the billed amount.

e) Bonus Clause

The provisions with regard to the payment for Bonus shall apply as per provisions of the RPF (amended) Clause 7.8.

f) Guarantee to operate particular number of Kilometers

Rajkot Rajpath Ltd. hereby assures the Service Provider that the Operating Plan will be formulated so as to ensure that the average number of Bus Kilometers travelled by each Bus that comprise the Fleet, in a continuous period of twelve calendar months, commencing from CoD and then onwards on an annual basis, will be no fewer than seventy two thousand (72,000) Kilometers per Bus; ("Annual Assured Bus Kilometers").

g) Minimum Payment per Period

In case the average number of Kilometers operated per bus as part of the fleet is less than 1300 km in a particular payment period, Rajkot Rajpath Ltd. agrees to pay a minimum payment to the service provider for any given Payment Period calculated as follows:

$$\text{Minimum Payment per Period Amount} = ((\text{Bus Fleet} \times 1300) - [\text{KM-period}]) \times [R]$$

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

11
Jethwan Jethwan
Partner

where

R is Applicable Kilometer Charge

KM-period are Bus Kilometers operated by Fleet as part of the Operating Plan during the relevant 10 day period

Minimum Payment per Period Amount shall be paid in addition to the Payment made as per clauses 3.2(c) & 3.2(d). Under no circumstances shall the above be deemed as a guarantee to operate 1300 Kilometers per bus per Payment Period.

h) Adjustment for Minimum Payment per Period

Payment made towards Minimum Payment per Period Amount in a given payment period shall be adjusted against payments made in the succeeding Payment Periods where clause h above does not apply.

In case this clause applies in all subsequent payment periods and there remains an unadjusted cumulative amount at the end of the year, the same shall be adjusted from the Annual Assured Payment Amount. This is better described in Clause 3.2 (i) below.

i) Annual Assured Payment Amount

In the event that the Operating Plan and the frequency of Bus trips on the Routes are not formulated such that the average number of Kilometers operated per Bus as part of the fleet is not equal to the Annual Assured Bus Kilometers, Rajkot Rajpath Ltd. will pay the Service Provider, in addition to the payments made for Bus operations based on invoices presented by the Service Provider, an amount ("**Annual Assured Payment Amount**"), determined as follows:

$$\text{Annual Assured Payment Amount} = 0.65 \times (T_m - T_a) \times R$$

where

$T_m =$ [Annual Assured Bus Kilometers] x [size of the Fleet]

$T_a =$ Actual Bus Kilometers Operated by all Buses comprising the Fleet during the relevant period of 12 calendar months that has triggered this provision

$R =$ Applicable Kilometer Charge

The Applicable Kilometer Charge for the purpose of the above calculation shall be the simple average of the applicable Kilometer charge used in payment periods during the relevant year.

The determination of whether Annual Assured Payment Amount is due will be done at the end of a period of twelve consecutive calendar months. Rajkot Rajpath Ltd. will provide the Service Provider with a notice of the calculation with the supporting data (the Kilometers travelled by each of the Buses comprising the Fleet). It should be noted that the Annual Assured Payment Amount will not be payable for any shortfall in Fleet Kilometers that arises due to:

- i. Default of the Service Provider under this Agreement
- ii. Non-availability of Buses for reasons attributable to maintenance or accidents
- iii. Breach of law by the Service Provider
- iv. Occurrence of a Force Majeure Event

j) Adjustment for Annual Assured Payment Amount

If any Annual Assured Payment Amount is determined to be payable, and cumulative amount from payments made as Minimum Payment per Period Amount still remains unadjusted from the payments made to the service provider in the given year, the

For Rajkot Rajpath Limited

Umeshwari Travels

Partner

same shall be adjusted from the Annual Assured Payment Amount at the end of the year. The remaining amount from Annual Assured Payment Amount shall be paid on a pro-rata basis along with the payments that are made over the immediately following three (3) months.

k) Payment for Excess Kilometers piled

If the Service Provider exceeds the Annual Assured Bus Kilometers, then the charge applicable for the additional Kilometers per Bus above the Annual Assured Bus Kilometers shall be calculated as;

$$R\text{-extra} = [R] \times 0.85$$

$$\text{Additional Kilometer Payment} = [R\text{-extra}] \times [KM\text{-extra}]$$

Where

R-extra is Additional Kilometer Charge,

KM-extra are additional Kilometers done by the fleet

R is Applicable Kilometer Charge for the payment period

l) Basis of Revision of Kilometer Charge

The Kilometer Charge shall be reviewed and (if applicable) revised. Kilometer charge for any given payment period shall be called the Applicable Kilometer Charge and shall be revised;

- a. For variable cost change, using fuel price as an indicator, on a monthly basis
- b. For fixed cost change, using the Wholesale Price Index, annually

$$R = [R\text{-base}] +$$

$$[R\text{-base} \times 0.35 \times (F - F\text{-base})/F\text{-base}] +$$

$$[R\text{-base} \times 1.2 \times 0.65 \times (W - W\text{-base})/W\text{-base}]$$

Where

R is Applicable Kilometer Charge for the payment period

R-base is the Base Kilometer Charge

F is present Price of Fuel/unit

F-base is Base Year Price of Fuel/unit

W is Present Year Wholesale Price Index

W-base is Base Year Wholesale Price Index

The Wholesale Price Index for the present year (W) shall be obtained from latest WPI available as published by the Ministry of Commerce, Government of India, or such other body that is reliably entrusted with this task, and shall be revised on every anniversary of the COD.

m) Payments for Advertisement Revenue

The Service Provider will be given 20% of the revenue derived from the display of printed advertisements on and inside its Buses only. The Service Provider shall not lay claim to any other advertisement revenue that Rajkot Rajpath Ltd. may receive. Display of any advertisements, revenue generating or otherwise, on and inside the bus shall be at the sole discretion of Rajkot Rajpath Ltd. Rajkot Rajpath Ltd. will choose the size and extent of such advertisements. Rajkot Rajpath Ltd. may choose not to put any advertisements on a bus.

For, Rajkot Rajpath Limited

Mateshwari Travels

Director.

Partner

n) Compensation for Damages to Bus

Bus Service Provider shall be compensated for damages to interior or exterior of Bus due to mounting or removal of advertisement media where the liability can be directly traced to Rajkot Rajpath Ltd.

o) Limitations to Liability of Rajkot Rajpath Ltd. for Operations and Maintenance

Rajkot Rajpath Ltd. shall not be liable to make any other payments such as those arising from maintenance or operations of Buses other than the payments described in this section.

p) Liabilities arising from negligent driving and accidents

Damages due to negligent driving, accidents on street shall be the liability of the Service Provider.

q) Payment for Bus Operations before CoD ("Interim Operations Period")

The period before CoD during which any bus delivered according to the schedule of delivery, after it has been through testing and training period, starts operations as authorized by Rajkot Rajpath Ltd., shall be called the 'Interim Operations Period'.

During the Interim operations period, Rajkot Rajpath Ltd. shall pay the service provider for all operated Kilometers at the applicable Kilometer charge. Minimum guaranteed Kilometers per bus, taken on average of the part fleet deployed at such time, shall be 4500 km per month during the Interim Operations Period. This shall be termed as the 'Interim Monthly Assured Bus Kilometers'.

In case Rajkot Rajpath Ltd. is unable to utilize the 'Interim Monthly Assured Bus Kilometers' in any month, Rajkot Rajpath Ltd. shall pay to the operator for such Kilometers at a rate of 65% of the Applicable Kilometer Charge for all unutilized Kilometers from the Interim Monthly Assured Bus Kilometers.

r) Fines by Police

Any fines levied by traffic police or any competent authority will be borne directly by the Service Provider. Rajkot Rajpath Ltd. claims no liability for such infractions. Further, Rajkot Rajpath Ltd. retains the right to apply additional fines for passenger discomfort and due to delay in system operations.

