

**Section 9: Contract Forms**

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

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## Notification of Award

[on letterhead paper of the employer]

### Letter of Acceptance

[date]

To,

**Name of the Consultant** (as per legal name submitted in the Bid)

Address.....

Mob: .....

Email: .....

PAN :.....

(MSME / NON-MSME)

**(hereinafter termed as Consultant)**

(Kind Attention- Mr/Ms.....) as per Authorized signatory declared in bid

**Sub: - Bid No: .....: Name of work.....**

**Ref: -**

1. This is to notify you that your Bid dated [ date ] for execution of the (*Bid No. and Name of* ..... *Work*) ..... is hereby accepted by National Capital Region Transport Corporation Limited (hereinafter termed as “Employer”) for the Amount in the equivalent of [*amount in words and figures and name of currency*] inclusive/ exclusive (as the case may be) all duties, taxes (except Custom Duty and GST), and other levies etc. and any other cause payable by the Consultant under the Contract. The work shall be carried out as per Part II Bidding document and payment shall be made in accordance with bill of Quantities included in the Price Bid.
2. In terms of clause ..... of the bidding documents, within 28 days of issue of this Letter of Acceptance to the Consultant, the Consultant shall furnish to the Employer a Performance Security in any of the form stipulated in clause ..... of bidding documents for an amount of Rs. .... in figures and words. In case of Performance security submitted in the form of Performance Bank Guarantee Contractor shall use the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.
3. This Letter of Acceptance is being issued in two original and identical sets, in favour of the Consultant. Any one set may be retained by the Consultant and the other set is required to be returned by the Consultant, duly signed and stamped stating “Unconditionally Accepted” on each page by them an authorized signatory of the Consultant, as a token of

unconditional acceptance of the same so as to reach the undersigned within seven days of issue of this letter.

4. The Commencement Date shall be .....

5. This LOA shall be a Binding Document until execution of formal contract agreement.

All other terms & conditions as stipulated in the bidding document shall be applicable.

Please acknowledge receipt of the letter.

Yours faithfully,

For & on behalf of  
National Capital Region Transport Corporation Limited

**(Name of the LOA signing Authority)**  
**Designation of the LOA signing Authority**

**Copy to: .....**

**Contract Agreement**

*(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act.)*

**(Contract Agreement No. ....)**

THIS AGREEMENT made the [date] day of [month], [year], between National Capital Region Transport Corporation (hereinafter “the Employer”), of the one part, and [name of the consultant] (hereinafter “the consultant”), of the other part:

WHEREAS the Employer desires that the Works known as ((*Bid No. and Name of Work*) .....), should be executed by the Consultant, and has accepted a Bid by the Consultant for the execution and completion of these Works and the remedying of any defects therein.

The Employer and the Consultant agree as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement:
  - (a) Contract Agreement,
  - (b) Letter of Acceptance,
  - (c) Performance Security
  - (d) Letter of Technical Bid,
  - (e) Price Bid including completed schedules and Bill of Quantities,
  - (f) Addenda/Corrigenda Nos [insert addenda/corrigenda numbers if any] and replies to pre-bid queries
  - (g) Special Conditions of Contract,
  - (h) General Conditions of Contract,
  - (i) Employer’s requirements/Scope of Work
  - (j) Specifications,
  - (k) Drawings,
  - (l) Technical Bid of the bidder including replies to post bid queries, if any.
  - (m) Invitation for bid, instructions to bidder, bid data sheet, evaluation and qualification criteria, bidding forms & Contract forms.
  - (n) Detailed JV Agreement
  - (o) Any other Document
3. In consideration of the payments to be made by the Employer to the Consultant as indicated in this Agreement, the Consultant hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Consultant in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price..... *(The total accepted contract amount is exclusive of GST and custom duties shall be in accordance with the details mentioned in BDS/ ITB 14.7)* or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

5. This agreement is signed between ..... for and on behalf of the Employer and ....., authorized signatory for and behalf of the Consultant. The other documents forming part of Contract Agreement mentioned in the para 2 above shall be signed by ..... for and on behalf of the Employer and ..... authorized signatory for and behalf of the Consultant.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of India on the day, month and year indicated above.