4 SERVICE PROVIDER'S OBLIGATIONS

4.1 Obligations relating to Procurement, Operation and Maintenance of Buses:

- a) Buy and own 40 + 4 Standby (Forty four) number of air-conditioned diesel Buses of type, design, shape, size, style, detailed specifications and quality requirements as specified in the RFP document and corresponding to Design Option C and supply them as per the Delivery Schedule specified in the Schedule of Bus Supply.
- b) Operate and maintain the Buses supplied as per the routing plan and schedule of trips at his cost and as per directions of RAJKOT RAJPATH LTD. under the provisions of this Agreement.
- c) Provide trained and skilled staff for operation, maintenance, and supervision of the Buses and other facilities related there to at his cost for services as per the Agreement.

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner

- d) To agree to provide, within 30 days from the signing of this Agreement, a design prototype of the Buses to be supplied. The design of the Bus for the fleet of Buses required as per this Agreement shall be approved by Rajkot Rajpath Ltd. upon approval of this prototype based on the specifications given in the RFP document, at the expense of the service provider, to its satisfaction.
- e) Get the Buses inspected and approved by Rajkot Rajpath Ltd. as per the Quality Checks and Acceptance Test Plan and obtain a certificate of acceptance to enable him to commence the Training and Testing Period.
- f) Ensure quality of Buses, purchased by him, to be as per the prescribed specifications in RFP and obtain all certificates, insurance, registration, test reports, documents indicated in the specifications, and any other approvals required by law and submit them to RAJKOT RAJPATH LTD., Rajkot.
- g) Make the Buses available for display of advertisements inside/outside the Buses as decided by RAJKOT RAJPATH LTD. and as per terms and conditions finalized by Rajkot Rajpath Ltd..
- h) To arrange for regular preventive maintenance and breakdown repairs etc through an annual Maintenance Contract with the Bus manufacturer or his authorized dealer or through other well equipped workshops and submit a certificate of inspection annually from the authorized dealer or representative of the Bus manufacturer, or the workshop with whom the Service Provider holds an annual maintenance contract, indicating that the Bus is in full roadworthiness condition, free from any defect, deficiencies etc. meeting all the specifications as contracted.
- i) Co-operate with all other service providers and facilitate their operations in BRT System, such as, for instance, revenue collection by the Rajkot Rajpath Ltd. appointed revenue collection service provider, on board advertisements by the advertising agencies etc.
- j) Operate the Buses maintaining highest standards of service quality including behavior of the crew and the other staff and implement all instructions, direction, guidelines etc. issued through various means of communications by Rajkot Rajpath Ltd..
- k) Ensure highest standards of cleanliness both inside and outside the Bus at the time of reporting for the first shift of operations of the bus service of the day.
- l) Ensure crew interventions for the routes destination display system as required for efficient and proper operation of the system. Maintain the system in perfect operational state at all times.
- m) Provide all information, data, records, documents etc as required by RAJKOT RAJPATH LTD., Rajkot, from time to time and respond to all notices letters communications received from Rajkot Rajpath Ltd. within the given time frame with complete and full replies.
- n) Submit bills timely and pay all dues payable to Rajkot Rajpath Ltd. without any delays.
- o) To allow adequate supervision of execution of the Agreement by RAJKOT RAJPATH LTD. or its auditors, inspectors and supervisors, allowing full and unrestricted access to any installation, equipments, Buses and information by personnel authorized by it.
- p) To execute, at his own risk and costs, all ancillary or complementary contracts to the Agreement required for the proper operation of the BRT System.

For, Rajkot Rajpath Limited

[Signature]

Director.

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[Signature]
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- q) To allow access to the Buses to all members of the public without any prejudice or discrimination.
- r) Develop a Project Implementation and Management Plan for the BRTS System. ("Project Implementation and Management Plan") This plan, at the minimum, shall provide detailed activity chart for operationalising the responsibilities of the Service Provider as provided in this Agreement, including each task, time required, the task/person/efforts resource allocation etc. This information shall be provided in the form of a detailed Gantt Chart detailing all milestones to ensure that all the Buses will be available to RAJKOT RAJPATH LTD. as per schedule and the operations shall begin on time.
- s) Submit to RAJKOT RAJPATH LTD. a weekly report on items which are on critical path and that require management action and provide, interalia report on the following:
 - t)
 1. Progress reports (Progress against the Project Implementation and Management Plan).
 2. Status of all risks and issues.
 3. Status of readiness of the Buses and the skilled staff to operate Buses and supervise Bus operation.
 - u) To allow fitment of vehicle tracking system, the logical units, communication and control equipment and all other equipment which must be installed in the for operation of the Buses in the BRT System. The installation of logical units and communication and control equipment in Buses will take place at any time i.e. prior to the entry in service or operation of each vehicle or during the currency of the contract.
 - v) Obtain from RAJKOT RAJPATH LTD., the permission to install any equipment/ancillaries/accessories beyond the specifications inside or on the outside of the Buses, ensuring that the proposed equipment/ancillaries/ accessories are compatible with existing ones. Rajkot Rajpath Ltd. shall establish the conditions and specifications of the equipment which the operators shall install.
 - w) To perform maintenance of equipment/Buses strictly following manufacturer's instruction and to submit a Certificate of road worthiness of the Buses periodically every quarter.
 - x) To engage suitably skilled personnel to drive the Buses as per the statutory and contractual provisions as applicable and sound Business practices.
 - y) Train staff and re-train them periodically for updating their skills in all the related fields at his cost and participate in all the meetings, committees etc. as directed by the Rajkot Rajpath Ltd. from time to time.
 - z) To train drivers and organize refresher training programs as decided/accepted by RAJKOT RAJPATH LTD., ensuring that the drivers know and strictly observe the applicable rules/regulations/practices/instructions for operation of the BRTS Buses within the BRT System and of the environmental norms and guaranteeing the due attention and protection of the passenger.
 - aa) All drivers shall hold commercial heavy duty vehicle license valid since the last three years. Licenses of drivers shall be submitted to Rajkot Rajpath Ltd. for verification before deployment. In addition, before deployment of any driver/s, the Service Provider shall arrange to verify, through appropriate tests, the knowledge, skills and expertise of the proposed drivers and obtain an acceptance certificate from RAJKOT RAJPATH LTD. for deployment of each driver when

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on duty, the driver shall always carry this certificate. No driver without the said certificate shall ever be deployed on the Buses provided for the BRTS operation of the RAJKOT RAJPATH LTD.. Further, if any driver is found to be wanting in the requisite skills, knowledge, and responsibility, Rajkot Rajpath Ltd. reserves the right to ask for replacement of such a driver by a duly qualified driver and the Service Provider shall forthwith comply with this requirement immediately.

- bb) To maintain adequately, the Buses and any additional equipment installed in Buses, stations or in any other premises, deployed for BRT System, as per the operations and maintenance guidelines and procedures in this regard laid out by Rajkot Rajpath Ltd. from time to time.
- cc) Comply with the operating instructions issued by Rajkot Rajpath Ltd., and/or its authorized representatives and/or its control centers/offices and to enforce them among its employees, contractors or agents, and to guarantee the operational ability, security, quality and functionality of the system.
- dd) To ensure that all the legal, statutory, and all other requirements as per the applicable labour acts/motor transport worker acts/rules/regulations/practices are fully complied with by the Service Provider and that RAJKOT RAJPATH LTD. is fully and completely absolved of any responsibility, liability of any kind what so ever on this behalf and or of any act of omission/commission by them. RAJKOT RAJPATH LTD. is expressly understood to be indemnified by the Service Provider of any of the acts of omission/commission and of any consequential damages/losses caused by the Service provider's employees, agents, contractors, etc.
- ee) Take out and pay for a Comprehensive Insurance Policy as per the terms mentioned in Clause 7.1.1. Sub-clause (xvii) of the RFP in this regard.
- ff) To maintain adequate conditions of cleanliness and security on the Buses and liable to answer to any requirement which RAJKOT RAJPATH LTD., may make regarding the due cleanliness and security of the Buses etc assigned to it in the RAJKOT RAJPATH LTD., BRT System.
- gg) To provide services of appropriate quality as required by Rajkot Rajpath Ltd. and maintain the parameter of service quality as described in the RFP and to pay fines and penalties for deficiency in service as described in Clause 7.7 of RFP.