Signed by .....  
.....

Signed by

for and on behalf of the Employer  
in the presence of

for and on behalf the Consultant  
in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date

## Performance Security

[Bank's name, and address of issuing branch or office]

**Beneficiary:** National Capital Region Transport Corporation Ltd.

GatiShakti Bhawan, INA, New Delhi -110023

Tele: +91-11-2466 6700

**Date:** .....

**Performance Guarantee No.:** .....

WHEREAS \_\_\_\_\_ [name and address of Consultant] (hereafter called the "Consultant") has undertaken, in pursuance of Letter of Acceptance (LOA) No. \_\_\_\_\_ Dated \_\_\_\_\_ for \_\_\_\_\_ [name of the Works] (hereinafter called the "Contract"). AND WHEREAS the Contract requires the Consultant to furnish an Performance Security for due and faithful performance of its obligations, under and in accordance with the Contract, for a sum of Rs..... cr. (Rupees ..... crore) (the "Guarantee Amount" )<sup>1</sup> payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

AND WHEREAS we, ..... through our branch at ..... (the "Bank") have agreed to furnish this Bank Guarantee (hereinafter called the "Guarantee") by way of Performance Security.

AND WHEREAS, This guarantee shall expire, no later than the [date]day of [month], [year]<sup>2</sup>, ("Term"), and all the demands and claims by the Employer, under this Guarantee, may be made in writing until 28 (twenty eight) days after the expiry of the Guarantee.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Consultant's obligations during the Term and in accordance with the Contract, and agrees and undertakes to pay to the Employer, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Consultant, such sum or sums up to an aggregate sum of the Guarantee Amount as the Employer shall claim, without the Employer being

<sup>1</sup> The guarantor shall insert an amount representing the percentage of the contract price specified in the contract and denominated either in the currency(ies) of the contract or a freely convertible currency acceptable to the employer.<sup>2</sup> Insert the date 02 months after the expected completion date including Defect Notification period. The employer should note that in the event of an extension of the time for completion of the contract, the employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

<sup>2</sup> Insert the date 02 months after the expected completion date including Defect Notification period. The employer should note that in the event of an extension of the time for completion of the contract, the employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. In order to give effect to this Guarantee, the Employer shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Consultant and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
3. This Guarantee shall come into force with immediate effect and shall remain in force and effect for until the expiry of the Term or until it is released earlier by the Employer pursuant to the provisions of the Contract.
4. The Bank Guarantee shall be encashable/payable at ..... (branch name) Delhi/NCR only.
5. This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except supporting statements under article 15 (a) is hereby excluded.

Signed and sealed this ..... day of ....., 20..... at ..... SIGNED,  
SEALED AND DELIVERED For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address). . . . .

<i>If the institution issuing the performance security is located outside the country of the employer, it shall have a correspondent financial institution located in the country of the employer to make it enforceable.</i>
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### Advance Payment Security

[Bank's name, and address of issuing branch or office]

**Beneficiary:** National Capital Region Transport Corporation Ltd.

Gatishakti Bhawan, INA, New Delhi - 110023

**Tel : +91-11-41066943**

**Fax : +91-11-41066953**

**Date:**.....

**Advance Payment Guarantee No.:**.....

WHEREAS \_\_\_\_\_ [name and address of Consultant] (hereafter called the “**Consultant**”) has undertaken, in pursuance of Letter of Acceptance (LOA) No. \_\_\_\_\_ Dated \_\_\_\_\_ for \_\_\_\_\_ [name of the Works] (hereinafter called the “**Contract**”).

AND WHEREAS the Conditions of the Contract requires an advance payment in the sum [Indian Rupees and amount in words]<sup>1</sup>[amount in figures] is to be made against an advance payment guarantee (the “**Guarantee Amount**”).