4.2 Premises for Parking and Maintenance

- a) In order for the Service Provider to set up the parking yard and other facilities related to operation and maintenance of the Buses for BRTS, RAJKOT RAJPATH LTD. shall permit Service Provider the use of certain premises (on as is where is basis) ("Premises") for the purpose as and when possible and as per detailed terms and conditions finalized by RAJKOT RAJPATH LTD..
The Service Provider shall use, hold, maintain and operate the Premises at his risk and cost. No temporary/permanent structure will be erected without prior approval of RAJKOT RAJPATH LTD..
- b) In case of the Premises not being ready or immediately available, Rajkot Rajpath Ltd. shall make available alternate premises on a temporary basis for parking and operations and maintenance.
- c) Service Provider shall also allow access to RAJKOT RAJPATH LTD., its employees, agents, contractors, etc as and when required to the Premises.

For, Rajkot Rajpath Limited

Director.

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- d) It shall be Service provider's responsibility to comply with the applicable laws, rules, and guidelines as applicable for this purpose or orders issued by the RAJKOT RAJPATH LTD. with respect to the above.
- e) The Service Provider shall pay all charges and taxes related to the Premises such as such as Government taxes, cesses and charges, including utility bills for electricity, water, gas etc. pertaining to period during which the Premises are used by the Service Provider other than Municipal Property Tax The Service Provider shall make arrangements, at his own expense, for provisions for supply of any utilities, security, maintenance etc required by him for use of Premises.
- f) The Service Provider shall not part with or create any encumbrance on the whole or any part of the Premises save and except as set forth and permitted under an Agreement signed with RAJKOT RAJPATH LTD. as and when such a premises is arranged. Service Provider shall take the prior written consent of RAJKOT RAJPATH LTD. for making any changes/alterations/constructions to, at or on the Premises for purposes of this and the aforesaid Agreement.
- g) The Service Provider shall at all times during the subsistence of this Agreement maintain the Premises and shall not, without the prior written approval of RAJKOT RAJPATH LTD., use the Premises for purpose other than for the purpose of the BRTS Project.
- h) Service Provider shall ensure that its use of the Premises hereunder shall not result in any adverse effect thereto. In the event of an adverse effect being caused to the Premises it shall be the Service provider's responsibility to restore the said Premises at Service provider's cost and expenses.
- i) The Service Provider shall ensure optimum utilization of the Premises, if any provided by RAJKOT RAJPATH LTD. at any time during the Agreement period, and shall not use the same for any purpose unconnected or which is not incidental to the BRTS Project or related activities.
- j) The premises shall be returned to Rajkot Rajpath Ltd. by the Service Provider at the expiry of the Agreement Period, or Termination of this Agreement, whichever is earlier. The condition in which the Premises and any immovable assets in it will be returned will be decided jointly between Rajkot Rajpath Ltd. and the Service Provider six months before such envisaged transfer. The Premises shall in any case be transferred in a condition no poorer than the original condition in which the Premises were handed over to the Service Provider by Rajkot Rajpath Ltd..

4.3 Escrow Account

The Service Provider shall join, as an account holder and beneficiary, to the escrow account Agreement of the RAJKOT RAJPATH LTD., with a financial services provider if and when such account is created by RAJKOT RAJPATH LTD.. However nothing in this provision shall be construed as being obligatory on the part of Rajkot Rajpath Ltd. to create an Escrow Account.

4.4 Project Funding

The Service Provider shall arrange by himself the capital/funds/finances required for the total value of the investment including working capital necessary for the procurement and operation of Buses and other related facilities/equipments/services etc, through his own credit and resources and without recourse to any support from Rajkot Rajpath Ltd..

For, Rajkot Rajpath L mited

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4.5 Liability and Losses

- a) The Service Provider shall be liable for and make good any damages which may be caused to Rajkot Rajpath Ltd. or to third parties, for non-compliance of any of its statutory/contractual obligations and responsibilities with respect to any party.
- b) The Service Provider shall be liable and make good to Rajkot Rajpath Ltd. any damages or statutory claim like Motor Accident Claim which may be caused to Rajkot Rajpath Ltd. for any negligence on the part of Service Provider or its employees.

4.6 Performance Guarantee

The Service Provider has, for due and punctual performance of its obligations hereunder relating to the BRTS Project, delivered to RAJKOT RAJPATH LTD., simultaneously with the execution of this Agreement, and not later than 30 days from the receipt of Letter of Acceptance, a Performance guarantee from STATE BANK OF INDIA and Guarantee No is 0505412BG00177056, for a sum of Rs.50,00,000/- (Rupees fifty lakhs only) in the form of a Bank Guarantee as per terms specified in the RFP.

The above Bank guarantee is Valid up to Dt. 17/12/2019. The Service provider hereby agrees, confirms and undertakes that this performance Guarantee shall be annually renewed / replaced / extended by a period of 12 months from its date of expiry, and thus be kept current at all times during the Agreement Period. The Service Provider further categorically undertakes that he shall submit adequate documents providing the renewal or extension of the performance Guarantee at least one month prior to the date of expiry of the existing performance guarantee, failing which Rajkot Rajpath Ltd. reserves the right to forfeit without notice regard to any technical or procedural reasons pertaining to the service provider or his Bank, take the following actions:

- (1) Encash the existing performance guarantee provided by service provider, and
- (2) Stop any payments due to the Service Provider irrespective of the technical or procedural reasons.

In the event of the encashment of the Performance Guarantee by RAJKOT RAJPATH LTD. during the Service Provider contact/Agreement Period pursuant to an encashment notice, the Service Provider shall within 30 (thirty) days of the encashment notice furnish to RAJKOT RAJPATH LTD. a fresh Performance Guarantee in such sum as required by RAJKOT RAJPATH LTD. failing which RAJKOT RAJPATH LTD. shall be entitled to terminate this Agreement. The provisions set forth in the Agreement for the Performance Guarantee shall also apply to such fresh Performance Guarantee.

4.7 Project Implementation

- a) The Service Provider shall adhere to time schedule specified in the Project Implementation and Management Plan including without limitation adherence to the timelines stipulated in this Agreement for the same.
- b) The Service Provider shall undertake any and all actions in relation to the Service Provider Agreement for the BRTS Project by itself and shall remain solely responsible to meet any procurement, operations and maintenance guidelines, specifications and requirements provided for in the Agreement in this regard.

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- c) For the purposes of determining that any and all activities in relation to the Service Provider Agreement for the BRTS Project are being undertaken in accordance with the Project Implementation Requirements, the Service Provider shall with due diligence carry out all necessary and periodical reviews/checks/inspection and quality assurance of Buses and other items/facilities from time to time as required as specified in this Agreement and according to good industry practices. The Service Provider shall maintain proper record of such checks/inspections/Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the results of the above actions.
- d) RAJKOT RAJPATH LTD., may, by written notice, require the Service Provider to suspend forthwith the whole or any part of any action/activity/works in relation to the Service Provider Agreement for the BRTS Project, if in RAJKOT RAJPATH LTD.'s reasonable opinion the same is being carried on in a manner that is not in conformity with the provisions of this Agreement.
- e) Service Provider shall submit periodic reports including standard reports and exceptional reports in relation to the progress of implementation of the Service Provider Agreement for the BRTS Project. The format for reporting requirements shall be set out by RAJKOT RAJPATH LTD. and handed over to Service Provider subsequent to the signing of the Agreement at the appropriate stage in project implementation and it is the Service provider's responsibility to furnish such periodic reports to RAJKOT RAJPATH LTD.