AND WHEREAS we, ..... through our branch at ..... (the “**Bank**”) have agreed to furnish this guarantee (hereinafter called the “**Guarantee**”) by way of advance payment security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. At the request of the Consultant, we [name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [Indian Rupees and amount in words]<sup>2</sup>[amount in figures] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant is in breach of its obligation under the Contract because the Consultant:
  - (a) used the advance payment for purposes other than the costs of mobilization and cash flow support in respect of the Works; or
  - (b) has failed to repay the advance payment when it has become due and payable in accordance with the conditions of the Contract, specifying the amount payable by the Consultant.
2. It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on its account number [Consultant's account number] at [name and address of the bank].
3. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of interim

<sup>1</sup> The guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the employer.

<sup>2</sup> Footnote 2.



statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety percent (90%) of the Contract Price has been certified for payment, or on the [date] day of [month], [year]<sup>1</sup>, whichever is earlier. Consequently, all the demands and claims by the Employer, under this Guarantee, may be made in writing until 28 (twenty eight) days after the expiry of the Guarantee.

4. The Bank Guarantee shall be encashable/payable at ..... (branch name) Delhi/NCR only.
5. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758 except supporting documents under article 15 (a) is hereby excluded.

Signed and sealed this ..... day of ....., 20..... at ..... SIGNED,  
SEALED AND DELIVERED For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address). ..... <i>If the institution issuing the Advance payment security is located outside the country of the employer, it shall have a correspondent financial institution located in the country of the employer to make it enforceable.</i>
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<sup>1</sup> Insert the expected expiration date of the time for completion. The employer should note that in the event of an extension of the time for completion of the contract, the employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [6 months][1 year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

**Proforma for Bank Guarantee for Provisional Payment  
against Supply of Materials at Site**

**DELETED**

**BANK GUARANTEE FOR SAFE CUSTODY**

**DELETED**

## DETAILED JOINT VENTURE /CONSORTIUM AGREEMENT

THIS JOINT VENTURE / CONSORTIUM AGREEMENT is entered into on this the .....day of ..... 20.....

### AMONGST

- i. M/s ....., and having its registered office at ..... (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns) acting as the Lead Partner,  
and
- ii. M/s ....., and having its registered office at ..... (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns) in the capacity of a Joint Partner,  
and
- iii. M/s ....., and having its registered office at ..... (hereinafter referred to as the “Third Part” which expression shall, unless repugnant to the context include its successors and permitted assigns) in the capacity of a Joint Partner,

The expressions of (i) .....(ii) .....and (iii) .....(names of Joint Venture / Consortium Partners) shall wherever the context admits, mean and include their respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as “the Parties” and individually as “The Party”.

### WHEREAS:

- A. National Capital Region Transport Corporation Limited and having its registered office at GatiShakti Bhawan, INA, New Delhi -110023 [hereinafter referred to as the “Employer” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns], had invited bids by its Bid Invitation No. ....dated .....for ..... “[Insert name of work] [hereinafter referred to as “Contract”] and the parties stated above had entered into a Memorandum of Understanding (MoU) for participation in the above bid as \_\_\_\_\_ (name of Joint Venture/ Consortium) and thereafter vide their offer dated ..... “[Insert date of bid submission] had participated in the bids, and the Employer on considering the offer and its subsequent communications, if any, has awarded the Contract vide Notification of Award No.....(LOA No.).
- B. It is a necessary condition under the Bidding Document that the partners of the Joint Venture / Consortium shall enter into a Joint Venture / Consortium Agreement and furnish the same to the employer after notification of the award of contract within a period of 28 days.

### NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

#### 1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the Bidding Document.

#### 2. Joint Venture / Consortium

- 2.1. The Parties do hereby irrevocably constitute a JV/ consortium (the “JV/Consortium”) for the purposes of jointly execution of work.
- 2.2. The Parties hereby undertake to execute the work only through this JV/ Consortium and not individually and/ or through any other JV/Consortium constituted for this work, either directly or indirectly or through any of their Associates.

#### 3. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead partner of the JV/Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the JV/ Consortium during the execution of work.
  - b) Party of the Second Part shall be {the Partner of the JV/ Consortium; and}
  - c) Party of the Third Part shall be {the Partner of the JV/ Consortium;}
4. The following documents shall be deemed to form and be read and construed as an integral part of this Agreement.
  - i. Notice of Invitation for Bid, and
  - ii. Bidding document
  - iii. Any Addendum/Corrigendum to the Bid document
  - iv. The offer submitted by the JV/Consortium.
  - v. Notification of Award No..... by the Employer awarding the Contract to JV/Consortium.
5. The 'Parties' have studied above documents and irrevocably agree with the same. The parties also agree to submit the Performance Security to the Employer for an amount and in the manner as stipulated in the bidding document.
6. For the purpose of submission of bid proposals, the parties had nominated ..... (Name of lead Partner) as the Lead Partner duly authorized to sign and submit all documents and subsequent clarifications, if any, to the Employer. The same nomination will hold good for signing of the Contract Agreement and for doing all correspondences with the Employer during the execution of the contract, unless revoked with the approval of the Employer. However, M/s ..... shall not submit any such proposals, clarifications or commitments in relation to this contract to the Employer, before securing the written clearance / consent of the other Partners. All such communications done by the lead Partner on behalf of the JV/Consortium with the Employer shall be deemed to have the concurrence of all the Partners of the JV/Consortium and shall be binding on all the Partners.
7. The 'Parties' have resolved that the distribution of share and responsibilities between the JV/Consortium Partners is as under: -
  - a. Lead Partner Name ..... share ..... % ;
  - b. Responsibilities of Key Activities
    - (i) .....
    - (ii) .....
    - (iii) .....
  - c. Joint Venture /Consortium Partner Name.....and share ..... % ;  
Responsibilities of Key Activities
    - (i) .....
    - (ii) .....
    - (iii) .....
  - d. Joint Venture /Consortium Partner Name.....and share .....% ;  
Responsibilities of Key Activities
    - (i) .....
    - (ii) .....
    - (iii) .....
8. JOINT AND SEVERAL RESPONSIBILITIES

The Parties undertake that they shall be jointly and severally liable to the Employer in the discharge of all the obligations and liabilities as per the contract with the Employer and for the performance of contract awarded to their JV/Consortium.

## **9. REPRESENTATION OF THE PARTIES**

Each Party represents to the other Parties as of the date of this Agreement that:

- a. Such Party is duly constituted, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- b. The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental authority and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the JV/Consortium Partner is annexed to this Agreement, and will not, to the best of its knowledge:
  - i. require any consent or approval not already obtained;
  - ii. violate any applicable law in force and having applicability to it;
  - iii. violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
  - iv. violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects, or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

## **10. ASSIGNMENT**

The assignment and the role of each of the Joint Partner shall be dealt as per relevant contract conditions.

## **11. EXCLUSIVITY**

The parties shall co-operate throughout the entire period of this Joint Venture Agreement on the basis of exclusivity and neither of the Parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the Project except with prior written consent of the other Joint Partners and the Employer.

## **12. EXECUTIVE AUTHORITY**

The said Joint Venture/Consortium through its authorized representative shall receive instructions from the Employer. The management structure for the project shall be prepared by mutual consultations to enable completion of project as per the contract requirements.

### **13. GUARANTEES AND BONDS**

The Performance Security to be submitted by the Joint Venture /Consortium to the Employer shall be submitted by the JV/Consortium in accordance with the requirements of the Contract.

### **14. INDEMNITY**

Each party hereby agrees to indemnify the other party against its respective parts in case of breach/default of the respective party of the contract works of any liabilities sustained by the Joint Venture/Consortium.

- 15.** For the execution of the respective portions of works, the parties shall make their own arrangements to bring the required finance, plants and equipment, materials, manpower and other resources.

### **16. TAXES**

#### **16.1 Tax obligations**

Each JV/Consortium Partner shall comply with all tax regulations concerning its Scope of work at its own risk and expense and for its own account. In particular, each JV/Consortium Partner shall be responsible for preparing and submitting all necessary tax returns and tax payments, as legally required.

#### **16.2 GST**

If the JV/Consortium is subject to GST, the relevant tax obligations shall be satisfied by the JV/Consortium.