4.8 Project Operation and Maintenance

- a) The Service Provider shall operate and maintain the Buses provided for the BRT System in accordance with the basic requirements of the Scope of Work, and requirements for operation schedules on trips/ routes/in areas as prescribed/directed by RAJKOT RAJPATH LTD. from time to time. The Service Provider shall maintain the Buses in highest state of operational roadworthiness and fitness throughout the period of the contract.
- b) The Service Provider shall, during the entire period of the BRT System Project:
 - (i) have requisite organization and designate and appoint suitable officers / representatives as it may deem appropriate to supervise the service provider's activities in the BRT System Project, to deal with RAJKOT RAJPATH LTD. and to be responsible for all necessary exchange of information required pursuant to this Agreement.
 - (ii) Conduct all inspections, maintain follow-ups of the progress of fabrication of Buses, and organize their acceptance/necessary tests to ascertain their compliance with the stipulated requirements.

Suspend forthwith the whole or any part of the activity(s) under the BRT System upon receiving a written notice from RAJKOT RAJPATH LTD., who may require the Service Provider to suspend the activities in whole or part if in the reasonable opinion of RAJKOT RAJPATH LTD., the operations are being carried on in a manner that is not in conformity with the provisions of this Agreement.

- (iii) In the event the Service Provider has failed to procure/own/operate/maintain the Buses and or carry out all other activities for the BRT System in accordance with the provisions of this Agreement, and such failure has not been remedied despite a notice to that effect issued by RAJKOT RAJPATH LTD. or its

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to Remedy”), RAJKOT RAJPATH LTD. may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to take such actions as are specified in the Agreement including demanding replacement of any Bus/Buses, equipment or Bus staff, suspension of the Bus / Buses and/or the Agreement and or replacement of the Service Provider. .

- c) Make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the BRTS Project and Service Provider hereby indemnifies RAJKOT RAJPATH LTD. against any claims, damages, expenses or losses in this regard and agrees that in no case and for no purpose shall RAJKOT RAJPATH LTD. be treated as an employer in this regard.
- d) Service Provider shall be responsible for all the health, security, environment and safety aspects of the services provided by him for the BRTS Project.
- e) Service Provider shall be responsible for payment of all statutory levies including ESIC Contribution, PF etc. in respect of the staff engaged by Service Provider for operation & maintenance of the Buses and other items/assets for the BRT System. Notwithstanding the generality of the foregoing, any and all payments to be made to any contractors, sub-contractors to any party / personnel in relation to the Service Provider Agreement of the BRTS Project shall be the sole responsibility of Service Provider and RAJKOT RAJPATH LTD. shall neither incur any liability in this respect nor entertain any claims in this respect.
- f) To maintain the advertising material placed inside the Buses in a perfect state. Security of these equipments/fittings shall be the responsibility of the Service provider. The driver should immediately report any malfunctioning of these equipments/fittings to the concerned RAJKOT RAJPATH LTD. staff.

4.9 Confidentiality Obligations of Service provider

- a) Service Provider shall treat as confidential any information which is clearly described as confidential or otherwise clearly marked as confidential or proprietary to RAJKOT RAJPATH LTD. (“Confidential Information”). Notwithstanding the generality of the foregoing, Confidential Information shall include any proprietary or confidential information of RAJKOT RAJPATH LTD. relating to the BRTS Project or services provided under the Agreement in relation thereto and information relating to Rajkot Rajpath Ltd.’s Business or operations.
- b) Service Provider shall not without Rajkot Rajpath Ltd.’s prior written consent use, copy or remove any Confidential Information from Rajkot Rajpath Ltd.’s premises, except to the extent necessary to carry out Service provider’s obligations hereunder. Upon completion or termination of each assignment hereunder, Service Provider shall return to RAJKOT RAJPATH LTD. all documents or other materials containing Rajkot Rajpath Ltd.’s Confidential Information and shall destroy all copies thereof.
- c) Confidential Information shall not include information which:
 - (i) Is or becomes generally available to the public without any act or omission of Service provider
 - (ii) Was in Service provider’s possession prior to the time it was received from RAJKOT RAJPATH LTD. or came into Service provider’s possession

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For Rajkot Rajpath Limited
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Partner

thereafter, in each case lawfully obtained from a source other than RAJKOT RAJPATH LTD. and not subject to any obligation of confidentiality or restriction on use;

- (iii) Is required to be disclosed by court order or operation of law; in such event, Service Provider shall so notify RAJKOT RAJPATH LTD. before such disclosure.
 - (iv) Is independently developed by or for Service Provider by persons not having exposure to Rajkot Rajpath Ltd.'s Confidential Information.
- d) Service provider's obligations of confidentiality regarding RAJKOT RAJPATH LTD.'s Confidential Information shall terminate 3 (three) years after the expiry or earlier termination of the Agreement.

5 SERVICE PROVIDER'S RIGHTS

5.1 Service Provider Rights

Without prejudice to the obligations, the Service Provider shall enjoy the following rights during the Agreement Period:

- a) To receive payment of the hiring charges from RAJKOT RAJPATH LTD. at the rates fixed and as per the payment system prescribed in this Agreement. .
- b) To receive revision of the Bus hiring charges as per the terms and conditions provided in the RFP.
- c) To receive support for obtaining required permits and sanctions from the Government, or local body and to obtain assistance and support in dutifully carrying out the obligations as provided for in this Agreement as may be within the purview and general jurisdiction of Rajkot Rajpath Ltd..
- d) The Service Provider shall be entitled to 20% of the net sales revenue generated by print media advertisements displayed on the interior or the exterior of the Buses. No advertisement revenue will be shared with the Service Provider for electronic gadgets like LCD screen, LED screen, audio system etc which will be retrofitted by the RAJKOT RAJPATH LTD. as and when decided by the RAJKOT RAJPATH LTD..
- e) To expect the Bus or Buses provided by him and which have passed requisite tests and which have been accepted for training and testing.

6 RAJKOT RAJPATH LTD.'S OBLIGATIONS

Rajkot Rajpath Ltd. shall follow the following obligations during the Agreement Period:

6.1 Obligations with respect to Supply of Buses

- a) To provide a schedule Bus supply that specifies the timing for delivery of Buses to be made available by the service provider. Such schedule shall provide information on number of buses to be supplied, bus particulars and limits for the minimum and maximum number of days required for delivery. Such schedule of Bus Supply shall indicate the requirement of supply of particular number of

Director.

Partner

buses at least 90 (Ninety) days before the due date of delivery of such number of buses. Such schedule shall be updated by Rajkot Rajpath Ltd. on a concurrent basis up to the time the all 44 buses have been requested for supply.

- b) To ensure that, other than reasons attributable to the service provider under the terms of this agreement, or for reasons beyond its(Rajkot Rajpath Ltd.'s) control such as Force majeure, the COD is achieved as decided by RRL.

6.2 General Obligations

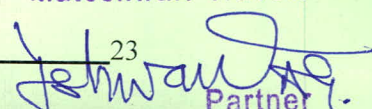
- a) To provide the Premises to the Service Provider, Premises to set up the parking yard and other facilities related to vehicle operation and maintenance of the Buses for the BRTS Project on as and when possible basis and as per terms and conditions finalized by RAJKOT RAJPATH LTD..
- b) Specify the requirements and provisioning standards for the system and its elements clearly, engage all other service providers in time, develop the requisite BRT System infrastructure and facilities, plan, schedule monitor and control all the system for timely implementation and commissioning of the system.
- c) Establish system, procedures guidelines on various aspects of the BRT system services.
- d) Ensure service quality performance to be as per the laid requirements by various service providers.
- e) Establish effective system of communication and coordination among all the stakeholders of the system.
- f) Ensure timely payment of dues to the service providers.
- g) Ensure timely and amicably resolution of disputes between various service and the RAJKOT RAJPATH LTD.
- h) Carry out all other obligations as detailed elsewhere for efficient performance of system on sustainable basis.
- i) To ensure that all contractual requirements of the RFP and subsequently those contained in the Agreement are fulfilled throughout the currency of the contract.
- j) To ensure that no deficiencies, defaults or failures in the quality of service provided and or of any of the related elements of or acts of providing the specified Bus transport service levels allowed to occur.
- k) To accept revision of the Bus hiring charges as per the terms and conditions of the Agreement.
- l) To effect, either itself or by proxy, the management, planning and control activities of the BRT System, which enable the Service Provider to perform his obligations as stipulated in the Agreement.
- m) To make payment to the Service Provider at the rates fixed for the services provided as per the terms of this agreement failing which pay the dues along with the penal interest. Such penal interest shall be attracted by only those payments which are overdue by 15 days from the due date. The interest rate used for calculation of the penal interest would be equal to the prevailing Prime Lending Rate (PLR) of the State Bank of India.

For, Rajkot Rajpath Limited



Director.

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- n) To adopt the necessary measures to ensure the peaceful possession of assets required by the Service Provider to carry out his duties.
- o) To form a Steering Committee under this Agreement. All issues arising out of the BRTS Project, which cannot be resolved by discussions etc at the level of the concerned officials shall be referred to the Steering Committee, which decision shall be binding upon Parties.
- p) To provide Service Provider the Operations Plan with respect to route structure.
- q) RAJKOT RAJPATH LTD. will grant in a timely manner all such approvals, permissions and authorizations which the Service Provider may require or is obliged to seek from RAJKOT RAJPATH LTD. under this Agreement, in connection with implementation of the BRTS Project and the performance of its obligations.
- r) RAJKOT RAJPATH LTD. shall, where appropriate, provide necessary assistance to the Service Provider in securing Applicable Permits and observe and comply with all its obligations set forth in this Agreement.

6.3 Obligations with respect to Operating Buses within the System

- a) To ensure that the total Bus Kilometers operated by Service Provider, at the aggregate level for all buses, are not requested for operations by Rajkot Rajpath Ltd. outside the BRTS system beyond 20% of the total Bus Kilometers operated during one single year. It may be clarified that movements of Buses outside the system to reach the Premises, Bus Depot, Parking or next Bus shelter as per the Routing plan shall not be considered to be outside the BRTS System.

7 RAJKOT RAJPATH LTD.'S RIGHTS

Without prejudice to the obligations, Rajkot Rajpath Ltd. shall enjoy the following rights during the Agreement Period:

7.1 *Rajkot Rajpath Ltd.'s Rights*

- a) On delivery of a Bus or Buses, Rajkot Rajpath Ltd. shall undertake testing of the Buses in line with the requirements of the Quality Checks and Acceptance Test Plan. Rajkot Rajpath Ltd. retains the right to reject acceptance of any bus for the purposes of the BRTS System if it does not meet the requirements as specified under this Agreement.
- b) Upon delivery of the Buses, Rajkot Rajpath Ltd. shall carry out, within a maximum period of one week, undertake requisite tests on the Bus to determine its confirmation with the Bus Specifications laid out in the RFP and observance of general quality standards as per good industry practices. The Service Provider shall make available requisite support infrastructure for such training and testing such as drivers, maintenance, operations and management staff required for operations and maintenance of Buses supplied. It is clarified that the period of Training and Testing, for each individual bus supplied and accepted under this Agreement, shall begin from the date of acceptance of each Bus and end 30 days from such day, or earlier, at the sole discretion of Rajkot Rajpath Ltd..
- c) Rajkot Rajpath Ltd. shall use the Training and Testing period to understand the intricacies of the BRT System and generally ensure, through training or otherwise, that the Buses and the support systems including drivers and

operators, are compatible with of the BRTS System. Nothing in this Agreement shall give the right to the Bus Provider to require Rajkot Rajpath Ltd. to complete Training and testing earlier than 30 days. Further, nothing in Training and Testing period shall be construed by the Service Provider of obviating him of the need to provide training and skill enhancement to his own staff on his own and generally adhere to the his obligations under this Agreement. Payments during the Training and Testing Period shall be made as per the provisions in this regard for such period in the RFP.

- d) No minimum Guarantee is given by Rajkot Rajpath Ltd. for Bus Kilometers operated during the Training and Testing Period. Bus Kilometers operated on request by Rajkot Rajpath Ltd. During this period shall be paid for on actual basis at the Applicable Kilometer Charge for the Period. The minimum guarantee shall become effective, with respect to each Bus, from the end of the Training and Testing Period for that Bus.
- e) The Premises shall be and continue to be the property of RAJKOT RAJPATH LTD..
- f) Rajkot Rajpath Ltd. will determine the quantum of passenger fare that will be charged from the users of the Bus Service.
- g) The Service Provider shall extend complete co-operation to Rajkot Rajpath Ltd. in relation to the installation, operation, and maintenance of the ticket vending and validation machines and collection of fare through hand held machines. Rajkot Rajpath Ltd., its personnel, and authorized contractors shall have complete access to such ticket vending and validation machines and shall not be in any manner obstructed by the Service Provider, its personnel, or contractors, and the said machines shall in no manner be tampered with or damaged by the Service Provider, its personnel, or contractors.
- h) Rajkot Rajpath Ltd. shall have the complete and full rights for collection of fare for the Bus Service and to determine and implement the methodology for the same. The Service Provider shall not collect fare nor shall it have any right in relation to the fares collected. Service Provider shall at no point of time, directly or indirectly, partake any portion of the passenger fare.
- i) RAJKOT RAJPATH LTD. shall retain right to display advertisements at other places inside & outside the Bus, the Service Provider shall have no objection to such displays and fitment of any gadgets, devices, display systems/boards or any other equipments by RAJKOT RAJPATH LTD. itself and or jointly with any third party or by a third party as decided/approved by RAJKOT RAJPATH LTD. at locations/spaces identified and approved by the RAJKOT RAJPATH LTD. and within the ambit of other provisions listed above. Sharing of revenue with the RAJKOT RAJPATH LTD. shall be as per the system given in the following paragraphs.
- j) Rajkot Rajpath Ltd. shall retain the right to advertise on the interior and the exterior side of the Buses and the Service Provider will cooperate with Rajkot Rajpath Ltd. in retrofitting of such display or advertisement equipment.

8 PENALTY

Fines and penalties for deficiency in service quality levels and in other service related parameters shall be levied as per details given in Clause 7.7 (Fines in Operation) of the RFP document. These fines and penalties shall be recovered from the dues payable to the service provider. Should recovery as above not be possible for any reason the RAJKOT RAJPATH LTD. shall invoke the performance guarantee and recover the dues. RAJKOT RAJPATH LTD. shall be free to recover these fines/penalties from any other payments due to the service provider. These fines/penalties/actions shall be over and above any

For, Rajkot Rajpath Limited

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Partner.

other the enforcement agencies/police etc takes and hence are no substitutes for those actions. RAJKOT RAJPATH LTD. shall also be free to take any other action as deemed fit in different cases.

9 STEERING COMMITTEE & ENGINEEREER IN -CHARGE

Pursuant to the execution of the Agreement, RAJKOT RAJPATH LTD. shall nominate members to formulate a steering committee to oversee and monitor the work performed by Service Provider under the Agreement ("Steering Committee"). The composition and functions of the Steering Committee will be decided by RAJKOT RAJPATH LTD. at the later stage.

10 HIRING OF ADDITIONAL BUSES

During the implementation period, the number of Buses hired from the Service Provider for the BRTS Project can be increased on mutual consent as per the terms set forth in the Agreement up to a maximum of 20 additional buses.

11 FORCE MAJEURE AND CHANGE IN LAW

11.1 Force Majeure Event

Rajkot Rajpath Ltd. shall not forfeit Service provider's Performance Guarantee or charge liquidated damages or terminate the Agreement for default, if and to the extent that such delay in performance or failure to perform Service provider's obligations under the Agreement is a result of an event of Force Majeure, provided the Service Provider has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the project facilities as a result of the Force Majeure Event and to restore the project facilities, in accordance with the Good Industry Practices and its obligations under this Agreement;

If a Force Majeure situation arises, Service Provider shall promptly notify Rajkot Rajpath Ltd. in writing of such conditions and the cause thereof as provided for in Clause 11.2 Unless otherwise directed by Rajkot Rajpath Ltd. in writing, Service Provider shall continue to perform its obligations under the Agreement as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

Any insurance proceeds received shall be, subject to the provisions of provisions of financing documents created with relevant banks/financial institutions which have extended financial or related assistance to the BRTS Project, Rajkot Rajpath Ltd. or to the Service Provider, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event or in accordance with Good Industry Practice s.

For this purpose, Force Majeure shall be defined as any event lying beyond the reasonable control of either the Service Provider or Rajkot Rajpath Ltd.. Such events, shall include, but not be limited to, the following:

- (a) Earthquake, flood, inundation and landslide
- (b) Storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmosphere disturbances
- (c) fire caused by reasons not attributable to the Affected Party or any of the employees, contractors or agents appointed by the Affected Party
- (d) acts of terrorism;
- (e) strikes, labour disruptions or any other industrial disturbances, or arising on

For, Rajkot Rajpath Limited

Director.

Mateshwar Prasad
Partner

account of the acts or omissions of the Affected Party

- (f) break down of the Plant or any part thereof
- (g) action of a Government Agency having Material Adverse Effect including but not limited to
 - (i) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Buses or any part thereof or of Service Provider's rights in relation to the Project.
 - (ii) any judgment or order of a court of competent jurisdiction or statutory authority in India made against Service Provider or any contractor appointed by Service Provider for the purposes of the Project, in any proceedings which is non-collusive and duly prosecuted by Service Provider.
 - (iii) any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Approvals, in each case, for reasons other than Service Provider's or any of its contractor's breach or failure in complying with the Applicable Laws, Applicable Approvals, any judgment or order of a Governmental Agency or of any contract by which Service Provider or its contractor as the case may be is bound
- (h) Early termination of this Agreement by Rajkot Rajpath Ltd. for reasons of national emergency or national security.
- (i) War, hostilities (whether declared or not), invasion by foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, and volcanic eruptions.
- (j) Changes in law that materially affect the respective rights and obligations of the Party's signatory to this Agreement and/or their capability to perform according to the provisions of this Agreement.

11.2 Notice of Force Majeure Event

- (a) As soon as practicable and in any case within 7 (seven) days of the date of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party of the same setting out, inter alia, the following in reasonable detail:
 - (i) the nature and extent of the Force Majeure Event;
 - (ii) the estimated Force Majeure Period;
 - (iii) the nature of and the extent to which, performance of any of its obligations
 - (i) under this Agreement is affected by the Force Majeure Event;
 - (iv) 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
 - (v) any other relevant information concerning the Force Majeure Event, and / or the rights and obligations of the Parties under this Agreement.
- (b) As soon as practicable and in any case within 7 (seven) days of notification by the Affected Party in accordance with the preceding clause (a), the Parties shall meet, hold discussions in good faith in order to:
 - (i) assess the impact of the underlying Force Majeure Event,
 - (ii) to determine the likely duration of Force Majeure Period and,
 - (iii) to formulate damage mitigation measures and steps to be undertaken by the parties for resumption of obligations the performance of which shall have been affected by the underlying Force Majeure Event.

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner

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

11.3 Performance of Obligations

If the Affected Party is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such 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 as required by the preceding Clause 11.2;
- (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) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or likely to be caused to the BRT System and / or the Agreement as a result of the Force Majeure Event and to restore the BRT System and Premises, in accordance with the Good Industry Practice and its relative obligation under this Agreement;
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;

11.4 Relief for a Force Majeure Event:

Subject to other Sections in this 11, the rights and liabilities of both the Parties shall be suspended during the duration of Force Majeure Event and the Agreement period shall be extended for the period.

11.5 Termination due to Force Majeure Event

If a Force Majeure Event as described in Clause above continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 days, the parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the parties are unable to reach an Agreement in this regard, the either party shall, after the expiry of the said period of 120 days, be entitled to terminate this Agreement.

Upon Termination of this Agreement on account of a Force Majeure Event, the Service Provider shall be entitled to the following (a) receive any outstanding payments due to it for services rendered under the Agreement upto the date of Termination and (b) discharge of the performance guarantee in full (c) transfer of the Bus Services of the Service Provider to a similar system of Bus Service operating under the jurisdiction of Rajkot Municipal Corporation on the following terms and conditions:

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

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Partner

The Applicable Kilometer Charge payable per km for Bus operations shall be the same as that determined under this agreement.

The balance terms and conditions for operations and maintenance and all associated matters shall be similar to what is prevailing in the system to which the Buses are transferred.

In the event such a transfer is not possible or cannot be carried out for some reason, Rajkot Rajpath Ltd. may, at its own discretion, consider buyout of the rolling stock of Buses of the Bus Provider.

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding clause (a), it shall issue Termination Notice setting out: (i) in sufficient detail, the underlying Force Majeure Event; (ii) the Termination Date which shall be a date occurring not earlier than 60(Sixty) days from the date of Termination Notice; (iii) if and to the extent applicable the estimated money payable by / to the Affected Party including the details of computation thereof and; (iv) any other relevant information.

Following Termination, the Parties shall promptly take all such steps as may be necessary or required to ensure that the Premises etc (as then existing) are handed over by Service Provider to RAJKOT RAJPATH LTD. peacefully and free from all Encumbrance on the Termination Date.

11.6 Liability for other losses, damages etc.

Save and except as expressly provided in this Agreement, and the RFP documents, neither Party hereto shall be liable in any manner whatsoever to the other party in respect of any loss, damage, cost, expense, claims, demands and Force Majeure Event.

12 EVENTS OF DEFAULT AND TERMINATION

Events of Default shall mean either Service Provider Event of Default or Rajkot Rajpath Ltd. Event of Default or both as the context may admit or require.

12.1 Service Provider Event of Default

Any of the following events shall constitute an Event of Default by Service Provider (Service Provider Event of Default) unless such event has occurred as a result of a Force Majeure Event:

- a) Service Provider is in breach of any of its obligations under this Agreement and the same has not been remedied for more than sixty (60) days:
- b) A resolution for voluntary winding up has been passed by the shareholders of Service Provider
- c) Any petition for winding up of Service Provider has been admitted and liquidator or provisional liquidator has been appointed or Service Provider has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Service Provider under this Agreement.
- d) Service Provider fails to adhere to the timelines set forth in the Agreement for performance of Service provider's obligations there under; and / or
- e) Service Provider fails to comply with the applicable laws, rules, regulation of the Country

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

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Partner

12.2 Rajkot Rajpath Ltd. Event of Default

Any of the following events shall constitute an event of default by Rajkot Rajpath Ltd. ("Rajkot Rajpath Ltd. Event of Default") when not caused by a Service Provider Event of Default or Force Majeure Event:

- a) Rajkot Rajpath Ltd. is in breach of any of its obligations under this Agreement and has failed to cure such breach within sixty (60) days of occurrence thereof.
- b) Rajkot Rajpath Ltd. has unlawfully repudiated this Agreement or otherwise expressed its Intention not to be bound by this Agreement.

12.3 Termination for Service Provider Event of Default

In the event of the Service Provider Event of Default, Rajkot Rajpath Ltd. shall have the right to

- a) Invoke the Performance Guarantee and/or
- b) take any other action including provisioning of Buses to the BRT system through another with any replacement service provider selected by Rajkot Rajpath Ltd. in its sole discretion at the risk and cost of the Bus Service Provider, and/or
- c) Take over the entire infrastructure developed by Service Provider for the BRTS Project or any part thereof and / or
- d) Negotiate with Service Provider to transfer the said infrastructure or part thereof to a replacement Service Provider selected by Rajkot Rajpath Ltd., at Rajkot Rajpath Ltd.'s sole discretion.

Upon Termination of this Agreement on account of Service Provider Event of Default, Rajkot Rajpath Ltd. shall not be liable to pay any termination payment to Concessionaire.

12.4 Termination for Rajkot Rajpath Ltd. Event of Default

Upon Termination of this Agreement on account of a Rajkot Rajpath Ltd. Event of Default, the Service Provider shall be entitled to the following (a) receive any outstanding payments due to it for services rendered under the Agreement up to the date of Termination and (b) discharge of the performance guarantee in full (c) transfer of the Bus Services of the Service Provider to a similar system of Bus Service operating under the jurisdiction of Rajkot Municipal Corporation on the following terms and conditions:

- a) The Applicable Kilometer Charge payable per km for Bus operations shall be the same as that determined under this agreement.
- b) The balance terms and conditions for operations and maintenance and all associated matters shall be similar to what is prevailing in the system to which the Buses are transferred.

In the event such a transfer is not possible or cannot be carried out for some reason, Rajkot Rajpath Ltd. may, at its own discretion, consider buyout of the rolling stock of Buses of the Bus Provider.

12.5 Termination for Insolvency, dissolution etc.

RAJKOT RAJPATH LTD. may at any time terminate the Agreement by giving written notice to Service Provider without any compensation to Service provider, if Service Provider becomes bankrupt or otherwise insolvent or in case of dissolution of firm or winding up of the Company, provided that such termination will not prejudice any other rights of RAJKOT RAJPATH LTD.. Notwithstanding the generality of the foregoing, RAJKOT RAJPATH LTD. reserves the right to invoke the Performance Guarantee and / or take over the Buses/infrastructure of the Service Provider.

Director.

Partner

BRTS Project or any part thereof and / or ask the Service Provider to transfer the said Buses/infrastructure or part thereof to a replacement Service Provider selected by RAJKOT RAJPATH LTD., in RAJKOT RAJPATH LTD.'s sole discretion.

12.6 Notice Period

Either Party shall be at liberty to terminate the Agreement for the reasons stated in the Agreement by giving a notice of 60 (sixty) days.

13 HANDOVER & DEFECT LIABILITY PERIOD

13.1 Handing Over of Project Assets

Upon the expiry of the Agreement Period by efflux of time and in the normal course, the Service Provider shall at the end of the Agreement Period or prior termination of this Agreement, as the case may be, hand over free from Encumbrances the peaceful possession of the Premises, if any provided to the Service Provider under administration or otherwise besides any other assets installed or developed by Service Provider by way of this Agreement for the BRTS Project including without limitation any and all hardware, software, firmware, deliverables etc. in sound condition.

13.2 Joint Inspection and Removal of Deficiency

The handing over process shall be initiated at least 6 (six) months before the Expiry Date by joint inspection of RAJKOT RAJPATH LTD. and the Service provider. RAJKOT RAJPATH LTD. shall within 15 (fifteen) days of such inspection prepare and furnish to the Service Provider a list of works / jobs / addition / alterations, if any, to be carried out to bring the BRTS Project related assets to the prescribed level of service condition at least 2 (two) months prior to the date of the expiry of the Agreement Period. In case the Service Provider fails to carry out the above works, within the stipulated time period the RAJKOT RAJPATH LTD. shall be at liberty to have these works executed by another agency or on its own at the risk and cost of the Service provider. Any cost incurred by RAJKOT RAJPATH LTD. in this regard shall be reimbursed by the Service Provider to RAJKOT RAJPATH LTD. within 7(seven) days of receipt of demand. For this purpose, RAJKOT RAJPATH LTD. shall without prejudice to any other right/remedy available to it, under this Agreement, have the right to appropriate the Performance Guarantee and / or to set off any amounts due, if any and payable by RAJKOT RAJPATH LTD. to the Service Provider to the extent required / available and to recover deficit amount, if any, from the Service provider.

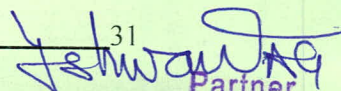
13.3 Recovery of balance dues of RAJKOT RAJPATH LTD. from the Service provider

The dues payable to RAJKOT RAJPATH LTD. by the Service Provider on any account, if any, at the end of the Service Provider shall be recovered by recovered by RAJKOT RAJPATH LTD. from the Performance Guarantee.

For, Rajkot Rajpath Limited


Director.

Mateshwari Travels


Partner

14 DISPUTE RESOLUTION

14.1 Amicable Resolution

- a) Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including non completion of the BRTS Project between the Parties and so notified in writing by either party to the other (the "Dispute") in the first instance shall be attempted to be resolved amicably by the Parties and failing such resolution of the same, in accordance with the procedure set forth in sub-(b) below.
- b) Either Party may require the Dispute to be referred to the Managing Director (MD), RAJKOT RAJPATH LTD. for amicable settlement. Upon such reference, both the parties and the MD or his nominee (who can be an employee of RAJKOT RAJPATH LTD. dealing the BRTS Project or otherwise) shall meet at the earliest mutual convenience and in any event within 15(fifteen) days of such reference to discuss and attempt to amicably resolve the dispute. If the Dispute is not amicably resolved within 15(fifteen) days of such meeting, either Party may refer the Dispute to arbitration in accordance with the provisions of 14.2 below.

14.2 Arbitration

(a) Arbitrators

In the event of any dispute arising between the Parties in relation to or under this Agreement, the same shall be settled by arbitration conducted by an arbitration tribunal consisting of three arbitrators, one to be appointed by each party and the third arbitrator being appointed by the two arbitrators so appointed. The decision of the arbitration tribunal shall be final and binding.

(b) Place of Arbitration

The place of arbitration shall be Rajkot.

(c) Language

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

(d) Procedure

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

(e) Enforcement of Award

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

For, Rajkot Rajpath Limited Mateshwari Travels

Director

Partner

(f) Fees and Expenses

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

(g) Performance during Arbitration

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

15 REPRESENTATIONS AND WARRANTIES

15.1 Representation and Warranties of the Service provider

The Service Provider represents and warrants to RAJKOT RAJPATH LTD. 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 Service Provider Agreement for the BRTS Project;
- (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 will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Service provider's Memorandum and Articles of Association or any Applicable Laws or any covenant, Agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g) there are no actions, suits, proceedings or investigations pending or to the Service provider's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may constitute an event of default on the part of the Service Provider 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 Agency which may result in Material adverse effect;

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

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Partner

- (i) it has complied with all Applicable Laws 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 Service Provider contained herein or in any other document furnished by it to RAJKOT RAJPATH LTD. or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (k) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Service Provider to any person to procure the contract.
- (l) Without prejudice to any express provision contained in this Agreement, the Service Provider acknowledges that prior to the execution of this Agreement, the Service Provider has after a complete and careful examination made an independent evaluation of all aspects of the BRTS Project, and the information provided by RAJKOT RAJPATH LTD., and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Service Provider in the course of performance of its obligations hereunder.
- (m) The Service Provider 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 RAJKOT RAJPATH LTD. shall not be liable for the same in any manner whatsoever to the Service provider.

15.2 Obligation to Notify Change

In the event that any of the representatives or warranties made/given by the party ceases to be true or stands changed, the party who had made such representation or given such warranty shall promptly notify the other of the same.

15.3 Indemnification

Service Provider shall at all times, i.e. during the subsistence of the Agreement and at any time thereafter, defend, indemnify and hold RAJKOT RAJPATH LTD. harmless from and against all claims (including without limitation claims for infringement of intellectual property, breach of contract, death or injury to person or injury to property, or other tort claims) and expenses (including court costs) arising out of or relating to the breach by Service Provider of any covenant representation or warranty or from any act or omission of the Service Provider or his agents, employees or sub-contractors.

16 MISCELLANEOUS

16.1 Assignment and charges

Service Provider shall not assign, in whole or in part, any right or delegate any duty under the Agreement to any third party, except with Rajkot Rajpath Ltd.'s prior written consent in this:

- (a) The Service Provider shall not assign in favor of any person this Agreement or the rights, benefits and obligations hereunder save and except with prior consent of RAJKOT RAJPATH LTD.

For, Rajkot Rajpath Ltd. Mateshwari Travels

- (b) The Service Provider shall not create nor permit to subsist any encumbrance over premises except with prior consent in writing of RAJKOT RAJPATH LTD., which consent RAJKOT RAJPATH LTD. shall be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in clauses (a) and (b) above shall not apply to liens/ encumbrances arising by operation of law (or by an Agreement evidencing the same) in the ordinary course of the Business of the Service provider;

16.2 Liquidated Damages

In the event of delay in supply of Buses by the Service Provider in the relation to the Due for Delivery as specified in Schedule of Bus Supply , or any subsequent amendment thereto, beyond 15 days, RAJKOT RAJPATH LTD. shall recover from Service Provider liquidated damages (and not by way of penalty) @ Rs. 1000/-(Rupees one thousand) per Bus per day of delay.

'In the event of delay in supply of buses by the Service Provider beyond Commencement Date and up to the end of the additional period provided by Rajkot Rajpath Ltd., Service Provider shall pay to Rajkot Rajpath Ltd. liquidated damages @ Rs. 1000/- (Rupees one thousand only) per day of delay for each bus not ready for service. In case the Service Provider is unable to make available 100% of fleet in operational readiness with manpower and supporting maintenance infrastructure within 90 days of Commencement Date, Rajkot Rajpath Ltd. reserves the right to terminate the Service Provider Agreement and Service Provider shall forfeit the Performance Guarantee amount'

16.3 Governing Law and Jurisdiction

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

16.4 Waiver

- (a) 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:
 - (i) shall not operate or be constructed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - (ii) shall not be effective unless it is in writing and executed by a duly authorized representative of such party; and
 - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (b) Neither the failure by either party to insist on any occasion upon the performance of the terms, conditions or provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a party shall be treated or deemed as waiver/ breach of any terms, conditions or provisions of this Agreement.

16.5 Survival

It is provided that the termination of this Agreement

- (a) shall not relieve the Service Provider or RAJKOT RAJPATH LTD. of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and

[Signature]

Director.

[Signature]
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Partner

Mateshwari Travels

- (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 liability for loss or damage to the other party arising out of or caused by acts or omission of such party prior to the effectiveness of such Termination or arising out of such Termination.

16.6 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.

16.7 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognized courier, mail or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to RAJKOT RAJPATH LTD.:

City engineer,
Rajkot Municipal Corporation,
Shri Harisinghji Gohil Zone Office,
West Zone- 150' Ring Road,
B/h Big Bazaar

If to the Service provider

Mr Yashwant Tak
Partner, MATESHWARI TRAVELS
11, Sona mahel, Champanaher Society,
Usmanpura, Ahmedabad-13
Email: ytak@rediffmail.com
Fax No. 079-27553212
M: 9825338045

Or such address, facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered:

- (i) in the case of any communication made by letter, when delivered by hand, by recognized courier or by mail (registered, return receipt requested) at the address, and
- (ii) in the case of any communication made by facsimile, when transmitted properly addressed to such facsimile number.

16.8 Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

For, Rajkot Rajpath Limited

Mateshwari Travels

Director.

Partner,

16.9 No Partnership

Nothing contained in this Agreement shall be constructed or interpreted as constituting a partnership between the partners. Neither Party shall have any authority to bind the other in any manner whatsoever.

16.10 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 in Hindi/English language.

16.11 Ownership & Protection of Property

- a) RAJKOT RAJPATH LTD. shall retain the title and ownership of any site allotted by RAJKOT RAJPATH LTD. to Service Provider for purposes of carrying out Service provider's obligations in relation to the BRTS Project. Such title and ownership of RAJKOT RAJPATH LTD. of any such site shall not pass to Service provider.
- b) The ownership of any other infrastructure created by Service Provider such as maintenance related equipment shall remain the property of the Service Provider and shall be removed from the premises by the Service Provider on expiry of this Agreement before handing over the possession of the site to Rajkot Rajpath Ltd..
- c) RAJKOT RAJPATH LTD. shall own any and all data created out of the BRTS Project at all the times, during and after the expiry/termination of the Agreement. Service Provider shall not have any claim on and for such data and shall not for any reason withhold such data from RAJKOT RAJPATH LTD..
- d) Service Provider shall exercise all due caution to protect and maintain the data created out of this BRTS Project.
- e) Service Provider shall not share, sell or in any manner use the data created by Service Provider out of this BRTS Project otherwise than in accordance with the terms of the Agreement.
- f) Upon expiry or earlier termination of the Agreement, Service Provider shall transfer the possession of any and all the assets including without limitation any hardware, software etc. designed, created, implemented by Service Provider at the allotted sites for the BRTS Project to RAJKOT RAJPATH LTD..

16.12 Intellectual Property Rights

- a) Service Provider shall acknowledge and agree that any and all hardware, software, and / or firmware developed by Rajkot Rajpath Ltd. in relation to the BRTS Project and any modifications thereto or works derived therefrom shall be the exclusive property of RAJKOT RAJPATH LTD. at all times and RAJKOT RAJPATH LTD. shall retain all right, title and interest in and to the same. Provided however that the Service Provider shall have the right to possess and use the same during the Agreement Period for purposes of effective implementation, operation and maintenance of the BRTS Project on specific approval of the same by RAJKOT RAJPATH LTD..
- b) After the expiry or termination of the Agreement Service Provider shall have no right, title or interest in or to any work including without limitation the designs, software, modifications or facilities developed at the allotted sites by Service Provider for RAJKOT RAJPATH LTD. under the BRTS Project for any purpose whatsoever.

For, Rajkot Rajpath Limited

Director.

Mateshwari Travels

Partner

- c) For purposes of the Agreement the terms "software", "software programs" shall include without limitation the specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided at the sites by the Service Provider in relation to the BRTS Project pursuant to the Agreement.
- d) RAJKOT RAJPATH LTD. may in its sole discretion allow the use of any and all Buses used specifically for RAJKOT RAJPATH LTD. in relation to the BRTS Project by Service Provider to a third party for the purpose of advertisements etc inside/outside the Buses.
- e) RAJKOT RAJPATH LTD. may in its sole discretion allow the marketing of any and all product(s) developed specifically for RAJKOT RAJPATH LTD. in relation to the BRTS Project by Service Provider to a third party. Provided however that such marketing shall be done only after prior consultation with RAJKOT RAJPATH LTD. in which event the parties shall arrive at an understanding which shall be set forth in writing in a Memorandum of Understanding ("MOU") between RAJKOT RAJPATH LTD. and the Service Provider before taking up such marketing activity, the responsibilities of Service Provider and RAJKOT RAJPATH LTD. respectively as well as financial implications thereof.

16.13 Counterparts

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

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

SIGNED, SEALED AND DELIVERED

For and on behalf of RAJKOT RAJPATH LTD.
LTD

For, Rajkot Rajpath Limited

AJAY BHADOO

CHAIRMAN, RAJKOT RAJPATH LTD. LTD

Rajkot Municipal Corporation,
Shri Harisinghji Gohil one Office,
150' Ring Road,
Rajkot, 360005.


Director.

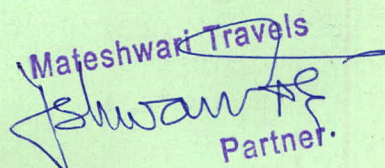
SIGNED, SEALED AND DELIVERED

For and on behalf of by: Mateshwari Travels.

YASWANT TAK

MATESHWARI TRAVELS.

1/34, Nand Nagar, Street No. 1, Beawar:305901,
Rajasthan


Partner.