Details of necessary procedures (with regard to invoicing procedure, tax declarations, documents and respective tax payments) will be agreed upon separately.

#### **16.3 Taxation of the Joint Venture /Consortium**

It is the JV/Consortium partner's common understanding that the implementation of the Project based on the principles of cooperation in this Agreement will not cause the JV/Consortium to register for corporate income tax purposes, whether as taxable entity or in another form. No JV/Consortium Partner shall take any action that may contradict such common understanding of the Joint Venture /Consortium Partners.

If the tax authorities nevertheless should tax the JV/Consortium on the basis of income from the entire Contract, the JV/Consortium Partners shall closely cooperate and agree on a joint approach in responding to the tax authorities' position. If the JV/Consortium should be taxable, the JV/Consortium Lead Partner will coordinate the tax filling and tax payment process. Details will be agreed upon separately.

In principle, each JV/Consortium Partner shall bear the corporate income tax to the extent it relates to its Scope of Work. The calculation of each Consortium Partner's proportional amount of tax will be subject to the local tax law, each JV/Consortium Partner's pro-rata share of the taxable income and the relevant tax rate.

If such calculation is not possible, the Joint Venture / Consortium Partners shall agree on another way of allocation of the respective tax.

Taxes other than corporate income tax assessed on the JV/Consortium shall be borne by the JV/Consortium Partners pursuant to their Proportionate Values.

### **17. CONFIDENTIALITY**

#### **17.1 CONFIDENTIALITY OBLIGATION**

Each party shall keep the information and documents received from the other party secret and confidential and shall not disclose them to a third party without written consent of the other party providing the information / documents.

## 17.2 EXCLUSIONS

Clause 17.1 does not apply to information which;

- a) Is or become generally available to the public through no breach of the receiving party;
- b) Is within the receiving party's lawful possession before the disclosure;
- c) Prior to the date of this Agreement, has been received from a Third Party having no obligation of confidentiality.
- d) Is independently developed by the receiving party;
- e) The receiving Party is required to disclose by any court order or government action, provided that prior to the disclosure, the receiving Party shall notify the disclosing Party.
- f) Is disclosed by either of the Parties to its affiliates or attorneys in connection with and for the purposes of the performance of this Agreement; or
- g) Is disclosed as required by any law, the rules of any recognized stock exchange or regulatory body or any written requirements of any taxation authority.

## 18. ARBITRATION

Any dispute, controversy or claim arising out of or relating to this Agreement shall be settled in the first instance amicably between the parties. If an amicable settlement cannot be reached as above, it will be settled by arbitration in accordance with the Arbitration and Conciliation Act 1996(Act no 26 of 1996) as amended from time to time. The venue of the arbitration shall be Delhi.

## 19. VALIDITY

This Agreement shall remain in force till the occurrence of the earliest of any of the following, unless by mutual consent, the Parties agree in writing to extend the validity for a further period.

- a) The completion period of the Contract including its Defect Notification Period, or
- b) Termination of the contract awarded to JV/Consortium by the Employer
- c) Cancellation/ shelving of the Project by the Employer for any reasons

- 20.** This Agreement is drawn in .... number of copies with equal legal strength and status. One copy is held by M/s ..... (Lead Partner) and the other by M/s. ...., M/s .....& M/s.... and a copy submitted to the Employer.

## 21. MISCELLANEOUS

- a) This Agreement shall be governed and construed in accordance with the Laws in force in India.
- b) The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Employer.

## 22. NOTICES BETWEEN JV/CONSORTIUM PARTNERS

Notices shall be given in writing confirmed by registered mail or commercial courier to the following addresses:

Lead Partner.	Other Partner	Other Partner
.....	.....	.....
.....	.....	.....
(Name & Address)	(Name &Address)	(Name and Address)



IN WITNESS WHEREOF THE PARTIES, have executed this Agreement the day, month and year first before written

M/s.....	M/s.....	M/s.....
.....	.....	.....
(Seal)	(Seal)	(Seal)

Witness

1..... (Name & Address)

2..... (Name & Address)

*Notes:*

1. The mode of the execution of the JV/ Consortium Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. JV/ Consortium Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the JV/ Consortium Partner.
3. For a JV/Consortium executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

**Consultant's Warranty**

**DELETED**

**SUB-CONSULTANT'S WARRANTY**

**DELETED**

**FORM OF DESIGNER'S WARRANTY**

**DELETED**

**Performa for Bank Guarantee for Retention Money**

**DELETED**

### Non-Disclosure Agreement

*(To be executed in presence of Public Notary on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act.)*

This Non-Disclosure Agreement ("Agreement") is made and entered into \_\_\_\_\_ day of \_\_\_\_\_ Month of 20\_\_\_\_\_ by and between.

National Capital Region Transport Corporation having its office at **National Capital Region Transport Corporation Ltd., GatiShakti Bhawan, INA, New Delhi -110023** (hereinafter referred to as "NCRTC" which expression shall include its successors and permitted assignees) of the First Part,

**And**

[INSERT COMPLETE LEGAL NAME OF THE AGENCY] having its registered office at [INSERT THE REGISTERED ADDRESS OF THE Consultant] (hereinafter referred to as "Consultant" which expression shall include its successors and permitted assignees) of the Second Part.

NCRTC and Consultant are hereinafter collectively referred to as "Parties" and individually as "Party"

WHEREAS, through a competitive bidding process NCRTC has awarded to the Consultant the work of \_\_\_\_\_ through the Notification of Award \_\_\_\_\_.

AND WHEREAS NCRTC may disclose to the Consultant certain information which is confidential and proprietary in nature and wishes to protect such information from unauthorized disclosure and use;

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, Parties agree as follows:

#### **1. Definitions –**

- a. The term "Confidential Information" shall include, without limitation, all information and materials furnished by NCRTC to the Consultant, including information transmitted in writing, orally, or on magnetic or optical media, and including all proprietary visually, (e.g. video terminal display) or on magnetic or optical media, and including all proprietary information, customer & prospect lists, trade secrets, trade names or proposed trade names, logo, methods and procedures of operation, commercial or marketing plans, licensed document know-how ideas, concepts, designs, drawings, flow charts, sales figures, diagrams, quality manuals, checklists, guidelines, processes, formulae, source code materials, specifications, programs, software packages, codes, bio-metric records and other intellectual property relating to the NCRTC data, computer database, products and/or services. Confidential Information shall also include results of any tests sample surveys, analytics, data mining exercises or usages etc. carried out by Consultant in connection with the NCRTC information or sensitive personal information as defined under any law for the time being in force.
- b. The term, "NCRTC" shall include the officers, employees, agents, consultants, consultants and representatives of NCRTC, including other government departments for which NCRTC may be rendering its services, and its successors and permitted assignees.
- c. The term, "Consultant" shall include the Directors, officers, employees, agents, consultants, (a consultants, sub-consultants, and representatives of Consultant, including its affiliates, subsidiary companies and permitted assigns and successors.

## **2. Protection of Confidential Information**

With respect to any Confidential Information disclosed to Consultant or to which Consultant has access, Consultant agrees that it shall:

- a. Use the Confidential Information only for accomplishment of the services to be performed in accordance with the terms and conditions contained herein;
- b. maintain strict confidentiality of the Confidential Information and take all reasonable steps to enforce the confidentiality obligations imposed hereunder, but in no event shall take less care than it takes to protect the confidentiality of its own proprietary and confidential information and that of its clients;
- c. Not make or retain copy of any Confidential Information except as necessary, under prior written permission from NCRTC, in connection with the services to be performed as per the terms and Conditions and ensure that any such copy is immediately returned to NCRTC even without express demand from NCRTC to do so;
- d. Not disclose or in any way assist or permit the disclosure of any Confidential Information to any person or entity without the express written consent of NCRTC except as provided in clause 6 below; and
- e. Return to NCRTC, or destroy, at NCRTC direction, any and all Confidential Information disclosed in a printed form or other permanent record, or in any other tangible form (including without limitation, all copies, notes, extracts, analyses, studies, summaries, records and reproductions thereof) immediately upon the earlier to occur of:
  - i. expiration or termination of the Master Agreement, or
  - ii. on request of NCRTC
- f. Not discuss with any member of public, media, press or any other person about the nature of arrangement entered between NCRTC and Consultant or the nature of services to be provided by the Consultant to NCRTC except with the written consent of NCRTC.

## **3. Exception**

The aforesaid obligations of confidentiality shall not apply to the following information:

- i. which has become generally available in the public domain without breach of this Agreement by the Consultant; or
- ii. which at the time of disclosure to Consultant was known to Consultant free of confidentiality restriction as evidenced by documentation in Consultant's possession;
- iii. which NCRTC agrees in writing is free of such confidentiality restrictions;
- iv. which has been received from a third party who owes no obligation of confidence in respect of such information; and
- v. which is directed to be disclosed by a court of competent jurisdiction or by a Governmental or regulatory authority provided that Consultant have given prior prompt notice in writing to NCRTC of such disclosure;

## **4. Onus:-**

Consultant shall have the burden of proving that any disclosure or use inconsistent with the terms and conditions hereof falls within any of the exceptions provided in clause 3 above.

## **5. Remedies**

NCRTC acknowledges and agrees that (a) any actual or threatened unauthorized disclosure or use of the Confidential Information by Consultant would be a breach of this Agreement and may cause immediate and irreparable harm to NCRTC; (b) damages from such unauthorized disclosure or use may be impossible to measure accurately and injury sustained by NCRTC may be impossible to calculate and remedy fully. Consultant acknowledges that in the event Consultant of such a breach, NCRTC shall be entitled to specific performance by Consultant's obligations contained in this Agreement. Consultant shall recompense NCRTC for any loss of revenue arising out of or in any way relate to or result from breach of obligations under this Agreement by Implementing Agency. NCRTC reserves the right to adopt legal proceedings, civil or criminal, against the Consultant in

relation to a dispute arising out of breach of the confidentiality obligations of the Consultant under this Agreement.

**6. Need to Know**

Consultant shall restrict disclosure of Confidential Information to its employees and/or Sub-Consultants, consultants and/or sub-consultants who have need to know such information for accomplishment of services under the terms and Conditions for the Work provided such employees and/or consultants and/or sub-consultants have agreed to abide by the terms and conditions of this Agreement and agree that they shall not disclose such Confidential Information to any affiliates, subsidiaries, associates and/or third party without prior written approval of NCRTC.

**7. Intellectual Property Rights Protection**

No license to Consultant, under any trademark, patent, copyright, design right or any other intellectual property right is either granted or implied by the conveying of Confidential Information to Consultant.

**8. Authority**

Parties represent and warrant that they have all necessary authority and power to enter into this Agreement and perform their obligations hereunder.

**9. Governing Law**

This Agreement shall be interpreted in accordance with and governed by the substantive and procedural laws of India and the parties hereby consent to submit to the exclusive jurisdiction of Courts and/or Forums situated at Delhi, India only.

**10. Amendments**

No amendment, modification and/or discharge of this Agreement shall be valid or binding on the Parties unless made in writing and signed on behalf of each of the Parties by their respective duly authorized officers or representatives.

**11. Severability**

In the event any provision of this Agreement is held to be invalid or unenforceable under the applicable law, the remaining provisions of this Agreement shall remain in force and effect.

**12. Waiver**

If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

**13. Survival**

Consultant agrees that all of its obligations undertaken herein with respect to Confidential Information received pursuant to this Agreement and obligations of indemnity shall survive for a period of 10 years after any expiration or termination of this Agreement.

**14. Deleted**

**15. Term**

This Agreement shall come into force on the date first written above and, subject to aforesaid clause 13, shall remain valid up to expiry or termination of the Contract Agreement to be signed between two parties.

IN WITNESS HEREOF, and intending to be legally bound, the Parties have executed this Agreement to make it effective from the date and year first written above.

For Consultant  
Name:  
Title:  
WITNESSES:

For NCRTC  
Name:  
Title:  
WITNESSES: