

# **FACILITY MANAGEMENT AGREEMENT**

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BETWEEN

**SINDH INFRASTRUCTURE DEVELOPMENT COMPANY LTD. (FORMERLY KARACHI  
INFRASTRUCTURE DEVELOPMENT Co. LTD. (KIDCL))  
(AS EMPLOYER)**

AND

***[TO BE INSERTED]***  
**(AS OPERATOR)**

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RELATING TO:

**BRTS GREEN LINE PROJECT  
AT KARACHI, SINDH, PAKISTAN**

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**DATED: AS OF \_\_\_\_\_ OF \_\_\_\_\_, 2021**

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## FACILITY MANAGEMENT AGREEMENT

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This FACILITY MANAGEMENT AGREEMENT (this “Agreement”) is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

### BETWEEN

- (1) **SINDH INFRASTRUCTURE DEVELOPMENT COMPANY LTD. (FORMERLY KARACHI INFRASTRUCTURE DEVELOPMENT CO. LTD. (KIDCL))**, a public limited company duly organized and existing under the laws of Pakistan, with its principal office located at 6<sup>th</sup> Floor, Extension Block, Bahria Complex IV, Karachi (the “**Employer**”, which expression shall include its successors-in-interest and permitted assigns);

### AND

- (2) [**●**], a company incorporated under the laws of Pakistan, with its registered office located at [**●**], Pakistan (the “**Operator**”, which expression shall include its successors-in-interest and permitted assigns).

(Each of the Employer and the Operator is hereinafter, individually referred to as a “**Party**” and collectively referred to as the “**Parties**”).

## RECITALS

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### WHEREAS:

- (A) The Employer has been entrusted with the task of developing and improving the quality of mass transport/transit system in the city of Karachi, Pakistan, including the development and operations of the Project.
- (B) The Employer has undertaken public procurement process in terms of the Public Procurement Rules, 2004 passed by the Federal Government pursuant to Section 26 of the Public Procurement Regulatory Authority Ordinance, 2002 to select an operator to provide Services for the Project.
- (C) The Sponsor presented its Bid for the performance of the Services and was selected as the successful bidder.
- (D) In accordance with the requirements of the Bidding Documents and the terms of the Bid (as defined herein below) submitted by the Sponsor, the Sponsor has incorporated the Operator as a wholly owned special purpose vehicle to enter into this Agreement for the execution of the Services and provided a Corporate Guarantee guaranteeing the Services towards the Employer under this Agreement.
- (E) The Employer wishes to conclude an agreement with the Operator for the performance of the Services in respect of the Facilities.

- (F) The Parties desire to set forth the terms and conditions under which the Operator shall execute and the Employer shall pay for the Services.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Parties hereby agree as follows:

## **1. DEFINITIONS AND INTERPRETATION**

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### **1.1. DEFINITIONS**

The terms used in this Agreement shall have the meanings stated below:

**“Acceptable International Credit Rating”** means, with respect to a person or the unsecured, unguaranteed and unsubordinated instruments issued by such person, an international rating of A- or higher by S&P, A3 or higher by Moody’s or A- or higher by Fitch, provided that, where a person or any instrument is rated by more than one of S&P, Moody’s or Fitch, then the lowest rating will apply for determining whether the person or instrument has an Acceptable International Credit Rating.

**“Acceptable Pakistan Credit Rating”** means, with respect to a person or the instruments issued by such person:

- (a) in relation to such a person, that is rated AA+ or higher by PACRA or AA+ or higher by VIS; and
- (b) in relation to such an instrument, that it is rated AA+ or higher by PACRA or AA+ or higher by VIS,

provided that where a person or any instruments is rated by more than one of PACRA or VIS, as applicable, then the lowest rating will apply for determining whether the person or instrument has an Acceptable Pakistan Credit Rating.

**“Agreement”** means this Facility Management Agreement including all schedules, exhibits and annexes included herein.

**“Applicable Standards”** mean the standards, requirements and criterion applicable to the performance of the Services as contained in:

- (a) the Laws;
- (b) the O&M Plan;
- (c) the Prudent Industry Practices; and
- (d) the Consents;

**provided, however**, in the event of any discrepancy, conflict or inconsistencies in the standards, requirements and criterion set out above, the most stringent standards, requirements and criterion shall apply.

“**Arbitration Act**” means the Pakistan Arbitration Act, 1940 (as may be amended, modified, supplemented, extended or re-enacted from time to time).

“**Bid**” means the bid submitted by the Sponsor (being the successful bidder) in response to the Bidding Documents.

“**Bid Submission Date**” means the date on which the Bid is required to be submitted, and as specified in the Bidding Documents.

“**Bidding Documents**” means the bidding documents issued by the Employer on *[insert details]*.

“**BRT Corridor**” means the dedicated corridor (comprising of BRT Corridor Phase I and BRT Corridor Phase II) for the Project on which the Buses are operated.

“**BRT Corridor Phase I**” means the dedicated corridor for the Project from Surjani to Numaish underpass along with the Bus Stations located on the corridor.

“**BRT Corridor Phase II**” means the dedicated corridor for the Project from Numaish to Municipal Park along with the Bus Stations located on the corridor.

“**BRTS**” means Bus Rapid Transit System.

“**Bus**” or “**Buses**” means the buses being operated by the operator engaged by the Employer for the Project.

“**Bus Stations**” means the bus stations on the BRT Corridor for utilisation as stations for the Buses, together with such fixtures and fittings as described in **Schedule A (Operator’s Scope of Work)**.

“**Change in Complete Control**” means any issuance, sale, transfer, conveyance, disposal or any event, transaction, arrangement, Encumbrance or agreement of any nature that results in or may result in the Sponsor(s) holding less than one hundred percent (100%) of the Shares and/or losing the power to direct the management, policies, control and/or decisions, in each case, of the Operator.

“**Commencement Date Phase I**” has the meaning given to that term in Section 4.3.1.

“**Commencement Date Phase II**” has the meaning given to that term in Section 4.3.1.

“**Confidential Information**” means all information, documentation, data, know-how or trade secrets, of whatever nature relating to the Project, disclosed by one Party to the other Party in accordance with Section 11 (*Confidential Information*).

“**Consents**” means all such approvals, consents, authorizations, notifications, concessions, acknowledgements, licenses, permits, or similar items that is or are required to be, from time to time, obtained and/or maintained by the Operator for the performance

of its obligations under this Agreement, including the consents stated in **Schedule L (Consents)**.

**“Corporate Guarantee”** means the corporate guarantee submitted by Sponsor on the Effective Date in favor of the Employer in accordance with Section 7.1.1 in the form attached hereto at **Schedule D (Form of Corporate Guarantee)**.

**“Corporate Guarantee Expiry Date”** has the meaning given to that term in Section 7.1.2.

**“Cost”** means all expenditure reasonably and properly incurred (or to be incurred) by the Operator including overhead and similar charges but does not include profit.

**“CPI”** means the Consumer Price Index published by the Pakistan Bureau of Statistics.

**“Default Delay Period”** means, in relation to the Mobilization Period, the days (or part thereof) that lapse between the: (a) Scheduled Commencement Date Phase I and the Commencement Date Phase I; or (b) Scheduled Commencement Date Phase II and the Commencement Date Phase II.

**“Defects or Deficiencies”** means any Services (or any part thereof) that fail to conform to the Applicable Standards in any manner (including any services, performance, materials, design, execution, engineering and/ or workmanship in respect of such Services); and any grammatical forms of such terms shall be construed accordingly.

**“Delay Liquidated Damages”** means the delay liquidated damages payable by the Operator for delay in the achievement of the: (a) Commencement Date Phase I by the Scheduled Commencement Date Phase I; or (b) Commencement Date Phase II by the Scheduled Commencement Date Phase II (as applicable), in accordance with Section 4.6 (*Delay Liquidated Damages During Mobilization Period*).

**“Delay Liquidated Damages Cap”** has the meaning given to that term in Section 4.6.3.

**“Dispute”** has the meaning given to that term in Section 19.1 (*Notice of Dispute*).

**“Effective Date”** means the date of signing of this Agreement.

**“Emergency”** means the occurrence of any event, that in the judgment of the Employer requires immediate action and which constitutes, or is likely to constitute, a serious hazard to the safety of persons or property, or to the security, integrity, durability and reliability of the Facilities, or may materially interfere with the safe, prudent and/or environmentally sound operations and management of the Facilities or any part thereof.

**“Employer”** means the entity identified as “Employer” in the preamble and its legal successors and permitted assigns.

**“Employer Authority Matters”** has the meaning given to that term in Section 2.10 (*Employer Authority Matters*).

**“Employer’s Default”** means the events listed under Section 9.1.1.

**“Employer’s Instruction”** has the meaning given to the term in Section 3.3 (*Employer’s Instructions*).

**“Employer’s Representative”** has the meaning given to that term in Section 3.2 (*Employer’s Representative*).

**“Encumbrance”** means any charge, pledge, hypothecation, lien, mortgage, assignment, right of set-off, option, contractual restrictions (such as negative covenants having the effect of creating or acknowledging security interests in favour of creditors) or other encumbrance or security arrangement or interest of any kind securing any obligation or any type of preferential arrangement (including conditional sale, title transfer and retention arrangements) having similar effect.

**“Excluded Assets”** means the assets, equipment, machinery installed and/or located at the Facilities as specified in Schedule C (*Excluded Assets and Excluded Services*).

**“Excluded Services”** means the management, operations, maintenance and repair services to be performed in respect of the Excluded Assets by the Employer directly or through any of the Project Contractors (other than the Operator) including as specified in Schedule C (*Excluded Assets and Excluded Services*).

**“Excluded Taxes”** has the meaning given to that term in Section 5.5.2.

**“Face Value”** means the amount (at any time) available for drawing / encashment under the Performance Security.

**“Facilities”** means the Project facilities comprising of the BRT Corridor, Bus Stations, the Operations Control Centre and all associated equipment and installations other than the Excluded Assets.

**“Fare Revenue”** means revenue generated from charges paid by the BRT passengers at such fare slabs as are notified by the competent authority from time to time.

**“Force Majeure Event”** has the meaning given to that term in Section 16 (*Force Majeure*).

**“Fund Manager”** means the fund manager to be engaged by the Employer for the purposes of the Project.

**“GOP”** means the Government of Pakistan.

**“Independent Expert(s)”** means the separate independent third-party engineers, transport expert and/or third-party financial advisors appointed by the Employer for, *inter alia*, supervision, verification, approval and certification functions of the Employer under this Agreement.

**“Indexation Mechanism”** means the adjustments to the Service Fee as set out in **Schedule F (Payment Schedule)**.

**“Inventory List”** has the meaning given to that term in Section 2.8.1.

**“Key Performance Indicators”** means the key performance indicators to be complied with and fulfilled by the Operator during the Operating Period as set out in **Schedule G (Key Performance Indicators)**.

**“Laws”** means the federal, provincial and local laws of Pakistan and laws of any other relevant jurisdiction, and all orders, rules, regulations, executive orders, statutory regulatory orders, decrees, judicial decisions, notifications, or other similar directives issued by any competent entity pursuant thereto, as any of them may be amended from time to time.

**“Liquidated Damages”** means collectively, the Delay Liquidated Damages and the Performance Liquidated Damages.

**“Long Stop Date”** means date falling three (3) months following the Effective Date, except where extended with mutual consent of the Parties.

**“Loss”** means any loss, claim, demand, damage, liability, judgment, payment or obligation, all costs and expenses (including without limitation reasonable legal fees) related thereto and amounts in settlement in lieu thereof.

**“Maintain” or “Maintenance”** means together the Planned Maintenance and the Unplanned Maintenance of the Facilities as set out in **Schedule A (Operator’s Scope of Work)**.

**“Minimum Credit Rating”** means, as applicable, the Acceptable International Credit Rating or the Acceptable Pakistan Credit Rating.

**“Mobilization Period Phase I”** has the meaning given to the term in Section 4.2.1 (a).

**“Mobilization Period Phase II”** has the meaning given to the term in Section 4.2.1 (b).

**“Mobilization Period Requirements”** means collectively the Mobilization Period Requirements Phase I and Mobilization Period Requirements Phase II.

**“Mobilization Period Requirements Phase I”** has the meaning given to the term in Section 4.2.2.

**“Mobilization Period Requirements Phase II”** has the meaning given to the term in Section 4.2.3.

**“Month”** means a calendar month during the Operating Period according to the Gregorian calendar beginning at 12:00 midnight on the last day of the preceding month



and ending at 12:00 midnight on the last day of that month.

“**Monthly Invoice**” has the meaning given to that term in Section 5.1.3.

“**Monthly Payment Date**” has the meaning given to that term in Section 5.1.6.

“**Non-Compliance**” has the meaning given to that term in Section 2.16.1.

“**Notified, Notice**” and its grammatical variations shall mean as notified in writing.

“**Notice to Proceed**” means the notice to commence the Mobilization Period Requirements, to be issued by the Employer to the Operator in accordance with this Agreement.

“**O&M Personnel**” means those employees (including other maintenance staff) of the Operator hired for the performance of the Services and where applicable trained in accordance with the requirements prescribed under **Schedule A (Operator’s Scope of Work)**.

“**O&M Plan**” has the meaning given to that term in Section 2.3.1.

“**OL Facility Management Agreement**” means the facility management agreement entered into by the Employer and the Operator with respect to the Orange Line Project.

“**Operating Committee**” means the operating committee established or to be established by the Employer for co-ordination of the respective programmes and procedures of the Project Contractors (including the Operator) for the operation and maintenance of the Project.

“**Operating Period**” means the period commencing on the Commencement Date Phase I and ending on the Performance End Date.

“**Operating Year**” means each period of twelve (12) consecutive months, the first such period commencing on the Commencement Date Phase I and thereafter commencing on each anniversary of the Commencement Date Phase I.

“**Operations**” means all the Operator obligations relating to the Facilities each in accordance with the relevant standards, requirements and criterion that are set out in **Schedule A (Operator’s Scope of Work)**.

“**Operations Control Centre**” means the operations control centre being central command facility of the Project used for, *inter alia*, the monitoring, coordinating and managing the overall operations of the Project.

“**Operator**” means the entity/entities identified as “Operator” in the preamble and its legal successors and permitted assigns.

“**Operator’s Approval Request**” has the meaning given to the term in Section 2.10.2.

**“Operator’s Default”** means the events listed under Section 9.2.1.

**“Operator Equipment”** has the meaning given to that term in Section 2.13.1.

**“Operator’s Representative”** has the meaning given to that term in Section 2.4.1.

**“Operator Taxes”** means and includes all taxes, levy, cess, duties and fees including taxes on income of the Operator and all other taxes, duties and charges, in each case, that may be applicable on the Operator (including its Sub-Operators or its O&M Personnel) or to the Services, (including any associated custom and import duties for clearance of imported Parts, goods, equipment etc.), provided, however, the aforesaid taxes in each case shall be deemed to be included in the Service Fee.

**“Orange Line Project”** means the 4 km BRTS Orange Line from Town Municipal Administration Office (Orangi) to Board Office.

**“Order of Precedence”** has the meaning given to that term in Section 3.6 (*Order of Precedence*).

**“Pakistani Rupees” or “PKR”** means the lawful currency of Islamic Republic of Pakistan.

**“Party”** means Employer or Operator individually and **“Parties”** means Employer and Operator collectively.

**“Part” or “Parts”** means any equipment, installations, materials, components and other goods furnished by the Operator under this Agreement for the performance of Services.

**“Performance End Date”** means, unless terminated earlier in accordance with Section 9 (*Default and Termination*) the date of expiration of this Agreement which shall be the date on which:

- (a) the tenth (10) anniversary of the Commencement Date Phase I has occurred; and
- (b) the Employer has issued the Release Certificate.

**“Person”** means any natural person, corporation, company, partnership, firm, voluntary association, joint venture, trust, unincorporated organisation, authority or any other entity whether acting in an individual, fiduciary or other capacity.

**“Performance Liquidated Damages”** means the liquidated damages payable by the Operator during the Operating Period for any Non-Compliance, in accordance with Section 2.16 (*Performance Liquidated Damages*) and **Schedule G (Key Performance Indicators)**.

**“Performance Liquidated Damages Cap”** means an amount as specified in **Schedule G (Key Performance Indicators)**.

**“Performance Security”** means an irrevocable, unconditional and on-demand bank guarantee, denominated and payable in PKR, having a Minimum Credit Rating at all times in an amount set out in Section 7.2 (*Performance Security*), issued by a bank, having a Minimum Credit Rating at all times, in each case acceptable to the Employer, in the form set out in **Schedule E (*Form of Performance Security*)**.

**“Performance Security Amount”** means an amount as calculated and adjusted in accordance with Schedule N (*Performance Security Amount*).

**“Performance Security Expiry Date”** has the meaning set out in Section 7.2.2.

**“Planned Maintenance”** means those tasks identified as routine services, scheduled services and wear and tear replacements as further detailed in **Schedule A (*Operator’s Scope of Work*)**.

**“Project”** means the twenty-one (21) km BRTS Green Line from Surjani (Abdullah Mor) to Municipal Park with approximately twenty-five (25) stations with an average distance of approximately nine hundred (900) meters between stations.

**“Project Contractors”** means the various contractors (other than the Operator) appointed by the Employer in connection with the Project.

**“Project Insurance Policies”** means the policies of insurance and any exhibits thereto required to be maintained by the Employer and the Operator.

**“Prudent Industry Practices”** means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used in the country by experienced firms performing operations and maintenance services on projects of similar type, size, complexity and location which, in the exercise of reasonable judgment and in the light of the facts known at the time the decision was made, are considered good, safe and prudent practice, and as are in accordance with generally accepted national standards of professional care, skill, diligence and competence applicable to operations and maintenance practices.

**“Release Certificate”** means the certificate to be issued under Section 8 (*Application for Release Certificate*) in the form attached hereto as **Schedule I (*Release Certificate*)**.

**“Relevant Documents”** has the meaning set out in Section 15.2.1.

**“Scheduled Commencement Date Phase I”** means the date falling forty-five (45) days from the Notice to Proceed (unless extended by the Employer from time to time pursuant to Section 4.2.1).

**“Scheduled Commencement Date Phase II”** means July 01, 2022 (unless extended by the Employer from time to time pursuant to Section 4.2.1).

**“Service Fee”** means the fee payable for each Month during the Operating Period, by the Employer to the Operator in accordance with Section 5 (*Price and Payment Terms*)

and **Schedule F** (*Payment Schedule*).

“**Services**” means the: (a) Operations and Maintenance of the Facilities; (b) fare collection from Bus passengers at the Bus Stations; and (c) activities and services (except Excluded Services) relating to the Facilities (except Excluded Assets) as detailed in **Schedule A** (*Operator’s Scope of Work*) to be carried out by the Operator and its Sub-Operators.

“**Sponsor**” means *[insert details]*.

“**Sub-Operator**” means any person named in this Agreement as a sub-operator and identified in the list set forth in **Schedule J** (*List of Sub-Operators*), or any person appointed as a sub-operator for undertaking any part of the Services (subject to Section 13.3 (*Subcontracting*)) and the legal successors in title to each of these persons.

“**Successor Operator**” has the meaning given to that term in Section 9.7.1.

“**Term**” has the meaning given to that term in Section 4.1.1.

“**Term Expiry Criteria**” means the term expiry criteria as set out in **Schedule H** (*Term Expiry Criteria*).

“**Transferee**” has the meaning given to that term in Section 13.2.1.

“**Transferor**” has the meaning given to that term in Section 13.2.1.

“**Transition Period**” has the meaning given to that term in Section 9.7.1.

“**Unplanned Maintenance**” means all maintenance and services other than Planned Maintenance, to ensure that the Facilities are managed, operated and maintained to meet the Applicable Standards.

“**Warranty**” has the meaning given to that term in Section 10 (*Warranty*).

“**Warranty Period**” has the meaning given to that term in Section 10.2.1.

## 1.2. **INTERPRETATION**

In this Agreement:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;

- (d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (e) references to Sections, Exhibits, Schedules and Annexes are, unless the context otherwise requires, references to Sections, Exhibits, Schedules or Annexes to this Agreement;
- (f) a reference to any legislation or legislative provision includes any statutory modification, amendment, or re-enactment of or legislative provision substituted for, and any subordinate legislation under that legislation or legislative provision;
- (g) unless otherwise provided herein, whenever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed;
- (h) except as provided in Section 11 (*Confidential Information*), nothing shall be construed or interpreted as limiting, diminishing or prejudicing in any way the rights of the Employer to claim any benefit provided under applicable Laws (whether in effect now or in the future);
- (i) headings shall not be taken into consideration in the interpretation of this Agreement;
- (j) the words “including”, “includes” and any variants of those words will be read as if followed by the words “without limitation”;
- (k) any reference to a party includes its respective successors in interest and permitted assigns, from time to time;
- (l) unless otherwise specifically provided in this Agreement, a reference to an agreement shall be a reference to that agreement as amended, re-stated, supplemented, modified or novated from time to time; and
- (m) a reference to business day(s) hereunder will be construed as a reference to a day on which banks are legally permitted to be open for business in Pakistan.

## **2. OPERATOR’S GENERAL RESPONSIBILITIES**

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### **2.1. THIS AGREEMENT**

- 2.1.1. In consideration of the Service Fee to be paid to the Operator by the Employer, the Operator hereby agrees to execute the Services, in accordance with and subject to the terms of this Agreement.

### **2.2. EXECUTION OF SERVICES**

- 2.2.1. The Operator shall:
- (a) continuously, diligently perform and execute the Services as per the Applicable Standards, any Employer's Instructions and any other manuals, policies, procedures and plans to be established pursuant to this Agreement; and
  - (b) ensure that the Services are executed with due skill and care, in a proper, workmanlike manner with properly equipped facilities in accordance with recognized good practice and Applicable Standards.
- 2.2.2. No review, non-objection, or approval by the Employer of any agreement, document, instrument, plan, drawing, specification or design proposed by the Operator shall relieve the Operator from any liability that it would otherwise have had for its negligence or default in the preparation of such agreement, document, instrument, plan, drawing, specification or design or failure to comply with Applicable Standards or to satisfy the Operator's obligations under this Agreement, except as otherwise specified in this Agreement. The Employer is not liable to the Operator or any other person by reason of its review, non-objection, or approval of any agreement, document, instrument, plan, drawing, specification, or design, except as otherwise specified in this Agreement.
- 2.2.3. If the Operator becomes aware of a conflict between the Applicable Standards and other requirements set out in Section 2.2.1 or elsewhere in this Agreement, then the Operator shall promptly notify the Employer and the Parties shall discuss in good faith and agree the manner in which the Operator should execute the Services, provided that the Employer shall not be entitled to require the Operator to act in breach of any applicable Laws.
- 2.2.4. The Operator hereby agrees to indemnify, defend and hold the Employer harmless from any and all liabilities, damages, costs, penalties, fines, expenses, fees and charges of any nature associated with any non-compliance and violations by the Operator of this Section 2.2 (*Execution of Services*).

### **2.3. O&M PLAN**

- 2.3.1. The Operator shall prepare and submit to the Employer a detailed proposed operations, maintenance and management plan (substantially in form and substance set out in **Schedule B (Form of O&M Plan)**) for the execution of Services during the Operating Period (the "**O&M Plan**"). The Operator shall ensure that its proposed O&M Plan: (a) is consistent with the requirements of the Applicable Standards; and (b) accounts for coordination and the activities, operations and works of other Project Contractors in setting timelines for performance of the Services so as not to unreasonably interfere with, disrupt or delay the Project Contractor works, Project operations or the Services. Each O&M Plan shall show all relevant information in relation to the anticipated performance of the Services.
- 2.3.2. The Employer shall Notify the Operator, within ten (10) days of its receipt of the proposed O&M Plan, whether it: (a) accepts such O&M Plan; or (b) shall propose amendments to the same. In the event the Employer proposes amendments to the proposed O&M Plan, the Parties shall meet (within three (3) days of the Employer's

proposal of such amendments) to discuss such amendments and to mutually agree on the same.

2.3.3. The O&M Plan:

- (a) submitted by the Operator to the Employer and approved by the Employer in terms of Section 2.3.2 without any amendments; or
- (b) submitted by the Operator to the Employer, as amended by the amendments proposed by the Employer that are mutually agreed between the Parties in accordance with Section 2.3.2;

shall be strictly complied with by the Operator for execution of the Services and the Operator shall commence and proceed with the implementation of the O&M Plan in accordance therewith.

2.3.4. Any alteration to the O&M Plan shall only be made by the Operator with the prior written approval to the Employer.

**2.4. OPERATOR'S REPRESENTATIVE**

2.4.1. As part of the Operator's management of performance of this Agreement, during the Term, the Operator shall designate one or more individual(s), each of whom shall function as the Operator's single point of contact (the "**Operator's Representative**"). The Operator's Representative shall serve as a contact point to the Employer for matters pertaining to this Agreement. The Operator may also utilize other Operator personnel and performance support methods in connection with performance of this Agreement.

2.4.2. The Operator's Representative of contact may change from time to time during the Term of this Agreement, provided that the Operator shall have an individual at all times serving such a role regardless of the specific individual or job title used. The Operator shall not replace Operator's Representative without prior intimation to the Employer provided that prior to replacement of the outgoing Operator's Representative, the Parties shall meet to address and minute any matters relating to the outgoing Operator's Representative's activities in the Project.

2.4.3. The Operator's Representative shall be an experienced and capable person and a full time employee of the Operator dedicated to directing the execution of the Services and shall be available at all times.

2.4.4. The Operator shall be fully and solely responsible to the Employer for any act, omission or error of the Operator's Representative and other personnel as if they were an act, error or omission of the Operator. The Operator shall procure that the Operator's Representative provides copies to the Operator of all communications given or received by it in accordance with this Agreement.

**2.5. OPERATING COMMITTEE**

- 2.5.1. The Operator's Representative shall serve as a member of the Operating Committee and the Operator shall procure that the Operator's Representative fulfils his role as member of the Operating Committee fully and in good faith.
- 2.5.2. The Operating Committee shall have no power or authority to amend or modify the provisions of this Agreement or to determine the rights or obligations of the Operator under this Agreement.

**2.6. O&M PERSONNEL REQUIREMENTS**

- 2.6.1. The Operator shall ensure that adequate O&M Personnel are available during the Term for the execution of the Mobilization Period Requirements and the Services.
- 2.6.2. During the Term, the Operator shall provide or cause to provided training for the O&M Personnel including as detailed in Schedule A (*Operator's Scope of Work*), provided, that the Operator shall continue to remain responsible for performance of all Services.

**2.7. CONSENTS**

- 2.7.1. During the Term, the Operator will obtain and maintain, at its own cost and expense, all Consents required to be obtained and maintained with respect to the Services. The Operator will obtain all Consents within a reasonable time taking into account the Applicable Standards and the timelines for performance of its obligations under this Agreement and shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.
- 2.7.2. The Operator shall provide to the Employer a list of all Consents, clearly designating the issuing agency and the dates of issuance and expiration of all Consents, a copy of all permits, licenses, and approvals already issued and maintained by the Operator and the Operator's schedule for obtaining or renewing all Consents.

**2.8. INVENTORY LIST AND RESPONSIBILITY FOR THE PERSONNEL & FACILITIES**

- 2.8.1. The Operator shall prepare and submit to the Employer an inventory list of all Facilities in respect of which Services are to be provided (the "**Inventory List**"). The Employer shall, within fourteen (14) days of receipt, review the Inventory List and confirm the accuracy of the same. In the event of any discrepancy or dispute in respect of the details included in the Inventory List provided following review by the Employer, the Employer shall send Notice of any discrepant or disputed item(s) to the Operator, and such matter or dispute shall be mutually resolved by the Parties in accordance with Section 19 (*Dispute Resolution*).
- 2.8.2. The Operator shall be fully responsible for the Facilities including: (a) for the security of the Facilities; (b) observance of all Applicable Standards and other security requirements for the Facilities; and (c) for controlling access to the Facilities.



2.8.3. The Operator shall be responsible for its O&M Personnel's health and safety requirements for the Services performed by Operator under this Agreement and shall ensure observance of requirements under the Applicable Standards.

## 2.9. EMERGENCIES

2.9.1. In the event of an Emergency, the Operator shall take such action as it reasonably considers necessary or desirable, acting in accordance with Prudent Industry Practices to prevent or minimise injury, damage or Loss; and shall promptly report to the Employer the nature of the Emergency and the action taken by the Operator in response thereto and the Loss or damage caused. The Operator may procure such equipment and services as are reasonably required, acting in accordance with Prudent Industry Practices, in the circumstances to overcome any Emergency and, where such Emergency is not due to the Operator, is not covered under Warranty (such as parts failure etc.), and also not mitigated by any of the Project Insurance Policies obtained by the Employer or the Operator that should have covered the loss, then:

- (a) the Operator shall use all reasonable endeavours to obtain the required services and/or equipment at the reasonable price, having regard to the required delivery time, and shall remain entitled to: (a) invoice for Service Fee for the Month in which such Emergency occurs; and (b) submit its claim for any additional Costs incurred and/or extensions in any timelines hereunder. The Employer shall then proceed in accordance with Section 3.5 (*Determinations*) to agree or determine any extensions in timelines and/or the Costs (if any) which the Operator is entitled.
- (b) Provided, however, where the Emergency is caused due to the Operator, then any Costs (less any insurance proceeds received by the Operator in this regard under the Project Insurance Policies obtained by the Operator) shall be to the account of the Operator.

2.9.2. Unless Services are suspended by the Employer under Section 6.9 (*Suspension of Services by the Employer*), the Operator shall, during an Emergency Operate the Facilities within the Applicable Standards. If an Emergency occurs or is in existence while the Facilities are undergoing or is about to commence a Planned Maintenance, the Operator shall make all reasonable efforts to reschedule the Planned Maintenance or, if the Planned Maintenance has begun, expedite the completion of the works to restore Operations as soon as possible.

## 2.10. EMPLOYER AUTHORITY MATTERS

2.10.1. The Operator shall be required to obtain written approval of the Employer prior to taking any action in relation to the following matters (the “**Employer Authority Matters**”):

- (a) any alteration to the O&M Plan under Section 2.3.4;
- (b) approve the Operators’ Representative in accordance with Section 2.4 (*Operator’s Representative*);
- (c) approve any service agreements in accordance with Section 2.18 (*Agreements with Service Providers*); and

- (d) assignment of any rights and obligations under this Agreement, including subcontracting of the Services under Section 13.3 (*Subcontracting*).
- 2.10.2. Within fifteen (15) days of receipt, the Employer shall consider the Operator's request for the Employer's written approval in relation to any of the Employer's Authority Matters ("**Operators Approval Request**") and shall either:
- (a) approve the Operators Approval Request; or
  - (b) reject the Operators Approval Request and convey their comments/observations (if any) to the Operator.

The Operator shall (at its own cost and expense) re-submit the revised Operators Approval Request no later than ten (10) days from receipt of the rejection and/or comments/observations under Section 2.10.2(b) above, and the approval process under this Section 2.10.2 shall be repeated.

## **2.11. OPERATING RECORDS**

- 2.11.1. The Operator shall maintain full, complete and accurate records concerning the performance of all Services (as mutually agreed between the Parties) and the provision of equipment, labour employed in respect of performance under this Agreement. Upon request of the Employer, the Operator shall provide the Employer and/or the Employer's Representatives with access to review on twenty-four (24) hours' prior notice and/or a copy of such records promptly and no later than two (2) business days.

## **2.12. INSPECTION**

During the Operating Period, the Operator hereby gives the Employer and the Employer's Representative, full opportunity and access to inspect and examine the books, records, management system including inspection of the Facilities and the Services being provided by the Operator. Inspection will be carried out by the Employer and/or the Employer's Representative, as and when deemed necessary by the Employer during the Operating Period.

## **2.13. OPERATORS EQUIPMENT**

- 2.13.1. The Operator shall be responsible for at its own cost and retain title to any Operator's Equipment, including as set out in Schedule A (*Operator's Scope of Work*) required by the Operator for performance of Services and in connection with this Agreement (collectively the "**Operator Equipment**"). The Operator shall be responsible for transit costs and risk of Loss (including loss of revenue) and insurance costs for such Operator Equipment.

## **2.14. CHANGE IN COMPLETE CONTROL**

- 2.14.1. The Operator shall not undertake or permit and hereby undertakes to procure that the Sponsor does not undertake or permit any Change in Complete Control until the expiry of the Term unless such Change in Complete Control:

- (a) is required by any applicable Laws or by the operation of the applicable Laws or by order of a court, tribunal or government authority with appropriate jurisdiction; or
- (b) is effected with the prior written approval of the Employer (subject to the receipt of necessary consents, permits or approvals and otherwise complying with all requirements under the applicable Laws and terms of any contracts, licences, permits etc., applicable to the Operator and/or the Sponsor).

## **2.15. KEY PERFORMANCE INDICATORS**

- 2.15.1. The Operator hereby guarantees that it will comply with the Key Performance Indicators during the Operating Period.
- 2.15.2. The Key Performance Indicators may be reviewed, if required, periodically with the mutual consent of the Parties.
- 2.15.3. The performance by Operator of its obligations under the Agreement, including compliance with Key Performance Indicators, will be monitored, measured and evaluated by the Employer and the Independent Expert. Any discrepancies or non-compliances identified by the Employer and/ or the Independent Expert, if any, will be reported to the Operator for corrective action in accordance with Section 2.15.4.
- 2.15.4. In the event of any discrepancy or non-compliance with respect to the Key Performance Indicators, the Operator will be required within five (5) days or such additional time period as Notified by the Employer, or immediately in case of matters identified as urgent by the Employer and/or the Independent Expert, to provide assurance, to the satisfaction of the Employer and the Independent Expert, that the Operator: (a) is acting in compliance with the Key Performance Indicators (along with supporting evidence); or (b) shall take all necessary actions to cure any discrepancy or non-compliance with Key Performance Indicators, to mitigate and prevent similar discrepancies or non-compliances arising in the future and at all times be compliant with the Key Performance Indicators.
- 2.15.5. Any corrective measures taken by the management of the Operator in accordance with Section 2.15.4 will be immediately reported to the Employer and its Independent Expert. Thereafter, the Employer and/or the Independent Expert may in accordance with Section 2.15.4 undertake an audit to evaluate and report on status of achievement of Key Performance Indicators.

## **2.16. PERFORMANCE LIQUIDATED DAMAGES**

- 2.16.1. If: (a) the Operator fails to comply with any provision of this Agreement; or (b) any event or circumstance occurs that would give Employer a termination right under Section 9.2 (*Termination for Operator's Default*); or (c) the Operator fails to comply with the Key Performance Indicators (each a “**Non-Compliance**”) and if the Operator does not cure such Non-Compliance within the later of ten (10) days or any other cure period Notified

by the Employer or prescribed under this Agreement, the Employer may in its sole discretion deduct from the Monthly Invoices, as Performance Liquidated Damages and not as a penalty: (i) in the event of occurrence of a Non-Compliance under Section 2.16.1(a) and (b), an amount equal to PKR 10,000/- (Pakistani Rupees Ten Thousand only) per event per day (subject to escalation in accordance with CPI) in each Operating Year during the Operating Period) from the Monthly Invoices for each Month during an Operating Year in which that Non-Compliance has occurred or continued for one or more days up to the Performance Liquidated Damages Cap; and (ii) in the event of occurrence of a Non-Compliance under Section 2.16.1(c), an amount described and calculated in accordance with **Schedule G (Key Performance Indicators)** from the Monthly Invoices for each Month during an Operating Year in which that Non-Compliance has occurred or continued for one or more days up to the Performance Liquidated Damages Cap.

- 2.16.2. In the event that the Performance Liquidated Damages (by way of calculation) exceed the Performance Liquidated Damages Cap, the Employer shall have the option (to be exercised at its sole and absolute discretion) to terminate this Agreement in accordance with Section 9 (*Default and Termination*) and pursue its remedies set out therein and/or encash the Performance Security.
- 2.16.3. The Performance Liquidated Damages specified in Section 2.16.1 have been calculated by the Parties as representing the actual daily loss to the Employer as a result of any Non-Compliance and are not a penalty. Given the nature of the Services to be performed by the Operator, it is entirely possible to calculate the actual loss suffered by the Employer and the stated Performance Liquidated Damages in Section 2.16.1 and **Schedule G (Key Performance Indicators)** reflect such calculation. The Operator thus hereby waives, to the extent permitted by any applicable law, any defence as to the validity and quantum of any Performance Liquidated Damages in this Agreement on the grounds that such Performance Liquidated Damages are not calculated on the actual loss suffered by the Employer or are void as penalties or otherwise.

## **2.17. SECURITY OF THE FACILITIES**

- 2.17.1. The Operator shall be responsible for providing adequate protection and security for the Facilities and shall ensure that adequate security personnel are available for the protection and security of the Facilities during the Operating Period.
- 2.17.2. The Employer shall, upon written request of the Operator, provide reasonable assistance to the Operator in procuring police assistance for removal of trespassers, removal of encroachments and security on and/or in respect of the Facilities. Notwithstanding provision of any support by the Employer, the Operator shall remain liable for security of the Facilities under this Section 2.17 (*Security of the Facilities*).
- 2.17.3. If any loss or damage occurs to any Facilities during the Operating Period attributable to the Operator, the Operator will indemnify, defend and hold the Employer harmless from any and all liabilities, Losses or damages resulting from any claims made by any person against the Employer. Furthermore, any damage to the Facilities shall constitute Unplanned Maintenance attributable to the Operator and in the event directed by the

Employer the Operator shall proceed to carry out such Unplanned Maintenance at its own Cost within such timelines as approved by the Employer.

## **2.18. AGREEMENTS WITH SERVICE PROVIDERS**

2.18.1. The Operator may enter into agreements with service providers (other than its Sub-Operators) for any services that may be necessary in relation to the Services and obligations under this Agreement including provision of broadband internet or other equipment arrangements.

2.18.2. The Operator shall notify and deliver copies of the proposed service agreements or any amendment thereof to the Employer and ensure that such service agreement contains an option to assign the same in favour of the Employer upon expiry or termination of this Agreement pursuant to Section 9 (*Default and Termination*), provided, however, such assignment will be at no cost to the Employer.

## **2.19. ADVERTISING RIGHTS**

2.19.1. The Employer shall have a right to carry out, from time to time, various advertising activities to be implemented on or related to the Facilities and shall be entitled to all advertising proceeds generated.

2.19.2. The Operator shall provide access and permit the Employer and/or its Project Contractors to enter the Facilities for such advertising activities, subject to any reasonable requirements of the Operator regarding safety and security of the Facilities.

## **3. EMPLOYER GENERAL RESPONSIBILITIES**

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### **3.1. GENERAL**

3.1.1. The Employer shall:

(a) Fulfil payment and other responsibilities and obligations under this Agreement in the manner and at the time necessary to meet Operator's schedule and the requirements of this Agreement.

(b) Provide reasonable assistance to the Operator in obtaining any relevant Consents that are required to be obtained in the Operator's name within Pakistan.

### **3.2. EMPLOYER'S REPRESENTATIVE**

3.2.1. As part of the Employer's management of performance of this Agreement, during the Term, the Employer shall designate for this Agreement one or more individual(s), each of whom shall function as the Employer's single point of contact (the "**Employer's Representative**"). The Employer's Representative shall serve as a contact point for the Operator for matters pertaining to this Agreement.

- 3.2.2. The Employer may also utilize other Employer personnel and performance support methods in connection with performance of this Agreement including with respect to any approval functions of the Employer under this Agreement and for such purposes the Employer personnel shall be deemed to be acting as an Employer's Representative.
- 3.2.3. The Employer's Representative may change from time to time during the Term of this Agreement, provided that the Employer shall have an individual at all times serving such a role regardless of the specific individual or job title used and provided further that the Employer shall provide prior written notice of any such changes.
- 3.2.4. The Employer may involve the Independent Expert(s) engaged by the Employer in respect of the Project. The Independent Expert(s) shall be empowered by the Employer to:
- (a) carry out any approval functions of the Employer under this Agreement; and
  - (b) validate any technical and financial matters as specified by the Employer, and for such purposes the Independent Expert(s) shall be deemed to be acting as an Employer's Representative.

Furthermore, for the purposes of Section 3.2.4 (a) and (b) above, the Independent Expert(s) shall have access to the Facilities and all related information, documentation etc, and its determinations shall be binding on the Operator.

In the event any dispute arises between the Parties with regard to any advice, instruction, decision, direction and/or award of the Independent Experts, then such dispute shall be referred for dispute resolution in accordance with Section 19 (*Dispute Resolution*).

### **3.3. EMPLOYER'S INSTRUCTIONS**

The Operator shall comply with written instructions given by the Employer and/or the Employer's Representative, from time to time in relation to the execution of the Services (the "**Employer's Instructions**"). The manner for implementation of the Employer's Instructions will be determined by the Operator following consultation with the Employer's Representative, provided at all times, the Applicable Standards are complied with.

### **3.4. EMPLOYER'S CLAIMS**

- 3.4.1. Other than Liquidated Damages payable in accordance with Section 4.6 (*Delay Liquidated Damages During Mobilization Period*) and/or Section 2.16 (*Performance Liquidated Damages*), if the Employer considers itself to be entitled to any payment under this Agreement, and/or to any extension of the Warranty Period and/or the extension (if any) of the relevant performance deadline including under Section 16 (*Force Majeure*), the Employer shall give notice and particulars to the Operator pursuant to this Section.

- 3.4.2. The notice shall be given as soon as practicable after the Employer becomes aware of the event or circumstances giving rise to the claim. A notice relating to any extension of the Warranty Period shall be given before the expiry of such period.
- 3.4.3. The particulars shall specify the Section or other basis of the claim and shall include substantiation of the amount and/or extension to which the Employer considers itself to be entitled in connection with the Agreement. The Employer shall then proceed to determine, in accordance with Section 3.5 (*Determinations*): (i) the amount (if any) which the Employer is entitled to be paid by the Operator; and/or (ii) the extension (if any) of the Warranty Period in accordance with Section 10.2 (*Operator's Warranty*).

### **3.5. DETERMINATIONS**

- 3.5.1. Whenever this Agreement provides that the Employer shall proceed in accordance with this Section 3.5 (*Determinations*) to agree or determine any matter, the Employer shall consult with the Operator in an endeavour to reach agreement. If agreement is not achieved within a period of ten (10) days, the Employer shall make a fair determination in accordance with this Agreement, taking due regard of all relevant circumstances.
- 3.5.2. The Employer or the Employer's Representative shall give notice to the Operator of each agreement or determination, with supporting particulars. If the Operator disagrees with such determination, the Operator shall give notice, to the Employer, of its dissatisfaction with a determination within fourteen (14) days of receiving it. Either Party may then refer the Dispute for dispute resolution in accordance with Section 19 (*Dispute Resolution*).

### **3.6. ORDER OF PRECEDENCE**

The documents forming this Agreement are to be taken as mutually explanatory of one another. If there is an ambiguity, discrepancy or inconsistency between the documents forming part of this Agreement, the following order of precedence shall apply (the "**Order of Precedence**"):

- (a) Any amendment or modification to this Agreement, made by both Parties after the Effective Date of this Agreement;
- (b) this Agreement (excluding the Schedule and Exhibits);
- (c) the Schedules (together with their Exhibits).

## **4. TERM, MOBILIZATION PERIOD AND COMMENCEMENT**

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### **4.1. EFFECTIVE DATE, NOTICE TO PROCEED AND TERM**

- 4.1.1. This Agreement shall become effective on the Effective Date and unless terminated earlier in accordance with Section 9 (*Default and Termination*), shall end on the Performance End Date (the "**Term**").



- 4.1.2. The Employer may issue the Notice to Proceed, in its sole and absolute discretion, at any time on or prior to the Long Stop Date.
- 4.1.3. If for reasons not attributable to the Operator the Notice to Proceed is not issued within seven (7) days following the Long Stop Date, then either Party shall have the right to terminate this Agreement and neither Party shall be liable to the other in any respect (including in respect of Section 9 (*Default and Termination*)).
- 4.1.4. Unless otherwise set out in this Agreement, the Operator’s obligation to execute the Services (other than the Mobilization Period Requirements Phase I) shall commence upon the Commencement Date Phase I.

**4.2. MOBILIZATION PERIOD**

- 4.2.1. The mobilization period in respect of the:

- (a) Facilities (other than the BRT Corridor Phase II) shall commence from the Notice to Proceed and shall, unless terminated earlier in accordance with Section 9 (*Default and Termination*), expire on the earlier of: (i) the Scheduled Commencement Date Phase I; or (ii) upon achieving the Commencement Date Phase I (“**Mobilization Period Phase I**”).
- (b) BRT Corridor Phase II shall commence on June 01, 2022 (except as may be extended by the Employer) and shall, unless terminated earlier in accordance with Section 9 (*Default and Termination*), expire on the earlier of: (i) Scheduled Commencement Date Phase II; or (ii) upon achieving the Commencement Date Phase II (“**Mobilization Period Phase II**”).

Provided, however, the Employer may at any time in its sole discretion: (i) defer and/or waive any of the Mobilization Period Requirements; and/or (ii) extend the Scheduled Commencement Date Phase I or the Scheduled Commencement Date Phase II (as applicable), each (i) and (ii) in accordance with Section 4.4 (*Waiver and/or Deferral of Mobilization Period Requirements and Extension of Scheduled Commencement Date*).

- 4.2.2. During the Mobilization Period Phase I, the Operator shall:

- (a) submit the O&M Plan under Section 2.3 (*O&M Plan*) within five (5) days of the Notice to Proceed;
- (b) prepare and submit the Inventory List in accordance with Section 2.8.1 within ten (10) days from the Notice to Proceed;
- (c) submit the list of Consents under Section 2.7.2 within ten (10) days of the Notice to Proceed;
- (d) install any Parts at the Facilities (other than for the BRT Corridor Phase II) in accordance with Schedule A (*Operator’s Scope of Work*);

- (e) procure the Project Insurance Policies required to be procured and maintained by the Operator in accordance with **Schedule K (Insurance)**; and
- (f) complete any other works and/or Services as required under Schedule A (*Operator's Scope of Work*);

(requirements set out in (a) to (f) above shall collectively be referred to as the "**Mobilization Period Requirements Phase I**").

4.2.3. During the Mobilization Period Phase II, the Operator shall:

- (a) submit the O&M Plan under Section 2.3 (*O&M Plan*) no later than twenty-five (25) days prior to the Scheduled Commencement Date Phase II;
- (b) prepare and submit the Inventory List in accordance with Section 2.8.1 no later than twenty (20) days prior to the Scheduled Commencement Date Phase II;
- (c) submit the list of Consents under Section 2.7.2 no later than twenty (20) days prior to the Scheduled Commencement Date Phase II;
- (d) install any Parts at the Facilities (for the BRT Corridor Phase II) in accordance with Schedule A (*Operator's Scope of Work*);
- (e) procure the Project Insurance Policies required to be procured and maintained by the Operator in accordance with **Schedule K (Insurance)**; and
- (f) complete any other works and/or Services as required under Schedule A (*Operator's Scope of Work*);

(requirements set out in (a) to (f) above shall collectively be referred to as the "**Mobilization Period Requirements Phase II**").

#### **4.3. COMMENCEMENT DATE**

4.3.1. Subject to Section 4.2.1, the commencement date shall be the actual date on which each of the: (a) Mobilization Period Requirements Phase I have been completed to the satisfaction of the Employer (the "**Commencement Date Phase I**"); and (b) Mobilization Period Requirements Phase II have been completed to the satisfaction of the Employer (the "**Commencement Date Phase II**").

4.3.2. In the event the: (a) Commencement Date Phase I is not achieved by the Scheduled Commencement Date Phase I; and/or (b) Commencement Date Phase II is not achieved by the Scheduled Commencement Date Phase II (as applicable), unless extended in terms of Section 4.2.1, the Employer shall have the right (to be exercised at its sole and absolute discretion) to: (i) impose Delay Liquidated Damages; and/or (ii) terminate this Agreement by issuance of a written termination notice to the Operator and encash the Performance Security to its full value. For the avoidance of doubt, it is clarified that the provisions of this Section 4.3.2 shall not limit or prejudice in any manner the Parties'

right to terminate this Agreement in accordance with the provisions of Section 9 (*Default and Termination*).

**4.4. WAIVER AND/OR DEFERRAL OF MOBILIZATION PERIOD REQUIREMENTS AND EXTENSION OF SCHEDULED COMMENCEMENT DATE**

- 4.4.1. The Employer may (at its discretion) waive and/or defer any of the Mobilization Period Requirements Phase I and/or Mobilization Period Requirements Phase II (as applicable), with such conditions as it may deem fit.
- 4.4.2. Without prejudice to the terms of Section 4.4.1, failure by the Operator to complete the Mobilization Period Requirements Phase I or Mobilization Period Requirements Phase II (as applicable) to the satisfaction of the Employer, by the respective Scheduled Commencement Date Phase I or Scheduled Commencement Date Phase II (as applicable), shall constitute a material breach in terms of this Agreement.
- 4.4.3. Any deferral and/or waiver of any Mobilization Period Requirement Phase I or Mobilization Period Requirements Phase II (as applicable) in terms of this Section 4.4 (*Waiver and/or Deferral of Mobilization Period Requirements and Extension of Scheduled Commencement Date*) shall be notified in writing to the Operator.
- 4.4.4. Notwithstanding anything contained herein, the: (a) Scheduled Commencement Date Phase I; or (b) Scheduled Commencement Date Phase II (as applicable) may be extended from time to time by the Employer.
- 4.4.5. If the Operator considers itself to be entitled to an extension of the: (a) Scheduled Commencement Date Phase I; or (b) Scheduled Commencement Date Phase II (as applicable) including under Section 16 (*Force Majeure*) and/or Section 17 (*Changes*), the Operator shall give notice to the Employer describing the event or circumstance giving rise to such claim of extension. The notice shall be given as soon as practicable, and not later than ten (10) days after the Operator became aware of the relevant event or circumstance. Such notice shall make reference to the provision of this Agreement that stipulates the entitlement of the Operator to claim for an extension of any timeline. When determining each extension of time, the Employer shall review previous determinations and make a determination in terms of Section 3.5 (*Determinations*) and may ask for such further information/documentation as the Employer may require to make such determination.

Provided, however that the Operator shall not be entitled to any extension in the: (a) Scheduled Commencement Date Phase I; or (b) Scheduled Commencement Date Phase II (as applicable) in respect of any period where the Operator would have nevertheless experienced delays in any case for reasons not attributable to the Employer including for any of the events occurring under Section 16 (*Force Majeure*) and/or Section 17 (*Changes*).

**4.5. OPERATING PERIOD**

- 4.5.1. During the Operating Period, the Operator shall execute the Services (other than those already performed during the Mobilization Period Phase I or Mobilization Period Phase

II (as applicable)) and the Employer shall make payments of the Service Fee in accordance with Section 5 (*Price and Payment Terms*) in respect of: (a) Facilities (other than BRT Corridor Phase II) from the Commencement Date Phase I; and (b) the Facilities from Commencement Date Phase II.

- 4.5.2. Services in respect of the BRT Corridor Phase II shall commence from Commencement Date Phase II and continue for the remaining Term.

**4.6. DELAY LIQUIDATED DAMAGES DURING MOBILIZATION PERIOD**

- 4.6.1. If the Operator fails to complete all the Mobilization Period Requirements Phase I or Mobilization Period Requirements Phase II (as applicable) (except as may be deferred and/or waived in accordance with Section 4.4 (*Waiver and/or Deferral of Mobilization Period Requirements and Extension of Scheduled Commencement Date*)) by the: (a) Scheduled Commencement Date Phase I; or (b) Scheduled Commencement Date Phase II (as applicable), the Operator shall pay Delay Liquidated Damages in the amounts specified in Section 4.6.2 to the Employer for the Default Delay Period in accordance with Section 5.7 (*Payment of Delay Liquidated Damages*).
- 4.6.2. For each day (or part thereof) of the Default Delay Period, the Operator shall pay an amount equivalent to one percent (1%) of the Performance Security. The Employer shall not be restricted from invoicing for such claimable amounts after the: (a) Commencement Date Phase I; or (b) Commencement Date Phase II (as applicable).
- 4.6.3. The total amount due under this Section 4.6 (*Delay Liquidated Damages During Mobilization Period*) shall not exceed twice the amount of the Performance Security prevailing during the relevant Default Delay Period (“**Delay Liquidated Damages Cap**”).
- 4.6.4. Subject to Section 4.4 (*Waiver and/or Deferral of Mobilization Period Requirements and Extension of Scheduled Commencement Date*), in the event the: (a) Commencement Date Phase I has not occurred within forty-five (45) days after the expiry of the Scheduled Commencement Date Phase I; or (b) Commencement Date Phase II has not occurred within forty-five (45) days after the expiry of the Scheduled Commencement Date Phase II (as applicable), and such delay is due to events for which the Operator is not entitled to any extension of time, or the Delay Liquidated Damages Cap (by way of calculation) has been exceeded, the Employer will have the right, *inter alia*, to terminate this Agreement.
- 4.6.5. The Delay Liquidated Damages specified in Section 4.6.2 have been calculated by the Parties as representing the actual daily loss to the Employer for the Default Delay Period and are not a penalty. Given the nature of the Mobilization Period Requirements to be performed by the Operator, it is entirely possible to calculate the actual loss suffered by the Employer and the stated Delay Liquidated Damages in Section 4.6.2 reflect such calculation. The Operator thus hereby waives, to the extent permitted by any applicable Law, any defence as to the validity and quantum of any Delay Liquidated Damages in this Agreement on the grounds that such Delay Liquidated Damages are not calculated on the actual loss suffered by the Employer or are void as penalties or otherwise.

- 4.6.6. These Delay Liquidated Damages shall be the only damages due from the Operator for such default, other than in the event of termination under Section 9.2 (*Termination for Operator's Default*). Any payment or claim for Delay Liquidated Damages shall not relieve the Operator from its obligation to complete and fulfil the Mobilization Period Requirements, or from any other duties, obligations or responsibilities which it may have under this Agreement.

## **5. PRICE AND PAYMENT TERMS**

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### **5.1. PAYMENTS OF SERVICE FEE**

- 5.1.1. In consideration of the performance of Services by the Operator, the Employer shall pay to the Operator, each Month during the Operating Period, the Service Fee.
- 5.1.2. The Service Fee includes, without limitation, any and all direct, indirect and ancillary charges and costs of whatever nature incurred by or imposed on the Operator and/or any agent or Sub-Operator in the performance of the Services, unless stated otherwise in this Agreement.
- 5.1.3. In respect of: (a) Facilities (other than BRT Corridor Phase II) from the Commencement Date Phase I; and (b) the Facilities from Commencement Date Phase II, the Operator shall submit the invoices (substantially in the form and substance attached hereto as **Schedule M (Form of Invoice)**) to the Employer on the first (1<sup>st</sup>) day of every month (for the previous month) ("**Monthly Invoice**") in respect of the Service Fee payable to the Operator. Provided, however, that for the first Monthly Invoice for each phase issued by the Operator, the payment shall be calculated for the period starting from the Commencement Date Phase I and/or Commencement Date Phase II (as applicable). Each Monthly Invoice shall provide a breakdown of the Service Fee payable for the Project.
- 5.1.4. Payments by the Employer shall be subject to submission of a Monthly Invoice by the Operator in terms of Section 5.1.3 along with a confirmation by the Operator that the Performance Security is in place in terms of Section 7.2 (*Performance Security*).
- 5.1.5. Payments being made by the Employer shall be less: (a) any disputed amounts; (b) any deductions on account of tax (if any); (c) any Liquidated Damages or any other amounts due from the Operator, which have not been fully recovered through encashment of the Performance Security.
- 5.1.6. Provided that the Employer has verified the Services performed during such period, and received all relevant data and records (as mutually agreed between the Parties) including utility bills for the relevant Month, computation and such other information and calculations, in reasonable detail, so as to enable the Employer to confirm that the calculation of the amounts shown in the Monthly Invoice comply with the provisions of this Agreement, the Employer shall pay the Operator all due and payable amounts of the Service Fee set out in the Operator's Monthly Invoices (subject to any deductions in accordance with Section 5.1.5) no later than fourteen (14) days following the day the Monthly Invoice is received by the Employer (the "**Monthly Payment Date**"), in respect

of the Service Fee by wire transfer/cheque to the bank account(s) identified by the Operator.

- 5.1.7. Each payment being made by the Employer to the Operator shall be subject to the continued validity of the Performance Security in terms of this Agreement.

**5.2. CURRENCY OF PAYMENTS & SERVICE FEE ESCALATION**

- 5.2.1. All due and payable amounts under this Agreement will be paid in Pakistani Rupees.
- 5.2.2. All payments of the Service Fee shall be adjusted in accordance with the Indexation Mechanism.

**5.3. LATE PAYMENT CHARGE**

- 5.3.1. The Employer shall pay only simple interest on all amounts not paid within thirty (30) days of the Monthly Payment Date at a rate equal to the Karachi Inter-Bank Offered Rate (**KIBOR**) for the actual number of days (after thirty (30) days of the Monthly Payment Date) which the relevant amount remains unpaid on the basis of a three hundred and sixty-five (365) day year.
- 5.3.2. The Operator shall pay only simple interest on all amounts not paid by the relevant due date at a rate equal to the Karachi Inter-Bank Offered Rate (**KIBOR**) for the actual number of days (after relevant due date) which the relevant amount remains unpaid on the basis of a three hundred and sixty-five (365) day year.

**5.4. DISPUTED INVOICES**

- 5.4.1. If the Employer disputes the whole or any part of any Monthly Invoice or supporting evidence issued by the Operator, it shall immediately notify the Operator and the Operator shall issue a credit note together with two invoices, one in respect of the disputed amount and the second in respect of the amount not disputed. All disputed amounts shall become due and payable following resolution of the dispute.
- 5.4.2. The Employer shall pay the invoice in respect of the amount which is not in dispute and shall be entitled to withhold the amount which is in dispute pending resolution of the dispute.
- 5.4.3. The Employer and the Operator shall use best efforts to resolve any dispute within ten (10) business days of the dispute arising.
- 5.4.4. If the Parties fail to resolve the dispute within such ten (10) business days, the matter shall be referred for dispute resolution in accordance with Section 19 (*Dispute Resolution*).
- 5.4.5. All payments under Section 5.1.1 shall be subject to scrutiny by the Employer and/or its Independent Expert and in case of any error, discrepancy or deficiency in the Monthly

Invoices, the same will be Notified to the Operator and thereafter be adjusted against the next Monthly Invoice.

#### **5.5. TAXES AND DUTIES**

5.5.1. The Service Fee includes the Operator Taxes and the Operator shall be responsible for, and shall pay directly, any and all Operator Taxes.

5.5.2. After the Bid Submission Date, if there is any change (increase or decrease) in the Operator's Taxes, other than a change in income tax /withholding income tax applicable on the Operator (the "**Excluded Taxes**"), the same shall be dealt with in the following manner:

(a) if there is an increase in any applicable Operator's Taxes (other than the Excluded Taxes) which are final and/or non-reimbursable and/or non-adjustable, the Operator shall notify the Employer of such increase and provide evidence thereof along with the proposed increase in the Service Fee as a consequence thereof. Within fifteen (15) days of receiving the Operator's notification, the Employer shall review the same and shall revise the Service Fee to the extent of the increase in Operator's Taxes as per the applicable Law; and

(b) if there is a decrease in any applicable Operator's Taxes (other than the Excluded Taxes) which are final and/or non-reimbursable and/or non-adjustable, the Operator or the Employer shall notify the other Party of such decrease and provide evidence thereof along with the proposed decrease in the Service Fee as a consequence thereof. Within fifteen (15) days of receiving such notification, the notified Party shall review the same and shall revise the Service Fee to the extent of the decrease in Operator's Taxes as per the applicable Law.

5.5.3. The Operator shall at all times be required to seek and avail all exemptions or reduced rates of taxes, levies and duties, and the Employer shall also retain the right to require the Operator to seek and avail all such available exemptions in the knowledge of the Employer from time to time. In the event of failure of the Operator to avail any such benefit of exemption or reduction in taxes, levies and duties, the Employer shall be entitled to adjust the Service Fee by taking into account that the Operator has availed the aforesaid benefit.

5.5.4. The Operator hereby agrees to indemnify, defend and hold the Employer harmless from any and all taxes, liabilities, damages, costs, penalties, fines, expenses, fees (including attorney's fees) and charges of any nature associated with any non-compliance and violations by the Operator of this Section 5.6 (*Taxes and Duties*) including the consequences of any failure to pay the Operator's Taxes as required by any applicable Laws, in relation to the Services.

#### **5.6. PAYMENT OF DELAY LIQUIDATED DAMAGES**

5.6.1. Any amounts payable as Delay Liquidated Damages in accordance with Section 4.6 (*Delay Liquidated Damages During Mobilization Period*) shall be paid within fourteen

(14) days of receipt of an invoice for the same issued by the Employer failing which the Delay Liquidated Damages (along with late payment charge calculated as per Section 5.3.2) may be recovered by encashing the Performance Security.

- 5.6.2. Notwithstanding encashment of the Performance Security, the Operator shall continue to be responsible for performance of the Services in accordance with this Agreement.
- 5.6.3. In case the Delay Liquidated Damages cannot be adjusted in terms of this Section 5.6 (*Payment of Delay Liquidated Damages*), the Operator shall continue to be liable to pay such amounts.

#### **5.7. PAYMENT OF PERFORMANCE LIQUIDATED DAMAGES**

- 5.7.1. Any amounts payable as Performance Liquidated Damages under Section 2.16 (*Performance Liquidated Damages*) may be: (i) set-off and deducted from amounts payable by the Employer to the Operator in accordance with Section 5 (*Price and Payment Terms*); or (b) recovered by encashing the Performance Security.
- 5.7.2. Notwithstanding encashment of the Performance Security or set-off and deduction of Liquidated Damages from amounts payable under Section 5 (*Price and Payment Terms*), the Operator shall continue to be responsible for performance of the Services in accordance with this Agreement.
- 5.7.3. In case the Performance Liquidated Damages cannot be adjusted in terms of this Section 5.7 (*Payment of Performance Liquidated Damages*), the Operator shall continue to be liable to pay such amounts within fourteen (14) days of receipt of an invoice for the same issued by the Employer.

### **6. OPERATIONS AND MAINTENANCE OF THE FACILITIES**

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#### **6.1. MONITORING**

- 6.1.1. The Employer shall (through the Operations Control Centre) monitor and inspect (in accordance with Section 2.12 (*Inspection*)) the operations of the Facilities and performance of the Services by the Operator.
- 6.1.2. In the event any of the monitoring devices become non-responsive or non-functional due to any reason, keeping in view the public convenience, the Operations of the Facilities shall not be suspended, provided, however, the Operator shall remain liable to maintain operating records in accordance with Section 2.11 (*Operating Records*) and provide the same to the Employer upon request.
- 6.1.3. The Operator shall not tamper, and shall ensure that its representatives, agents, employees, O&M Personnel, Sub-Operators, vendors, suppliers and other personnel (engaged by the Operator for the performance of Services or any part thereof) do not tamper monitoring devices installed at the Facilities. In the event the Operator breaches the foregoing covenant, the Operator shall: (a) indemnify and hold the Employer harmless against any Loss and consequences of Employer's inability to monitor the



Facilities including any consequent over payment of any sums to the Operator and/or any other Project Contractor; (b) pay the applicable Performance Liquidated Damages; and (c) take all remediable action reasonably acceptable to the Employer to ensure that such tampering does not reoccur, including the development or addition of security systems.

## **6.2. OPERATION AND MAINTENANCE OF THE FACILITIES**

- 6.2.1. The Operator shall ensure that: (a) the Facilities are maintained at all times in a good, clean and orderly condition; and (b) all Planned Maintenance and Unplanned Maintenance is carried out in accordance with Applicable Standards.
- 6.2.2. The Operator shall properly Operate and Maintain all Facilities in accordance with the highest standards of care and prudence and in accordance with the Applicable Standards. Furthermore, the Operator shall (as part of the Services) be responsible for maintenance of complete records of the Services.

## **6.3. COLLECTION OF FARE REVENUE**

- 6.3.1. During the Operating Period, the Operator shall be authorized to demand, collect, manage, and transfer the Fare Revenue, as per the requirements specified in **Schedule A (Operator's Scope of Work)**. In the event collection of Fare Revenue from passengers/customers is: (a) via an electronic fare collection mechanism (including electronic tap-in cards) the Operator shall collect and charge electronic tap-in cards, credit cards or debit cards for Fare Revenue from customers/passengers directly to the accounts notified by the Employer; and (b) through cash, the cash collected shall be retained by the Operator and handed over to the Fund Manager on the same day prior to closing of the Facilities. The Operator shall be fully responsible for the cash collected until the same is handed over to the Fund Manager and shall indemnify the Employer for any Fare Revenue lost or stolen while the cash collected is with the Operator.

## **6.4. AUDIT**

- 6.4.1. If there is any discrepancy with respect to the Fare Revenue collected, as determined by the Employer including through monitoring of operations of the Facilities and performance of the Services by the Operator under Section 6.1 (*Monitoring*), then such discrepant amounts may be: (i) set-off and deducted from amounts payable under the Monthly Invoice by the Employer to the Operator in accordance with Section 5 (*Price and Payment Terms*); or (b) recovered by encashing the Performance Security. In case the discrepant amounts cannot be adjusted in terms of this Section 6.4.2, the Operator shall continue to be liable to pay such amounts within fifteen (15) days of receipt of an invoice for the same issued by the Employer.

## **6.5. PLANNED MAINTENANCE**

- 6.5.1. The Operator shall in planning and carrying out the Planned Maintenance, ensure that such Planned Maintenance:

- (a) is (to the extent possible) without any interruption in the execution of the Services or to the overall operations of the Project and in this respect the Operator shall co-ordinate with other Project Contractors in accordance with Section 6.8 (*Co-Operation with Other Project Contractors*);
  - (b) accounts and/or schedules time for the Employer directly or through other Project Contractors (or its authorised designees) to repair any defects in the Facilities including the Excluded Assets located on the Facilities;
  - (c) does not result in any Non-Compliance with the Key Performance Indicators.
- 6.5.2. All costs with respect to the Planned Maintenance shall be borne by the Operator.

**6.6. UNPLANNED MAINTENANCE**

- 6.6.1. If, at any time during the Term, the Operator is unable to provide any of the Services on account of an Unplanned Maintenance it shall immediately Notify the Employer specifying the reasons for such Unplanned Maintenance and time required to complete the Unplanned Maintenance.
- 6.6.2. Thereafter, the Independent Expert shall at its sole discretion determine, following inspection (if necessary), whether the Unplanned Maintenance is due to:
- (a) the act, omission, wilful misconduct, negligence or breach under this Agreement of the Operator; or
  - (b) attributable to the Employer; or
  - (c) where so alleged by the Operator, attributable to any of the other Project Contractors.
- 6.6.3. If the Independent Expert determines that the Unplanned Maintenance is attributable to:
- (a) the Operator, then the Employer may, at its sole discretion (i) impose Performance Liquidated Damages under Section 2.16 (*Performance Liquidated Damages*); and/or (ii) terminate this Agreement in accordance with Section 9 (*Default and Termination*). If the Unplanned Maintenance is determined to be attributable to the Operator, the Operator shall bear the full Cost for the same; or
  - (b) the Employer, then the Operator shall be entitled to submit its claim for Costs and/or extensions in any timelines hereunder. The Employer shall then proceed in accordance with Section 3.5 (*Determinations*) to agree or determine any extensions in timelines and/or the Costs (if any) which the Operator is entitled to; or
  - (c) any other Project Contractor, then the Operator shall be entitled to submit its claim for Costs and/or extensions in any timelines hereunder. The Employer shall then proceed in accordance with Section 3.5 (*Determinations*) to agree or

determine any extensions in timelines and/or the Costs (if any) which the Operator is entitled to.

**6.7. TITLE AND ACCESS TO FACILITIES**

- 6.7.1. Subject to the rights granted to the Operator pursuant to this Agreement, the Employer shall retain all rights and title to the immovable properties (on which Facilities are located) and the Facilities throughout the Term. Subject to the terms of this Agreement, the Operator has, and shall have, no title to, ownership interest in or lien over, the immovable properties (on which Facilities are located) or the Facilities nor shall it create any Encumbrance with respect thereto.
- 6.7.2. The Employer shall permit the Operator the right to use the Facilities for carrying out: (a) the Mobilization Period Requirements Phase I and the Services in respect of Facilities (other than BRT Corridor Phase II) no later than ten (10) days from the Notice to Proceed; and (b) the Mobilization Period Requirements Phase II and the Services in respect of Facilities no later than twenty (20) days prior to the Scheduled Commencement Date Phase II.
- 6.7.3. The right to use the Facilities in respect of performance of the Services (including performance of Mobilization Period Requirements) by the Employer to the Operator shall always be subject to the right of access of the Employer, Employer's Representatives and any other Project Contractors and/or third parties engaged in respect of the Project.

**6.8. CO-OPERATION WITH OTHER PROJECT CONTRACTORS**

- 6.8.1. During the Term, the Operator shall coordinate with other Project Contractors in connection with their activities related to the Project.
- 6.8.2. The Operator shall permit Project Contractors to enter the Facilities, subject to any reasonable requirements of the Operator regarding safety and security of the Facilities.
- 6.8.3. The Operator shall be responsible for the following tasks in relation to coordination with Project Contractors:
  - (a) provide information and assistance as such Project Contractors may reasonably request, including meeting with those Project Contractors (during meeting of the Operating Committee or otherwise) for the purpose of co-ordinating and clarifying any interfaces between the Services and the activities, operations and works of such Project Contractors;
  - (b) using all reasonable endeavours in conjunction with the Employer and such Project Contractors to resolve any actual or potential difficulties relating to the performance of the Services arising out of the progress of the Project Contractor works;

- (c) using reasonable endeavours to carry out the Services and cooperate with the Project Contractors so as not to unreasonably interfere with, disrupt or delay the Project Contractor works, Project operations or the Services;
  - (d) take all necessary precautions to ensure that the Facilities are protected from damage by any Project Contractors and shall at all times remain responsible for security and/or damage to the Facilities; and
  - (e) take all necessary steps to make the Facilities available to the Employer and its Project Contractors (without interruption to the Services) for the purposes of installation, removal or maintenance of any installations or equipment located on the Facilities.
- 6.8.4. If during the Term, for any reason attributable to the Operator (as determined by the Employer):
- (a) there is an interruption in the Project operations as being carried out by the Employer or any other Project Contractor including where such interruption results in loss of Fare Revenue to the Employer including due to the suspension of Project operations; or
  - (b) there is damage to the Facilities, Buses or property of any other Project Contractor;

then the Operator shall indemnify, defend and hold the Employer harmless from any and all liabilities, claims, damages, costs, penalties, fines, expenses, fees and charges of any nature associated with and arising therefrom and the Employer shall be entitled to make a claim under Section 3.4 (*Employer's Claims*).

## **6.9. SUSPENSION OF SERVICES BY THE EMPLOYER**

- 6.9.1. The Operator shall upon receipt of a notice from the Employer, suspend the Services or any part thereof for such time or times and in such manner as the Employer may consider necessary, and shall during such suspension properly protect and secure the Facilities against any deterioration, loss and damage.
- 6.9.2. The Operator shall recommence the Services upon receipt of written notice from the Employer, provided that, during any period of suspension, the Employer shall keep the Operator advised as to the likelihood of its requiring the Operator to recommence the Services and shall give the Operator reasonable notice of recommencement (taking into account the extent of mobilization likely to be required by the Operator prior to recommencement of Services).
- 6.9.3. During any period of suspension (except to the extent such suspension is caused by the act or omission of the Operator) the Operator shall be entitled to receive the Service Fee for the Month during which suspension occurs. The Employer waives any and all right or claim to Performance Liquidated Damages for Non-Compliance with any Key

Performance Indicators during and as a result of any period of suspension (except to the extent such suspension is caused by the act or omission of the Operator).

#### **6.10. INSURANCES**

6.10.1. Each of the Operator and the Employer shall obtain and maintain during the Operating Period the Project Insurance Policies set out in **Schedule K (Insurance)** in accordance with the requirements set out therein.

6.10.2. In the event the Employer makes a claim under any of the Project Insurance Policies obtained and maintained by the Employer for any reason attributable to the Operator, then the Operator shall be liable for payment of any deductibles in respect of any claims made by the Employer.

### **7. CORPORATE GUARANTEE AND PERFORMANCE SECURITY**

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#### **7.1. CORPORATE GUARANTEE**

7.1.1. The Operator hereby represents and warrants that:

- (a) prior to the Effective Date, the Operator has delivered to the Employer a valid and binding guarantee in the form specified in **Schedule D (Form of Corporate Guarantee)** (the “**Corporate Guarantee**”) from the Sponsor (as its guarantor), in favour of the Employer, in respect of the Operator’s obligations towards the Employer under this Agreement;
- (b) the Sponsor has taken all necessary corporate actions and has all necessary authorizations to execute and deliver the Corporate Guarantee to the Employer;
- (c) the Sponsor is empowered under applicable laws of [*please insert country of origin*], its constitutive documents (including the memorandum and articles of association or charter) to execute and deliver the Corporate Guarantee and to perform its obligations hereunder;
- (d) in case of a consortium, the Sponsors are jointly and severally liable to the Employer for the obligations of the Operator and the Sponsors have collectively executed the Corporate Guarantee in favour of the Employer;
- (e) prior to the Effective Date, the Operator has delivered to the Employer the following legal opinion: (i) the Sponsor is validly existing and in good legal standing under the applicable Laws and is duly authorized pursuant to its constitutive documents (including the memorandum and articles of association or charter) and the applicable Laws to execute and perform its obligations under the Corporate Guarantee; (ii) the execution of the Corporate Guarantee does not conflict with or result in a breach or violation of its constitutive documents (including the memorandum and articles of association or charter) or any judgment, order, writ, injunction, or decree of any court, tribunal, arbitrator, or

government agency, rendered in a matter to which the Sponsor was subject or is a party; (iii) the Sponsor is not entitled to immunity under any laws or treaties that would reduce its obligations under the Corporate Guarantee or prevent/restrict enforcement of the Corporate Guarantee against the Sponsor; and (iv) no consent, approval, authorization or order from any government agency and no consent or approval of shareholders or of any other person (other than those consents, approvals, authorizations or orders which have been procured prior to or concurrently with execution of the Corporate Guarantee is required to enable the execution and delivery by the Sponsor of the Corporate Guarantee or the performance of its obligations; and

- (f) the Corporate Guarantee has been executed by a duly authorized person on behalf of the Sponsor and is and shall continue to remain binding and enforceable against the Sponsor.
- 7.1.2. The Corporate Guarantee shall remain valid until sixty (60) days following the expiry of the Term (the “**Corporate Guarantee Expiry Date**”). If the terms of the Corporate Guarantee specify an expiry date which is prior to the actual Corporate Guarantee Expiry Date, the Operator shall, thirty (30) days prior to the expiry of the Corporate Guarantee, procure the extension of the Corporate Guarantee from the Sponsor until the Corporate Guarantee Expiry Date.
- 7.1.3. The Employer may at any time and from time to time, make a claim under the Corporate Guarantee in the event of failure by the Operator in relation to the due performance and discharge by the Operator of all its obligations and liabilities under this Agreement, including but not limited to:
- (a) execution of the Services in accordance with the Applicable Standards, performance and implementation of all terms and conditions of this Agreement by the Operator; and
  - (b) payment by the Operator of all amounts due to the Employer under this Agreement including Liquidated Damages.

## **7.2. PERFORMANCE SECURITY**

- 7.2.1. Prior to the Effective Date, the Operator has delivered to the Employer the Performance Security for proper performance by the Operator of its obligations, in an amount equal to the Performance Security Amount for the first Operating Year (as determined in accordance with Schedule N (*Performance Security Amount*)). The Performance Security shall be encashable in accordance with the terms thereof and shall be payable on the Employer’s first written demand without any prior Notice, reference or recourse to the Operator for encashment. The Operator shall ensure that the Face Value of the Performance Security is adjusted either upwards or downwards to ensure that the Face Value of the Performance Security remains equivalent to: (i) the Performance Security Amount for the first Operating Year (as determined in accordance with Schedule N (*Performance Security Amount*)) until the Commencement Date Phase I; and (ii) the Performance Security Amount (as determined in accordance with Schedule N

(*Performance Security Amount*) for the relevant Operating Year from the Commencement Date Phase I till the Release Date. The Operator shall replenish the Performance Security following any encashment during an Operating Year to ensure that its Face Value, at all times, remains equivalent to the Performance Security Amount.

- 7.2.2. The first Performance Security shall be valid for twelve (12) months following its issuance (the “**Performance Security Expiry Date**”). Twenty-eight (28) days prior to each Performance Security Expiry Date, the Operator shall extend the validity of each Performance Security for a further period of twelve (12) months or replace the Performance Security with a new Performance Security valid for a period of twelve (12) months, effective in each case upon expiry of the last Performance Security. The Performance Security to be established in the last Operating Year shall be maintained until the date falling ten (10) days after the Employer’s issuance of the Release Certificate. Each Performance Security shall be valid and enforceable until its expiry.
- 7.2.3. In the event of failure by the Operator to keep valid, extend the validity of or provide a new Performance Security in accordance with this Section 7.2 (*Performance Security*), the Employer shall have the right to encash the Performance Security to its full outstanding value, provided however, when the Employer has encashed the Performance Security in terms of this Section 7.2.3, the Employer shall refund the encashed proceeds to the Operator upon the Operator establishing and furnishing to the Employer a new Performance Security in accordance with Section 7.2 (*Performance Security*).
- 7.2.4. The Employer may make a demand under the Performance Security in the event of:
- (a) failure by the Operator to keep the Performance Security valid or extend the validity of the Performance Security as described in Section 7.2.3 above, in which event the Employer may claim the full amount of the Performance Security;
  - (b) failure by the Operator to pay the Employer an amount due including any Liquidated Damages or determined under Section 19 (*Dispute Resolution*), within fourteen (14) days after such agreement or determination;
  - (c) material breach by the Operator of any Operator’s obligations under this Agreement;
  - (d) circumstances which entitle the Employer to termination under Section 9.2 (*Termination for Operator’s Default*), irrespective of whether Notice of termination has been given;
  - (e) any claims that the Employer may have up to the Performance End Date;
  - (f) failure by the Operator to remedy a Defect or Deficiency (subject to any grace period permitted by the Employer or otherwise specified in this Agreement) after receiving the Employer’s Notice requiring the Defect or Deficiency to be remedied (provided that such default is capable of remedy); and/or

- (g) any other event, circumstance or provision stated under this Agreement which entitles the Employer to make a demand under the Performance Security.
- 7.2.5. The Employer shall return the Performance Security to the Operator within twenty-eight (28) days after the Performance End Date, provided that, no event is subsisting that entitles the Employer to make a demand under the Performance Security nor are there any outstanding claims by the Employer under the Performance Security.
- 7.2.6. Where, at any time subsequent to the issuance of the Performance Security, the Performance Security issuing bank (as specified in the definition of Performance Security above) or the Performance Security fails to meet the Minimum Credit Rating, then, upon the instructions of the Employer, the Operator shall within ten (10) days of receipt of such instructions from the Employer, procure from a bank or financial institution, which meets the Minimum Credit Rating a substitute Performance Security for the amount prevailing as of that date. Upon receipt of such substitute Performance Security in the form and substance satisfactory to the Employer, the Employer shall return the earlier issued Performance Security to the Operator.

## **8. APPLICATION FOR RELEASE CERTIFICATE**

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### **8.1. FULFILMENT OF TERM EXPIRY CRITERIA AND ISSUANCE OF RELEASE CERTIFICATE**

- 8.1.1. The Operator's obligations relating to the Operating Period shall expire when:
  - (a) the Operator has fulfilled the Term Expiry Criteria; and
  - (b) the Release Certificate is issued by the Employer.
- 8.1.2. The Operator shall notify the Employer, when each of the Term Expiry Criteria has been met and pursuant to such notification, shall apply to the Employer for issuance of the Release Certificate. Following the Employer's receipt of the Operator's afore-stated notification, the Employer shall within thirty (30) days of receipt of the Operator's afore-stated Notification, either:
  - (a) upon verification of each of the Term Expiry Criteria having been met, issue the Release Certificate to the Operator, provided that the Operator has, in all material respects, met the Term Expiry Criteria; or
  - (b) reject the Operator's application for issuance of the Release Certificate, giving reasons and specifying the work required to be done, or obligation required to be fulfilled, by the Operator to enable the Release Certificate to be issued. The Operator shall then complete this work or fulfil such obligation, at no cost to the Employer, before issuing a further notice under this Section.
- 8.1.3. In the event of the Employer's rejection of the Operator's request for issuance of the Release Certificate in accordance with Section 8.1.2(b), the Operator shall either:



- (a) accept the Employer's rejection for issuance of the Release Certificate, in which case the Operator shall perform its relevant obligations under this Agreement so as to meet the Term Expiry Criteria and fulfil the outstanding Services and obligations as specified by the Employer, and the procedure set out in Section 8.1.2 shall be repeated; or
- (b) dispute the Employer's decision of the Term Expiry Criteria or any part thereof not being met, in which case such dispute shall be determined in accordance with Section 19 (*Dispute Resolution*). If following the resolution of the dispute in accordance with Section 19 (*Dispute Resolution*) it is determined that:
  - (i) the Term Expiry Criteria is not met, the Operator shall perform its relevant obligations under this Agreement so as to meet the Term Expiry Criteria and the procedure set out in Section 8.1.2 and Section 8.1.3 shall be repeated; or
  - (ii) the Term Expiry Criteria is met, the Employer shall issue the Release Certificate within ten (10) business days of the resolution of the dispute in accordance with Section 19 (*Dispute Resolution*).

## **9. DEFAULT AND TERMINATION**

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### **9.1. TERMINATION FOR EMPLOYER'S DEFAULT**

9.1.1. The Operator may terminate this Agreement in the following circumstances by giving Notice of termination on expiry of the period specified in this Section 9.1.1 and its reason for termination:

- (a) if the Employer has failed to make due payments as per the terms of this Agreement excluding any: (i) disputed amounts; and (ii) deductions that the Employer is entitled to make under this Agreement, provided, however, the right to terminate for Employer's payment default only arises where: (A) the Operator has complied with the requirements and the payment terms as prescribed under this Agreement; and (B) the due and payable sums remain unpaid for sixty (60) business days after receipt of Notice of non-payment by the Operator to the Employer, which Notice will be a precondition for termination; and
- (b) if the Employer commits a material breach of this Agreement that has a material adverse effect on the Operator's ability to perform its obligations under this Agreement and fails to remedy the same within sixty (60) days, after Notice from the Operator to the Employer stating such material default or material breach.

### **9.2. TERMINATION FOR OPERATOR'S DEFAULT**

9.2.1. The Employer may terminate this Agreement in the following circumstances by giving thirty (30) days' Notice of termination, or any other notice period specified otherwise in this Section 9.2.1 or Notified by the Employer, to the Operator and referring to this Section 9.2.1 and its reason for termination:

- (a) the Operator subcontracts the Services (except as permitted hereunder) or assigns this Agreement without approval or consent of the Employer;
- (b) the Operator voluntarily abandons the Project and/or the Facilities or repudiates this Agreement or the Operator loses the relevant approvals, licenses and permits, including the Consents, required to execute the Services and fails to remedy the same within thirty (30) days of occurrence; or
- (c) if the Operator commits a material default or material breach of this Agreement and fails to remedy the same within thirty (30) days or such additional period as may be agreed by the Employer, after Notice from the Employer to the Operator stating such material default or material breach; or
- (d) the Services provided by the Operator fail to meet the Key Performance Indicators and / or the Applicable Standards; or
- (e) a final judgment against Operator in excess of the equivalent of PKR 50,000,000/- (Pakistani Rupees Fifty Million only) remains unsatisfied for more than sixty (60) days (unless a bond is filed or other steps are taken to effectively stay enforcement of such judgment), or (ii) a levy is issued or attachment is made on all or any part of the Operator and such levy or attachment is not discharged or the property is not redeemed within thirty (30) days after such levy or attachment; or
- (f) if the: (i) Commencement Date Phase I is not achieved within forty-five (45) days from the expiry of the Scheduled Commencement Date Phase I; or (ii) Commencement Date Phase II is not achieved within forty-five (45) days from the expiry of the Scheduled Commencement Date Phase II;
- (g) if the Operator fails to furnish, keep valid and maintain in full effect the Performance Security and/or the Corporate Guarantee in accordance with this Agreement; or
- (h) the (a) Delay Liquidated Damages Cap; or (b) Performance Liquidated Damages Cap has been exceeded (by way of calculation).

9.2.2. The Employer may terminate this Agreement immediately by Notice to the Operator and without any opportunity to cure if:

- (a) the Operator and/or the Sponsor becomes bankrupt or insolvent, or has a receiving order issued against it, or compounds with its creditors, or, being a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or a receiver is appointed over any part of its undertaking or assets, or if the Operator and/or the Sponsor takes or suffers any other analogous action in consequence of debt; or

- (b) any statement, representation or warranty set out in Section 12 (*Representations and Warranties*) proves to be incorrect, in any material respect, when made or when reaffirmed and such incorrect statement, representation or warranty having a material adverse effect on the Operator's ability to perform its obligations under this Agreement and / or ensure that the Operator performs its obligations under this Agreement or having a material adverse effect on the rights or obligations of the Employer under this Agreement; or
- (c) any wilful misstatement or wilful misrepresentation (not set out in Section 12 (*Representations and Warranties*)) made by the Operator which has a material adverse effect on the performance of Services by the Operator under this Agreement; or
- (d) the Operator is found to be engaged in corrupt or fraudulent practices in executing its obligations under the Agreement; or
- (e) a Change in Complete Control has occurred in breach of this Agreement; or
- (f) the Operator creates any Encumbrance on the Facilities; or
- (g) the Operator or any of its representatives (including Sub-Operators) become blacklisted by the GoP, any provincial or local government, or a corporation, company, institution, corporate body, local body, local authority, agency or organisation set up or controlled (directly or indirectly) by the GoP; or
- (h) termination of the OL Facility Management Agreement.

### **9.3. OBLIGATIONS PRIOR TO EXPIRY OR TERMINATION**

- 9.3.1. Termination or expiration of this Agreement will not relieve the Operator of any obligation arising under this Agreement or in respect of Services completed prior to expiry or termination of this Agreement.

### **9.4. ACTIONS TO BE TAKEN UPON EXPIRY OR TERMINATION**

- 9.4.1. On the date of expiration or termination of this Agreement, the Operator shall, at the Employer's request, provide the following services relative to the Services so affected:
  - (a) cease all further performance of the Services, except such Services as the Employer may specify for protecting and securing the Facilities against any deterioration, loss or damage;
  - (b) terminate all ongoing subcontracts and other contractual agreements, except those to be assigned to the Employer pursuant to Section 9.4.1(d) below;
  - (c) assign to the Employer, or to any person designated by the Employer: (i) title to all Parts, equipment and materials not already owned by the Employer as may be designated by the Employer; (ii) subcontracts, service agreements and other

contractual agreements (including warranties) (as applicable) as may be designated by the Employer; and (iii) any issued permits, licenses, authorizations, approvals, patents and other proprietary rights, if any, then held by the Operator pertaining to the Facilities; and

- (d) deliver to the Employer all information and records as may be reasonably requested by the Employer for the operation, management, maintenance or repair of the Facilities, including all plans or other manuals and other information prepared hereunder as of the date of termination.

#### **9.5. PAYMENTS BY OPERATOR FOLLOWING EXPIRY OR TERMINATION**

9.5.1. Upon expiry or termination of this Agreement, the Operator shall pay the Employer the sum of (a) and (b) below, in each case as may be due and payable in accordance with the terms of this Agreement:

- (a) any sums due and payable by the Operator to the Employer under the Agreement including under Section 14 (*General Indemnity*);
- (b) any Liquidated Damages accrued, due and payable under the provisions of this Agreement as at the date of termination; and
- (c) any Losses incurred by the Employer as a result of such termination for Operator's default under Section 9.2 (*Termination for Operator's Default*).

9.5.2. In the event, this Agreement is terminated for an Operator default under Section 9.2 (*Termination for Operator's Default*), the Employer shall be entitled to encash the Performance Security to its full value.

#### **9.6. PAYMENTS BY EMPLOYER FOLLOWING EXPIRY OR TERMINATION**

9.6.1. Subject to Section 9.6.2, within thirty (30) days following the Operator's compliance with its obligations under Section 9.4 (*Actions to be taken Upon Expiry or Termination*), the Operator shall submit to the Employer for payment a final invoice for all outstanding amounts of the Service Fee.

9.6.2. If this Agreement is terminated by the Employer due to Operator's default under Section 9.2 (*Termination for Operator's Default*):

- (a) the Employer shall submit to the Operator for payment an invoice for any direct out-of-pocket expenses properly and reasonably incurred by the Employer and solely attributable to such termination and, if the Employer engages a replacement operator, the additional costs reasonably incurred by the Employer in engaging such replacement operator and the amount by which the reasonable costs payable under the replacement contract for carrying out the Services exceed the amount that would have been payable to the Operator, which amount shall be deducted from any amounts outstanding to the Operator, provided, however, that if the Employer elects to engage a replacement operator, the

Employer shall use its best efforts to engage such replacement operator as soon as possible after termination of this Agreement; and

- (b) in the event that expenses of the Employer under Section 9.6.2(a) are greater than any amount then owing to the Operator, then the Operator shall bear responsibility for the payment of such amount to the Employer provided that the Employer shall take all reasonable steps to minimize such costs, and if such costs are less than any amount owing to the Operator, the Employer shall pay the remaining balance to the Operator.
- 9.6.3. Any payments made pursuant to this Section 9.6 (*Payments by Employer following Expiry or Termination*) shall be made within thirty (30) days of the date of the invoice.

#### **9.7. SUCCESSOR TO OPERATOR UPON EXPIRY OR TERMINATION**

- 9.7.1. In addition to any actions taken in accordance with Section 9.4 (*Actions to be taken Upon Expiry or Termination*), upon expiry or termination of this Agreement, the Operator, if requested in writing by the Employer, shall provide the Services and carry out its obligations under this Agreement after the expiry or termination date for a period of sixty (60) days or such longer period as may be agreed between the Parties (the “**Transition Period**”), for smooth hand over to a successor operator nominated by the Employer (the “**Successor Operator**”). This Agreement shall remain in full force and effect during the Transition Period. The Operator shall be paid the Service Fee as consideration for performance of Services (subject to the terms and conditions for payment under Section 5 (*Price and Payment Terms*)) and the Operator’s obligations set out in this Section 9.7 (*Successor to Operator Upon Expiry or Termination*) during the Transition Period.
- 9.7.2. The Operator shall facilitate the appointment and commencement of duties of the Successor Operator so as not to disrupt the normal operation of the Project and shall provide full access to the Facilities and to all relevant information, data and records relating thereto to the Successor Operator and its representatives and shall accede to all requests made by the Operator and/or the Successor Operator in connection with the preparation for taking over the Facilities and in furtherance thereof, the Operator shall provide to the Employer and/or the Successor Operator such information and documents which the Employer and/or the Successor Operator may reasonably request from the Operator in connection with the operation of the Facilities.

#### **9.8. VACATION OF FACILITIES**

- 9.8.1. Except as may be required under Section 9.4 (*Actions to be taken Upon Expiry or Termination*) or Section 9.7 (*Successor to Operator Upon Expiry or Termination*), within thirty (30) days of termination or expiry of this Agreement, the Operator shall vacate, the Facilities to the satisfaction of the Employer.
- 9.8.2. In the event the Operator fails to vacate the Facilities within thirty (30) days of termination or expiry of this Agreement, the Employer shall in its sole and absolute discretion, proceed with taking over the Facilities and shall recover from the Operator all costs in relation thereto.

**9.9. END OF TERM ACTIVITIES**

9.9.1. Subject to Section 9.7 (*Successor to Operator Upon Expiry or Termination*), the responsibility for the Services shall transfer to the Employer or the Employer's designated operator after the Performance End Date, including activities in progress as of the Performance End Date. The Operator shall schedule all Services, planned activities and obligations under this Agreement so that they are concluded prior to the Performance End Date.

**9.10. SET-OFF RIGHTS**

9.10.1. Without prejudice to other rights and remedies of the Employer, the Employer shall be entitled to deduct any amounts payable by the Operator to the Employer from any amounts due to the Operator by the Employer. If payments due to the Employer are not sufficient to cover the amounts payable by the Operator, the Operator shall pay the difference to the Employer within fourteen (14) days of the Employer's demand failing which the Employer may recover the payable amount by encashing the Performance Security.

**9.11. OBLIGATIONS PRIOR TO EXPIRY OR TERMINATION**

9.11.1. Notwithstanding termination or expiration of the Term of this Agreement and transfer of the responsibility for performance of the Services at the Performance End Date, the Operator shall not be relieved of any obligation arising out of Services performed prior to termination.

**10. WARRANTY**

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**10.1. WARRANTY**

10.1.1. For Parts and Services provided for under this Agreement, the Operator provides the following warranties, set out in this Section 10 (*Warranty*) ("**Warranty**").

10.1.2. The Operator warrants to the Employer that during the Warranty Period:

- (a) the Parts delivered under this Agreement shall be in accordance with the Applicable Standards and shall be free from Defects and Deficiencies in material, workmanship and title; and
- (b) the Services performed under this Agreement shall be performed in a competent and diligent manner free from Defects and Deficiencies in accordance with the Applicable Standards.

## **10.2. WARRANTY PERIOD**

10.2.1. The Warranty Period in respect of any Parts and any Services shall be for the remaining Term from the date of: (a) repair or replacement of any Part; and/or (b) execution of Services in respect of the Facilities (“**Warranty Period**”).

## **10.3. WARRANTY REMEDY**

10.3.1. If any Part does not meet the above warranties during the applicable Warranty Period, the Operator shall, at its cost, correct the defective Part(s) by, at its option, repairing or replacing the defective Part(s) and, at its option, taking possession of the defective Part(s). Where: (a) the Operator had installed the defective Part; and (b) the defective Part was discovered during the applicable Warranty Period, the Operator shall be responsible for the Costs of removing and transporting the defective Part. However, where a defect in a Part cannot be corrected by the Operators reasonable efforts, the Part shall be replaced.

10.3.2. If any Service does not meet the above warranties during the applicable Warranty Period for such Service, the Operator shall thereupon correct any defective Services by re-performing the defective Services at the Cost of the Operator.

## **10.4. NOT USED**

## **10.5. EXCLUSIONS**

10.5.1. The Operator’s aforementioned Warranty does not warrant Parts:

- (a) against normal wear and tear, including effects of the environment or operation;
- (b) when done by a person other than the Operator or its Sub-Operators, against: (i) improper; (ii) untimely routine or planned maintenance of the Parts; and
- (c) against improper installation of Parts other than when such improper installation is carried out by the Operator.

## **11. CONFIDENTIAL INFORMATION**

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### **11.1. CONFIDENTIAL INFORMATION**

11.1.1. Each Party agrees that it shall, and shall ensure that its contractors, agents, employees, officers (including members of its board of directors and its supervisory board) shall, hold in confidence for the benefit of the other Parties all the Confidential Information and shall not disclose to any third party or use (except for the purposes of this Agreement) the Confidential Information or any part thereof without such other Parties prior written approval. The Parties shall be required to limit the number of persons within their respective organisations to whom the Confidential Information is disclosed to the absolute minimum necessary to properly enable such Party to fulfil its obligations under this Agreement.

## **11.2. LIMITATIONS**

11.2.1. The restrictions in Section 11.1 (*Confidential Information*) shall not apply, or shall cease to apply, to any part of the Confidential Information that:

- (a) was in the possession of the recipient Party or a contractor, agent, employee, officer (including members of its board of directors and its supervisory board) or shareholder of the recipient Party at the time of the disclosure;
- (b) was obtained by the recipient Party in good faith from a third party entitled to make disclosure thereof;
- (c) is required to be published or disclosed by a Party under any Law or the rules of any securities exchange to which any Party or the holders, directly or indirectly, of any of its equity capital is subject;
- (d) a Party, with the approval of the other Party, discloses to financial institutions, bona fide potential purchasers, its consultants and contractors;
- (e) is in or comes into the public domain other than by reason of a breach of Section 11.1 (*Confidential Information*) above.

## **11.3. CONFIDENTIALITY PROVISIONS TO SURVIVE**

11.3.1. The confidentiality obligation of the Parties pursuant to Sections 11.1 (*Confidential Information*) shall remain in full force and effect for a period of five (5) years after the date of the expiration or earlier termination of this Agreement.

## **12. REPRESENTATIONS AND WARRANTIES**

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### **12.1. OPERATORS REPRESENTATIONS AND WARRANTIES**

12.1.1. Without prejudice to the other representations, warranties and conditions expressed elsewhere in this Agreement, or otherwise mandatorily implied by law, the Operator represents, warrants and undertakes to the Employer that:

- (a) it is a company, duly incorporated and validly existing under the laws of the Pakistan;
- (b) it has full power and authority to enter into this Agreement and to carry out and perform the Services and that this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (c) it has submitted certified true copies of all resolutions of the board of directors / governing body of the Operator authorizing execution, delivery of this Agreement and the performance of the Services under this Agreement;



- (d) it has submitted Performance Security and the Corporate Guarantee in accordance with this Agreement, prior to the Effective Date;
- (e) all information, statements, plans, documents and reports furnished or submitted by the Operator to the Employer in connection with this Agreement are in all material respects true and correct;
- (f) the entry into and performance by the Operator of this Agreement does not and will not conflict the terms of its memorandum and articles of association or any covenant, contract, agreement, arrangement, decree, understanding or any other document which is binding upon it or any of its assets to the extent that such conflict would be reasonably likely to have a material adverse effect on the ability of the Operator to perform its obligations under this Agreement;
- (g) no action, litigation, arbitration or administrative proceedings has been commenced, or, to the best of its information, knowledge and belief following the making of all reasonable inquiry, is pending or threatened against the Operator and nor is there subsisting any unsatisfied judgment decree or award given against it by any court, arbitrator or other body which will materially and adversely affect or impede the Operator's ability to perform its obligations under this Agreement;
- (h) the Operator: (i) carried out an initial assessment of the quality and availability of all items included in the Inventory List and has familiarized itself with the Facilities; (ii) has reviewed the requirements for execution of the Services; and (iii) has familiarized itself with all prevailing factors and conditions affecting the obligations of the Operator under this Agreement, and all other factors and conditions affecting execution of the Services, and accepts the same and agrees that all such matters are satisfactory and will not prevent performance by the Operator of its obligations under this Agreement, and accepts that it shall not be entitled to raise any defense or make any claim under or in relation to this Agreement as a consequence of:
  - (i) any mistake, gap or insufficiency in or in relation to its knowledge or understanding of the above matters; or
  - (ii) the state, condition or content of any such matters, including the state of the Facilities and waives any right it may have to raise any such defence or make any such claim;
- (i) it has provided the Employer with true and accurate information about its experience and qualifications and has not omitted any information that would be relevant to the Employer's decision to retain the Operator to carry out the Services in the manner and to the extent contemplated herein;
- (j) it shall not change its legal status or otherwise amend its constitutive documents except without prior written approval of the Employer;

- (k) it has not granted and will not during the Term of this Agreement grant to any third party any rights which are inconsistent with the rights granted under this Agreement;
- (l) the entry into and performance by the Operator of this Agreement does not and will not conflict with any applicable Law in effect on the date of this Agreement;
- (m) the entry into and performance by the Operator of this Agreement requires no governmental or other approvals, or if required, all such approvals have been obtained;
- (n) the entry into and performance by the Operator of this Agreement does not and will not conflict with any document which is binding upon it or any of its assets to the extent that such conflict would be reasonably likely to have a material adverse effect on the ability of the Operator to perform its obligations under this Agreement;
- (o) it has not taken any action nor, to the best of its information and knowledge, after making all due enquiry, have any steps been taken or legal proceedings been started or threatened against it for winding-up, dissolution or re-organisation, the enforcement of any security interest over its assets or for the appointment of a receiver, administrative receiver or administrator, trustee, judicial factor or similar officer of it or of its assets;
- (p) no action, litigation, arbitration or administrative proceedings has been commenced, or, to the best of its information, knowledge and belief following the making of all reasonable inquiry, is pending or threatened against the Operator and nor is there subsisting any unsatisfied judgment decree or award given against it by any court, arbitrator or other body which will materially and adversely affect or impede the Operator's ability to perform its obligations under this Agreement;
- (q) obtain and maintain the Consents during the Term and ensure compliance with all applicable Laws while performing all its obligations under this Agreement and be completely liable for any breach in this respect;
- (r) use the Facilities exclusively for the purposes and in the manner prescribed under this Agreement;
- (s) ensure the payment of all dues in a timely manner, whether to the competent authorities or in respect of use of utilities or to any other parties, incurred while performing its obligations under this Agreement;
- (t) ensure that the Services are implemented in an uninterrupted and continuous manner and that the same are not suspended or stopped unless provided for under this Agreement or under the directions of the Employer;

- (u) it has sufficient O&M Personnel, trained staff, facilities and approved subcontracts or other agreements in place and available to enable the Operator to fully execute the Services;
- (v) it has not granted and will not during the Operating Period grant to any third party any rights which are inconsistent with the rights granted under this Agreement;
- (w) allow access on the Buses and to Bus Stations to all members of the public without any prejudice or discrimination;
- (x) it will promptly Notify the Employer of any event or claim, including but not limited, to any violation or default with respect to any order, writ, injunction etc., which, if substantiated, is reasonably likely to either have a material adverse effect or result in any liability for the Employer;
- (y) keep the Facilities free from any Encumbrances;
- (z) all rights and interests vested in the Operator pursuant to this Agreement shall automatically pass to and vest in the Employer or to any nominee specified by the Employer, without any claims or Encumbrances, on the termination or expiry of this Agreement;
- (aa) no representation or warranty contained herein or in any other ancillary agreement entered into by the Employer pursuant to this Agreement contains or shall contain any untrue, incorrect or misleading statement or omit to state a material fact. In the event that any occurrence or circumstances comes to the attention of the Operator that renders any of its aforesaid representations or warranties untrue or incorrect, the Operator shall immediately Notify the Employer of the same. For the avoidance of any doubt, such Notice shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of the Parties under this Agreement.

12.1.2. Each of the aforesaid representations and warranties shall be deemed to be repeated by the Operator prior to each payment by the Employer in accordance with Section 5 (*Price and Payment Terms*).

**12.2. EMPLOYER'S REPRESENTATIONS AND WARRANTIES**

12.2.1. Without prejudice to the other representations, warranties and conditions expressed elsewhere in this Agreement, or otherwise mandatorily implied by law, the Employer represents, warrants and undertakes to the Operator that:

- (a) it is a company, duly incorporated and validly existing under the laws of the Pakistan;

- (b) it will assist the Operator at all times during the Term to obtain Consents from competent authorities for the implementation of Services;
- (c) it will promptly make payments of all amounts due to the Operator under the provisions of this Agreement.

## **13. ASSIGNMENT AND NOVATION**

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### **13.1. ASSIGNMENT**

- 13.1.1. Except as permitted in Section 13.3 (*Subcontracting*), the Operator shall not assign, transfer or charge, in whole or in part, its rights and obligations to perform or deal in any other manner with any or all of its rights and obligations under this Agreement without with the Employer's prior written consent.
- 13.1.2. The Employer may at any time assign, transfer, charge, subcontract, or deal in any other manner with any or all of its rights under this Agreement without the Operator's prior consent.

### **13.2. NOVATION**

- 13.2.1. Subject to obtaining all relevant prior approvals, the Employer (the "**Transferor**") may assign or transfer by novation all or any part of its rights, interests, benefits or obligations under this Agreement to any entity or entities assuming all or part of the Transferor's rights and obligations under this Agreement (the "**Transferee**") so long as such Transferee shall assume in writing for the benefit of the Transferor and Operator all of the obligations of the Transferor under this Agreement. Upon such assignment or transfer and assumption, the Transferor shall be relieved of all obligations assigned or transferred to and assumed by the Transferee under this Agreement. The Operator hereby agrees and undertakes, as required by the Employer to enter into and execute such further documents (in such form and substance as prescribed by the Employer) to give effect to the aforesaid assignment or transfer by novation.

### **13.3. SUBCONTRACTING**

- 13.3.1. The Operator cannot subcontract the entire Services with respect to the Project.
- 13.3.2. The Operator shall obtain the Employer's prior written consent, not to be unreasonably withheld, for any onsite Sub-Operators who shall be performing any part of the Services.
- 13.3.3. The Operator shall be responsible for the acts, omissions, failure to perform or defaults of any Sub-Operators, its agents or employees, as fully as if they were the acts, omissions or defaults of the Operator, its agents or employees. Any subcontracting by the Operator of any portion of the Services shall not release or discharge the Operator of any of its responsibilities or obligations under this Agreement.

## **14. GENERAL INDEMNITY**

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### **14.1. INDEMNITY BY THE OPERATOR**

14.1.1. The Operator on behalf of itself, its Sub-Operators, O&M Personnel, employees, successors and assignees shall save, defend, indemnify and hold harmless the Employer, the Employer's Representative and each of its respective contractors, agents, representatives, consultants and employees from and against all claims, damages (including any environmental damages), Losses and expenses arising out of or resulting from the performance, non-performance or breach by the Operator of its obligations under this Agreement or the negligence, wilful default or fraud of the Operator, its O&M Personnel, employees, officers, agents or Sub-Operators, including, without any limitation, as a result of any claim;

- (a) in respect of injury or destruction of physical property including third party property; or
- (b) in respect of any third-party claims; or
- (c) in respect of bodily injury, sickness, disease, or death or personal injury or other health and safety liability; or
- (d) arising in relation to any liabilities, incurred by the Operator on the Employer's behalf which are not authorised under this Agreement; or
- (e) by any customer/passenger on the Buses or at the Facilities; or
- (f) for any breach or non-compliance of the Applicable Standards; or
- (g) for the breach of any intellectual property rights or patents as provided in Section 15.2 (*Ownership of Relevant Documents*) and Section 15.3 (*Intellectual Property Rights*); or
- (h) in accordance with Section 2.2.4; or
- (i) in accordance with Section 2.7.1; or
- (j) in accordance with Section 2.17.3; or
- (k) in accordance with Section 5.5.4; or
- (l) in accordance with Section 6.1.3; or
- (m) in accordance with Section 6.3.1; or
- (n) in accordance with Section 6.8.4;

which may be brought or alleged or threatened against the Employer or any of its employees, officers and agents by any person.

14.1.2. This Section 14 (*General Indemnity*) shall survive expiration or termination of this Agreement.

14.1.3. For the purposes of this Section 14 (*General Indemnity*), the term “Operator” shall mean Operator, its affiliates, Sub-Operators and O&M Personnel of any tier, and their respective agents and employees, whether individually or collectively.

## **15. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS**

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### **15.1. OWNERSHIP OF FACILITIES**

15.1.1. Subject to the right to use and/or to Operate and Maintain the Facilities, the Operator shall not acquire through this Agreement any right, title or interest in or to the Facilities. The Facilities are, and shall at all times be and remain, solely and exclusively the property of and continue to remain vested in the Employer, and no right, title or interest in the Facilities shall pass to the Operator.

15.1.2. All records, information and data collected by the Operator in execution of the Services and all Relevant Documents are the property of the Employer. Such records, information, data and Relevant Documents may not be published, transferred, disseminated, or otherwise used in any way without the prior written approval of the Employer.

### **15.2. OWNERSHIP OF RELEVANT DOCUMENTS**

15.2.1. Without prejudice to the other rights of the Employer in respect of this Agreement, the records, information, know-how, plans, maps, documentation, designs, data, results and any associated intellectual property prepared by the Operator pursuant to this Agreement, and the records, information and data collected by the Operator during the performance of the Services (collectively referred to as the “**Relevant Documents**”) shall be in the exclusive ownership of the Employer. The Employer shall retain the copyright and other intellectual property rights in all Relevant Documents and other data furnished or to be furnished by (or on behalf of) the Operator in connection with the Services.

15.2.2. The Operator hereby agrees to indemnify the Employer for any breach of any intellectual property rights by the Operator, its employees, officers, agents, Sub-Operators and / or members arising out of the performance of the Services and this Agreement.

### **15.3. INTELLECTUAL PROPERTY RIGHTS**

15.3.1. In this Section, “*infringement*” means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Services; and “*claim*” means a claim (or proceedings pursuing a claim) alleging an infringement.

15.3.2. The Operator shall be responsible for the payment of all fees, royalties and other charges, if any, that may be payable under the terms of any license or permission in respect of any

patent rights, design trademark, copyright or trade name, intellectual property right or other protected right relating to:

- (a) any design of the Parts provided by Operator; and
  - (b) any work done or method employed in the performance of the Services.
- 15.3.3. If any patent or another industrial right is infringed, the Operator shall procure for Employer the right of utilization either by modification to the effect that they are free of any third party's right or by procuring the third party's authorization of utilization.
- 15.3.4. In the event of any claim being made or proceeding instituted against Employer to which the above provisions applies, Employer shall promptly notify Operator thereof and Operator shall, at its own cost, in Employer's name deal with such claim or conduct such proceedings and settle such claims and any litigation or arbitration that may arise from it. Employer shall not, unless Operator shall fail to deal with such claim or conduct such negotiation, litigation or arbitrations, make any admission prejudicial thereto.
- 15.3.5. The Operator hereby agrees to indemnify the Employer for any breach of any intellectual property rights by the Operator, its employees, officers, agents, Sub-Operators and / or members arising out of the performance of the Services and this Agreement.

## **16. FORCE MAJEURE**

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### **16.1. FORCE MAJEURE**

- 16.1.1. A "Force Majeure Event" will mean an event beyond the reasonable control of the Parties, which materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement; provided, however, that such material and adverse effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, such events include but are not limited to, any of the following:
- (a) Acts of God, including fire, flood, earthquake, tornado, hurricane, or other natural disaster;
  - (b) War, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
  - (c) Terrorist attacks, civil war, civil commotion, strikes, or riots;
  - (d) Nuclear, chemical or biological contamination or sonic boom;
  - (e) Fire, explosion or accidental damage; and
  - (f) Military takeover or political instability.

**16.2. NOTIFICATION OBLIGATION**

- 16.2.1. The Party affected by a Force Majeure Event will give Notice thereof within seven (7) days from the commencement of the occurrence of such event in writing to the other Party and such Notice will include specific details of the occurrence.
- 16.2.2. Provided a Notice has been duly given by the affected Party in accordance with Section 16.2.1, then during the currency of any Force Majeure Event, neither Party will be responsible or liable to the other for any failure or delay in performance of its obligations or be deemed to be in breach of this Agreement, to the extent that such failure or delay is caused by Force Majeure Event.

**16.3. DUTY TO MITIGATE**

- 16.3.1. The affected Party will use all reasonable efforts and will ensure that it uses all reasonable efforts to mitigate the effects of a Force Majeure Event. Furthermore, notwithstanding Section 16 (*Force Majeure*), the affected Party will continue to perform its obligations under this Agreement as far as it is reasonably practical and will seek all reasonable alternative means for performance of its obligations not prevented by the Force Majeure Event.

**16.4. TERMINATION FOR FORCE MAJEURE**

- 16.4.1. In the event the interruption of the affected Party's obligations continues for a period in excess of forty-five (45) calendar days, either Party will have the right to terminate this Agreement upon thirty (30) calendar days prior written notice to the other Party.

**16.5. PAYMENT DURING FORCE MAJEURE EVENT**

- 16.5.1. Upon the occurrence of any Force Majeure Event after the Commencement Date, the Operator shall be entitled to submit its claim for any additional Costs incurred. The Employer shall then proceed in accordance with Section 3.5 (*Determinations*) to agree or determine any Costs (if any) which the Operator is entitled during the pendency of a Force Majeure Event.

**17. CHANGES**

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**17.1. CHANGES**

- 17.1.1. Each Party may, from time to time, propose changes in accordance with Section 17.2 (*Additional Services*) in the scope of the Services to be provided by the Operator under this Agreement, which changes will be subject to mutual agreement of the Parties. The Operator will advise the Employer if any proposed change will result in a change in the price or payments, or have other impacts upon the terms or performance of the Services and this Agreement. Neither Party shall be obligated to proceed with any change until the Parties have agreed upon its effect and signed a written amendment or change order document.



## **18. NOTICES**

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**18.1.** All notices required or desired to be given pursuant to this Agreement shall be in writing and shall be delivered by personal in-hand delivery, sent by facsimile transmission, or sent prepaid by recognized delivery service (such as Federal Express), addressed as follows:

(a) If to Operator:  
Address: [●]  
Tel.: [●]  
Email: [●]  
Attention: [●]

(b) If to Employer:  
Address: [●]  
Tel.: [●]  
Email: [●]  
Attention: [●]

Such notices shall be deemed to have been given when delivered in the case of in-hand delivery, on the date shown by a facsimile transmission report or confirmation in the case of successfully completed facsimile transmission, and on the date of delivery in the case of delivery service. Either Party may modify its address for notices by advance written notice to the other Party delivered in conformance with this Section 18 (*Notices*).

## **19. DISPUTE RESOLUTION**

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### **19.1. NOTICE OF DISPUTE**

19.1.1. In the event that there arises between the Parties any dispute, controversy or claim arising out of or relating to this Agreement, including, without prejudice to the generality of the foregoing, the breach, termination or validity thereof, the Party wishing to declare a dispute shall deliver to the other Party a written notice identifying the disputed issue (the “**Dispute**”).

### **19.2. RESOLUTION BY PARTIES**

19.2.1. Within fifteen (15) days of delivery of a notice of a Dispute, the Parties shall use best efforts to settle the Dispute by discussions between members of the senior management of each Party. In the event that such individuals are unable to reach agreement within fifteen (15) days, or such longer period as they may agree, then both Parties (if acceptable) shall refer the Dispute for arbitration.

### **19.3. ARBITRATION**

Any Dispute that is not resolved within thirty (30) days of delivery of a notice of dispute

pursuant to Section 19.2 (*Resolution by Parties*) shall be finally settled by arbitration under the Arbitration Act.

- (a) The arbitration shall be conducted in Karachi, Pakistan. Except as awarded by the arbitral tribunal, each Party shall be responsible for its own costs incurred by it in connection with an arbitration hereunder.
- (b) No arbitrator shall be an employee or agent or former employee or agent of the Parties.
- (c) The decision of the arbitrators shall be final and binding upon the Parties. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The Party in whose favor the award is given may enforce such award or judgment in any jurisdiction, including any jurisdiction where the other Party's assets may be located. Except as the Operator and the Employer otherwise agree in writing pending the final resolution of any dispute in accordance with this Section 19 (*Dispute Resolution*), the Operator shall proceed diligently with the performance of the Operator's obligations under this Agreement and in compliance with the Employer's or Employer's Representative's directions, respectively.
- (d) The language at any arbitration under this Agreement shall be English.

#### **19.4. PERFORMANCE TO CONTINUE DURING ARBITRATION OR LITIGATION**

- 19.4.1. Unless this Agreement shall already have been terminated, the Parties shall in every case proceed with the performance of all of their obligations under this Agreement during, and notwithstanding, any resolution of Disputes in accordance with Article 19 (*Dispute Resolution*).

#### **20. RELATIONSHIP**

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- 20.1. The Parties to this Agreement are independent entities. Neither Party is an agent, representative or partner of the other Party. Neither Party shall have any right, power or authority to enter into any contract or memorandum of understanding for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, collaboration or partnership between the Parties or to impose any liability attributable to such relationship upon either Party.
- 20.2. At all times, the Operator shall act with appropriate propriety and discretion and in particular shall refrain from making any public statement concerning this Agreement or the Services without the prior approval of the Employer and shall refrain from engaging in any political activity.
- 20.3. The Operator shall report immediately to the Employer any accident or injury and any damage to the property of the Employer or to the property of persons or any third parties occurring in or arising out of the performance of the Services and any act, manner, or

thing which, within his knowledge, may have caused such accident or injury. The Operator shall also report immediately to the Employer any circumstances or events which might reasonably be expected to hinder or prejudice the performance of the Services.

## **21. AMENDMENTS**

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- 21.1. This Agreement may not be amended or modified unless the Employer has given its consent for such amendment in writing.

## **22. VALIDITY AND ENFORCEABILITY**

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- 22.1. The invalidity or unenforceability of any portion or provision of this Agreement will not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision will be deemed separated from this Agreement, and the balance of the Agreement will be construed and enforced as if the Agreement did not contain such invalid or unenforceable portion or provision. Notwithstanding the provisions of the preceding sentence, should any term or provision of this Agreement be found invalid by any court of law having jurisdiction thereof, the Parties will immediately renegotiate in good faith such term or provision of the Agreement to rectify such invalidity.

## **23. EXCLUSIVE RIGHTS AND REMEDIES**

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- 23.1. The rights and remedies set forth in this Agreement are the exclusive rights and remedies of each Party with respect to this Agreement, its performance or breach.

## **24. ENTIRE AGREEMENT**

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- 24.1. This Agreement and all schedules, exhibits, attachments, and annexures, if any, hereto, constitutes the entire agreement between the Parties pertaining to the subject matter thereof and there are no binding understandings between the Parties pertaining to the subject matter hereto that are not contained in this Agreement. This Agreement will supersede and cancel any and all previous contracts, arrangements or understandings that may have existed or may exist on these matters between the Parties. This Agreement may only be amended by a written instrument executed between the Parties.

## **25. LANGUAGE**

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- 25.1. The language of this Agreement, and all documents, materials and training, if any, to be supplied by the Operator under this Agreement shall be English.

## **26. SURVIVAL**

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- 26.1. Notwithstanding anything to the contrary contained in this Agreement, all such relevant provisions of this Agreement that are required for the enforcement of each Party's

obligations and for the settlement of liabilities, in each case, upon termination or expiry of this Agreement shall survive the termination or expiry of this Agreement until such obligations have been performed and the liabilities settled. Furthermore, any other provisions expressly specified in this Agreement to survive termination shall survive termination of this Agreement.

## **27. NO WAIVER**

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- 27.1. No forbearance, indulgence or relaxation or inaction by any Party at any time, to require performance of any of the provisions of this Agreement shall, in any way, affect, diminish or prejudice the right of such Party to require performance of that provision and any waiver or acquiescence by any Party of any breach of any of the provisions of this Agreement shall not be construed as a waiver of or acquiescence to any continuing or succeeding breach of such provisions or a waiver of any right under or arising out of this Agreement, or acquiescence to or recognition of rights and/or position other than as expressly stipulated in this Agreement.

## **28. GOVERNING LAW**

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- 28.1. This Agreement will be governed in accordance with the laws of Pakistan.

## **29. COUNTERPARTS**

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- 29.1. This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were a single copy of this Agreement, provided, that all counterparts have been duly executed by both Parties hereto.

**SIGNATURE PAGE**

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**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed the day and year first above written in accordance with their respective laws.

**AS EMPLOYER**

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For and on behalf of **SINDH  
INFRASTRUCTURE DEVELOPMENT  
COMPANY LTD** through its authorised  
signatory

}

SIGNATURE

.....

Name:  
Designation:

SIGNATURE

IN THE PRESENCE OF  
**WITNESSES:**

.....

1- Name:  
Address:  
CNIC / Passport No:

.....

2- Name:  
Address:  
CNIC / Passport No:

**AS OPERATOR**

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For and on behalf of [INSERT OPERATOR] through its authorised signatory



SIGNATURE

Name:  
Designation:

.....

SIGNATURE

IN THE PRESENCE OF  
**WITNESSES:**

1- Name:  
Address:  
CNIC / Passport No:

.....

2- Name:  
Address:  
CNIC / Passport No:

.....

## SCHEDULE A: OPERATOR'S SCOPE OF WORK

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### 1 INTRODUCTION:

- 1.1 The Employer is developing the BRTS Green Line Project for the city of Karachi consisting of:
  - (i) 21 km BRTS Green Line from Surjani (Abdullah Mor) to Municipal Park with approximately twenty-five (24) Bus Stations with an average distance of approximately nine hundred (900) meters between each Bus Station.
- 1.2 Route Alignment and List of Bus Stations for the BRTS Green Line Corridor is attached in Exhibit 1.
- 1.3 The Green Line Corridor of the BRTS Green Line Project has been completed with state-of-the-art Intelligent Transport System (ITS) installations including Automatic Fare Collection (AFC) Systems, Operations Command & Control (OCC) Centre, monitoring cameras, surveillance and control mechanism, well-spaced bus stations. According to the original scope, the project was to end at Gurumandir. However, with other BRTS lines passing through M.A. Jinnah, a common corridor at Numaish and ending at Municipal Park has been included in BRTS Green Line Project as its extended scope.
- 1.4 The Employer seeks to procure services of firms/entities to perform activities related to Stations Management and Security Services along the Green Line Corridor for the Operationalization of BRTS Green Line Corridor.
- 1.5 The Services comprise all activities required to effectively deliver the following:
  - a) Facility Management Services for all Stations along BRTS Green Line Corridor;
  - b) Security Services all along BRTS Green Line Corridor including Stations;
  - c) Utility Services Maintenance, Management & Expenses of BRTS Green Line Corridor, Bus Stations along the Green Line Corridor and Operations Control Centre Building;
  - d) Utility bills including water, gas etc. for all stations along the Green Line BRTS Corridor and Operations Control Centre Building will be paid by the Operator. In relation to electricity bills, payments shall be made by the Employer directly to K-Electric, subject to a cap of 60% lead. Any consumption beyond 60% will be the responsibility of the Operator. Also, the Operator should provide Broadband high-quality internet connection with a speed of 20 Mbps and unlimited download at the Operations Control Centre;
  - e) Repair, Maintenance & Reinstallation of general supplies at the stations such as lights, fans, dustbins, benches etc. excluding all ITS equipment provided in Exhibit 2. List of all general supplies are provided in Exhibit 3;

- f) Monitoring and Reporting;
  - g) Fare collection services along all Stations.
- 1.6 Responsibilities and Obligations: This section describes the general contractual responsibilities and obligations of the Operator with respect to the Green Line Agreement.
- 1.6.1 Responsibilities: The Operator is responsible to ensure the Services in this specification for the term of the Green Line Agreement and shall undertake all activities to deliver these activities at no additional cost to the Employer, except for:
- a) Repair or replacement of systems that have been damaged by a vehicle, unless the vehicle is commissioned by or on behalf of the Operator.
- 1.6.2 Obligations: The principal obligations of the Operator are as follows:
- a) Service Commencement. As of Services Commencement, the Operator shall perform the Services, as per the O&M Plan and in accordance with the Station Safety and KPIs as per Section 8 of this Schedule.
  - b) Management Plan and Monitoring System. The Operator shall put in place and observe an adequate management plan and monitoring system.
  - c) Maintenance. The Operator shall be solely responsible for all maintenance repairs and replacements in respect of all Bus Stations including but not limited to pedestrian bridges, busway corridor components including street poles and lights, electrical sub-stations etc. with due regard to the prevailing international standards. The Operator shall be obliged to take all steps necessary to ensure the due, proper, and timely discharge of all the preventive maintenance obligations prescribed from time-to-time by the suppliers' specifications. Excluded from the above maintenance requirement are components under the maintenance regime of third-party entities contracted separately by the Employer; these excluded components include the automatic station doors, elevators and escalators, station power generator, busway entry gates, and the busway pavement, and delineator curbs. Details of electric load calculations and elevators are set out in Exhibit 9 and Exhibit 10.
  - d) Operational and Maintenance Staffing. The Operator shall appoint a sufficient number of employees with the necessary skills, knowledge, experience, and qualifications to ensure that it is and remains able to discharge all its operational and maintenance obligations in terms of the Green Line Agreement in a timely and effective manner and to that end shall ensure, at its sole cost and expense, that all its operational and maintenance employees undergo the necessary ongoing training and/or instructions and evaluations to ensure compliance with the applicable standards.



- e) Green Line Corridor will be operational in phases. In the first phase Corridor from Green Line Bus Depot at Surjani to Numaish Underpass will be operational including the Operations Control Centre Building. However, the Common Corridor between Numaish and Municipal Park will be operational by the 2<sup>nd</sup> quarter of 2022. The Operator has to make arrangement for all items in the scope of work accordingly. The Employer will inform Operator one month prior to operational inauguration of common Corridor.
- f) Conformance to Local, Provincial, and National Laws. The Operator shall be responsible for abiding by all the laws of the land especially the labor laws in relation to those who are employed by the Operator.

## **2 FACILITY MANAGEMENT SERVICES**

### **2.1 Scope**

2.1.1 The Services shall consist of the activities required to operate, manage, and control the Bus Station environment for Green Line BRTS Corridor. The Operator shall provide the following services in the delivery of Services:

- a) Passenger services
- b) Security
- c) Cleaning and landscaping
- d) Reporting of faults, incidents, and emergencies.

### **2.2 Passenger services**

#### **2.2.1 Passenger assistance**

- a) System information. The Operator shall provide sufficiently trained staff to help passengers with information and assistance that includes, but is not necessarily limited to:
  - Use of the BRT system in general
  - Use of the fare system
  - Location and access to routes, stations and stops, and specific destinations near Bus Stations
  - Transport integration, links to other transport services, such as other public transport services
  - Customer complaints and feedback. The Operator shall establish procedures and mechanisms to facilitate ease of customer feedback and the lodging of complaints.
  - Public address system. The Operator's station personnel shall manage local messages of the public address (PA) system, including messages regarding system operations, security situations, and public service information.

- b) Queue and seating management. The Operator shall be responsible for managing queues at Bus Stations and for ensuring proper use of preferential seating. These activities include:
  - Queue management including remedial actions for queuing at automatic gates, fare vending machines, and manual fare sales locations;
  - Management of boarding and alighting passenger flows to minimize the time each Bus spends at the Bus Station or stop;
  - Management of seating priority in the Buses for women and special needs passengers (such as persons with physical disabilities).
- c) First aid and emergency management. The Operator shall provide first aid and emergency services for the system. The Operator's personnel shall be trained to provide first responder first aid treatment to passengers and personnel. Specially-designated personnel of the Operator shall be trained in fire response actions, including evacuation procedures and fire-fighting skills.
- d) Lost and found. The Operator shall be responsible for establishing a system of recovering, storing, and returning to the rightful owner, articles that are found at Bus Stations and in Buses.
  - The Operator shall establish a Lost and Found collection point so that the public will be able to contact a single location to recover lost items. Lost property found on the Buses will also be handed over to respective Operator's personnel at Bus Station for depositing in lost and found center.
  - The Operator shall ensure that reasonable steps are taken to contact the owner of the lost property and that reasonable steps be taken to ensure that any person claiming an item is the rightful owner or a person who has a right to claim such property.
  - The Operator shall ensure the safe storage of lost property for a period of no less than three (3) months. Any lost property not claimed by the end of the three-month period shall be handed over to the Employer, or on receipt of written instruction from the Employer, the Operator shall dispose of such unclaimed lost property.

## 2.3 Security

### 2.3.1 Scope and assignment of responsibility.

- a) Scope. Through the course of the Green Line Agreement, the Operator shall, at all times (for Bus Station operating and non-operating hours) be responsible for the security of all Bus Stations and the BRT Green Line Corridor including to and from the last Bus Station at Surjani to Green Line Bus Depot for Green Line Operations.
- b) To that end, the Operator shall take all steps reasonably necessary to protect the Bus Stations inclusive of all equipment and software. This responsibility includes all other physical assets of the Employer handed over to the Operator against the risks of inter alia fire, flood, theft, sabotage, vandalism, political riot,

insurrection or terrorism, accident and physical damage to or destruction of the systems and other physical assets of the Employer and Operator.

- c) The Operator is also required to provide complete security of Operations Control Centre. Location of Operations Control Centre is attached as Exhibit 4.
- d) Assignment of responsibilities. Responsibility for damage or injury to persons on Bus Stations, or property of the passengers:
  - If the damage or injury is caused by the Operator or persons for who the Operator is responsible, then the Operator is responsible
  - If the damage or injury is caused by third parties e.g. vandals/other passengers, then the Operator is responsible
  - If the damage or injury is caused by the Employer personnel or persons for who the Employer is responsible, including the Bus Operating Company, Fleet Supplier, ITS Supplier then the Employer is responsible.
  - If there is damage to the Buses due to the Operator, the cost for repair or replacement of any parts shall be borne by the Operator
- e) Confidentiality. The Operator shall develop mechanisms and means to ensure adequate precautions to protect the privacy and confidentiality of all data and confidential information pertaining to the security plans, in relation to this Operator or the security services.

### 2.3.2 Personnel

- a) Code of conduct. The Operator shall prepare and implement a code of conduct for each staff deployed at Bus Stations and shall be required to obtain approval of the Employer for the code of conduct.
- b) Training. The Operator shall ensure that the security personnel are properly trained, instructed, supervised, and disciplined in relation to the provision of security services as well as firefighting and emergency procedures. The Operator shall develop a code of conduct for the security personnel and shall require Employer acceptance of this policy. The Operator shall be responsible for all acts done by the personnel engaged by the Operator. This includes violations at Bus Stations and while boarding and alighting of passengers at Bus Stations.
- c) Regulatory compliance. All security personnel shall comply with the relevant legislation and regulation regarding the private provision of security services.
- d) Background checks. The Operator shall provide all the information required by the Employer to facilitate ground check/security clearance from the related Government agencies of all the Operator's personnel. The Operator shall conduct its own due diligence in hiring of staff for BRT systems.

- e) Uniforms. The Operator shall ensure that all the security staff members wear a clean and well-kept uniform at all times. Samples of uniform designs are attached as Exhibit 5.
- f) Licensing of Weapons. Licensing of all weapons required by the Security Personnel will be the responsibility of Operator.
- g) Age Limit. The Operator should make sure that the age limit for the security guards will be 45 years.
- h) Hand Held Scanning Devices. The Operator will be responsible to provide hand held scanning devices to all security guards deputed behind the metal detector gates at the Bus Stations and Operations Control Centre.

### 2.3.3 Station and corridor access control

- a) Station security check. The Operator shall provide dedicated security personnel to perform a security inspection on passengers prior to entry into the paid area of the stations. The security inspection shall be comprised of operating and managing the walk-through metal detector, performing a physical and visual inspection of bags and other carry-on items, and delivering a pat-down screening, if deemed necessary.
- b) Prevention of fare evasion. The Operator shall be directly responsible for prevention of fare evasion at Bus Stations, including fare evasion at Bus Station entrances, over Bus Station fences, over or through automatic gates, or through any other openings at a Bus Station. Only validated passengers will be permitted to enter the paid area of Bus Stations and Buses. Operator personnel shall take appropriate action in the event of fare evasion or other behavior not in line with the Employer's conditions and may turn suspects in to law enforcement officials, subject to further agreement between the Employer and law enforcement. The Operator shall implement standard procedures to be followed if the automatic gates fail to operate correctly due to a power failure, system malfunction, breakage of parts or any other reason, subject to review and approval by the Employer.
- c) Bus Station and Platform security. Security personnel shall also provide a security presence and surveillance of the station platform areas. The platform security team shall particularly address the following types of issues:
  - Vagrants and pickpockets. The Operator shall manage and prevent the presence of vagrants and pickpockets in and around the stations.
  - Prevention of vehicle over-crowding. The Operator shall ensure passengers are prevented from boarding a Bus if the Bus is filled beyond its legal capacity.
  - Crowd control. The Operator shall execute crowd control measures if unsafe platform conditions are to arise. The Operator shall enact emergency procedures to ensure the safe evacuation of Bus Stations, if necessary.

- d) Corridor access control. The Operator shall prevent the entry of private vehicles in the corridor by managing and operating the entry gates at points of entry and exit of the corridor and any other points from where a vehicle can enter into the corridor. The Operator shall provide armed security staff at these entry points for 24 hours. There are 2 opening and exit points for Green Line Corridor apart from start and end points.
  - e) Staff access control. The Operator shall manage staff access and duly authorized representatives from Operator to the equipment rooms. The Operator shall maintain a record of access in line with protocols issued by the Employer as amended from time to time.
  - f) Bus Station opening and closing. The Operator shall ensure that all the relevant Bus Stations are unlocked and prepared and ready for service at least 15 minutes before the first Bus is due to arrive at a given Bus Station. The Operator shall also ensure that the Bus Station is locked and secure once the last service has been completed and preparations for the next day have been executed. The operations are expected to start at 6:00 AM (Pakistan Standard Time) and would continue till 11:00 PM (Pakistan Standard Time).
  - g) Security hours. The Operator shall ensure that the Bus Stations are appropriately guarded during and outside of operating hours. The Operator shall be responsible to turn on and off: Bus Station lights, Green Line Corridor lights, fans, and other electrical/electronic equipment, including electric motors and water coolers.
- 2.3.4 Closed-Circuit Television (CCTV) surveillance. Through CCTV system, the Operator's CCTV security operators in the Operations Control Center shall monitor the Bus Stations and Green Line Corridor to detect security anomalies. In case of anomalies at the Bus Stations, the authorities will be notified to take the appropriate action. The Operator shall devise the security response protocols for any staff to respond to each described situation. Apart from this Operator is also expected to install a display screen at each and every station and connect it with station cameras installed by the Employer. The Operator will deploy staff to view the display unit throughout the operational hours and in case of any emergency or unusual condition report to the relevant staff.
- 2.3.5 Rapid response teams. The Operator shall operate armed emergency response teams to address major security incidents at any location in the system.
- a) Response times and daily coverage. Upon request from the Operations Control Center, the rapid response vehicles shall depart within ten minutes to the location of the emergency. The teams will also respond to situations in which pedestrians or vehicles illegally enter into the Green Line Corridor. The teams shall be available on standby over a daily 24-hour period. The teams shall patrol the Green Line corridor at night.
  - b) Number of teams and location. Three rapid response teams, consisting of two persons per team, will be formed and posted at the following locations along the

Green Line corridor: i) Green Line Bus Depot; and ii) Numaish Underpass Facility.

- c) Costs. The Operator is responsible for all costs associated with the operation of the rapid response teams.
- d) Weapons. The purchase and license of each weapon carried by each member of the emergency response team shall be the responsibility of the Operator.
- e) Training. The Operator shall provide the emergency response team members with comprehensive training on: i) security response measures; ii) weapon usage and management; iii) crowd management; and, iv) first aid.
- f) Regular Monitoring Team. Apart from the Rapid Response Teams, the Operator will also deploy field staff for regular monitoring of Green Line Corridor. In this regard the Green Line Corridor can be divided into 4 stretches. A field inspector with motorcycle shall be deputed at each stretch. All costs associated to the maintenance and purchase of vehicles/motorcycles will be responsibility of Operator

#### 2.3.6 Safety

- a) Scope. The Operator shall at all times take all the steps reasonably necessary to protect against the risks of personal injury or death and loss of property or damage to:
  - Members of the public
  - Passengers entering and exiting from the Bus Station
  - All employees, agents, and Contractors of the Employer and the Vehicle Operating Company.
- b) Safety plan. Operator shall prepare a passenger safety plan and shall submit the plan to the Employer for review and approval.
- c) Emergency procedures. The Operator shall respond to any emergencies in accordance with the established emergency procedures as agreed between the Operator and Employer, as may be supplemented through protocols.
- d) Monitoring of public events. The Operator shall monitor and provide information about public events or other activities in the geographic area that may affect Bus operations or safety.
- e) Removal of obstacles. The Operator shall remove immediately (response time of 15 minutes) obstacles that fallen upon the Green Line Corridor and that affects the safety of the BRT Green Line operations.

### 2.3.7 Reporting of emergencies

- a) Reporting of emergencies. Emergencies and other incidents at Bus Stations and in the corridor shall be reported to the Operations Control Center. A record of all emergencies or incidents shall be kept. The staff deputed at CCTV Surveillance section of Operations Control Center shall also log and track such emergencies and incidents to initiate appropriate response measures such as notifying law enforcement agencies and/or emergency services.
- b) Notwithstanding the preceding paragraph, the Operator's personnel at Bus Stations shall be trained to judge and respond appropriately to any given situation, including directly contacting the appropriate law enforcement agencies and/or emergency services.
- c) Reporting of criminal activity. The Operator shall hold, retain and handover those committing criminal activity, violating code of conduct or theft to police, launch application for a First Information Report (FIR) against the criminal or the crime, and follow up accordingly. The Operator shall enforce code of conduct for passengers issued by the Employer, impose and collect fines, if so authorized.
- d) Communications system. The Operator shall provide an additional communication system that consists of devices such as mobile telephones and UHF/VHF handhels allowing personnel within Bus Stations to communicate with one another, and to contact law enforcement and emergency services if the primary communication system is not operational.
- e) The Operator shall ensure the communication system is operational 24 hours a day, 365 days of the year. Any problems with the communication system shall be reported immediately to the Operations Control Center.

### 2.4 Cleaning and landscaping

2.4.1 Scope. The Operator shall be responsible for the cleaning and upkeep of the Bus Stations, pedestrian bridges along the Bus Stations and Green Line busway Corridor. The Operator shall also provide on-going landscaping support to ensure the Bus Station and corridor greenery is healthy and well-maintained. Particular emphasis should be given to the green belt developed between Nagan Chowrangi and Board Office along Green Line BRTS Corridor.

#### 2.4.2 Personnel

- a) Training. The Operator shall ensure that sufficient Personnel are employed to render the cleaning services and that such Personnel are properly trained in the use of the cleaning equipment and materials as well as in all relevant cleaning procedures and safety precautions to which they must adhere.

- b) Regulatory compliance. The Operator shall ensure that cleaning personnel comply with all the relevant laws and procedures, and that all the necessary safety signage is used during cleaning to prevent any potential injuries of any persons using the stations.
- 2.4.3 Supplies. The Operator shall procure the necessary janitorial, cleaning, and landscaping supplies.
- a) Cleaning supplies. The Operator shall provide all equipment and materials required to clean the Bus Stations (platform, pedestrian bridges/ramps, 30 m on either side of the access to pedestrian bridges, facilities area, toilets, which may include: industrial-type vacuum cleaners, industrial auto-scrubbers, industrial multi-speed burnishers, hose pipes, industrial machine sweepers, mops, brooms, buckets, janitor trolleys, ladders, industrial carpet cleaners, industrial cleaning chemicals, and personal protective clothing where needed (including face masks and gloves)
  - b) Landscaping supplies. The Operator shall provide all equipment and supplies required to perform landscaping, which may include: fertilizer, water hoses, shovels and spades, pruning shears, garden hoes, soil knives, and rakes
  - c) Non-damaging usage. The Operator shall ensure that the cleaning equipment, materials, and methods used are not abrasive or detrimental in any way to any of the surfaces
  - d) Storage of supplies. The Operator shall ensure that no cleaning equipment is left in any public spaces. All cleaning equipment shall be stored in a locked location when not in use.
- 2.4.4 Bus Station cleaning. The Operator cleaning personnel shall be responsible for basic cleaning of the Bus Stations (including platform, facilities area, pedestrian bridges, ramps, flyovers and underpasses etc.) during the operational day.
- a) Basic cleaning. Basic cleaning shall include but is not necessarily limited to:
    - Picking up litter within 20 minutes, if lying inside the Bus Station
    - Dry wiping of all surfaces and cleaning of glass surfaces
    - Sweeping and mopping of floors
    - Drying floor space inside the station made wet by rain, water fountain, or damp carried in by the passengers' feet, regularly throughout the day
    - Sanitizing glass doors, automatic gates, and surfaces often touched by passengers.
    - Cleaning of toilets, providing overall toilet safety and replenishing consumables inside toilets (toilet paper, paper towels, liquid soap, toilet disinfectant etc) emptying and cleaning bins inside the Bus Station before bins are full. List of toilets along the Green Line Corridor is provided in Exhibit 6.
    - Cleaning of platform sliding doors, escalators, and elevators (external surfaces only)



- Keeping the Bus Stations in an overall neat and tidy condition.
- b) Steam cleaning. Steam cleaning of the Bus Stations must be undertaken periodically, but at least once every week (includes washing).
- c) High cleaning. The cleaning services include the cleaning of all areas, surfaces, and structures within the Bus Stations. The cleaning of areas higher than 3 meters ("High Cleaning") including exposed top roofs shall take place at least once every two weeks (includes washing). Accordingly, the Operator shall ensure that it has the necessary cleaning equipment and adequately trained personnel to execute High Cleaning including but not necessarily limited to the following:
- electronic and other high signage;
  - CCTV camera housings;
  - Passenger information displays;
  - sign poles;
  - external signage; and
  - Internal and external surfaces of the Bus Station building including pedestrian bridges.

#### 2.4.5 Waste Management

Bus Station waste management. The Operator shall manage the waste bins located on the platforms and Bus Stations. The Operator shall ensure the waste bins are cleared to a waste hauler on a daily basis. The Operator shall organize and procure the removal of this waste with a waste hauler that will be capable of ensuring the recyclables are processed accordingly. The waste bins at the Bus Stations will be installed by the Employer. However, replacement of waste bins once torn out will be the responsibility of Operator throughout the contract term.

#### 2.4.6 Green Line Corridor cleaning. The Operator shall be responsible for the regular cleaning of the Green Line busway Corridor (i.e. the dedicated busway infrastructure from Green Line Bus Depot to Municipal Park for Green Line BRTS). The Operator shall undertake the following activities in the cleaning of the corridor:

- a) On a daily basis remove visually identifiable trash and waste from the corridor (full length of Green line busway Corridor)
- b) Three times a week, the delineator barriers and fencing (i.e. strip separating the busway from the mixed-traffic lanes) shall be cleaned and the draining slots shall be inspected for obstructions (and obstructions shall be removed thereafter)
- c) Once a week, the full length of the Green Line Corridor shall be cleaned using the motorized street sweeper, removing all dust and other fine particles from the corridor including staging facility at Numaish and Municipal Park. All costs regarding vehicle operations (fuel, driver, mechanics etc.) is on the account of the Operator

- d) During periods of rain, ponded water shall be removed from the corridor or Bus Station area.
  - e) The Operator shall ensure that trash and litter generated within the Green Line Corridor and Bus Stations is collected and disposed of in a manner approved by the Employer.
  - f) The Operator shall remove unauthorized banners, streamers, advertising material, stickers, and wall chalking along the Green Line Corridor, at Bus Stations, and on pillars of elevated portions of Green Line Corridor. Operator shall remove such unauthorized materials in reasonable time (not more than 24 hours).
- 2.4.7 Landscaping. The Operator shall provide landscaping services for the greenery along the Green Line busway Corridor. The physical scope of the landscaping services will include the greenery in the delineator area between the busway lane and the mixed traffic lanes particularly between Nagan Chowrangi and Board Office along Green Line BRT Corridor as well as other greenery within the busway, including plantings at the station areas. The landscaping services will include any necessary watering of the plants and any periodic pruning or care required to keep the landscaping in a healthy and visually-aesthetic condition.
- 2.4.8 There are 8 types of Bus Stations along the Green Line BRT Corridor. Drawings for each type of Bus Stations along Green Line Corridor is provided in Exhibit 7.

### **3 FARE COLLECTION SERVICES.**

- 3.1 Scope and due diligence. The fare collection services shall consist of the activities required to operate and manage the collection and validation of passenger fare revenues.
- 3.2 Due diligence. The Operator must exercise the highest degree of skill, care and diligence in the provision of the fare collection services and operate the fare collection services strictly in accordance with the provisions of the Green Line Agreement to the satisfaction of the Employer and in accordance with the standards normally expected of a fare collection service provider. Operator shall comply with and strictly adhere to the Employer's instructions and directions from time to time regarding the operation of the fare collection services. The Operator will take instructions and directions only from a representative of the Employer.

#### **Fare collection**

- 3.3 Sales of fare media. The Operator will be responsible for fare collection through the sales of contactless smart cards and single-use fare cards. The Operator shall also manage the sales of top-ups for the stored value cards (i.e. the contactless smart cards).
- 3.4 Sales points. The contactless smart cards shall be offered for sale through the Bus Station fare kiosks, fare vending machines, and third-party agents. The topping-up of stored value will be offered for sale through the same outlets as well as through on-line and

mobile apps options. The single use fare cards shall be offered for sale by Operator staff at Bus Station kiosks, by third-party entities at off-system locations, and through the on-line and mobile apps sales system. Employer reserves the rights of advertisement on Mobile app and proceeds of revenue from such exercise.

- 3.5 Availability. The Operator will guarantee the availability of these sales services for access to the Employer staff or its representatives during operating hours. Should any user, for a reason attributable to the Operator, not be able to acquire fare media or add stored value or procure a single-use fare card, the user must be allowed to enter the system free of charge, and the Operator will bear the cost of the fare lost due to its own fault, at the full tariff in force.
- 3.6 The Operator will guarantee that at all times of operation, and at each Bus Station, personnel will have a sufficient stock of fare media to attend to the demands of the system.
- 3.7 Fare media. Employer shall not accept any other fare card or other payment medium as payment for transport services except fare media issued by the Operator, unless otherwise approved by Employer.
- 3.8 The Employer will provide 120,000 Fare Media Cards to the Operator at the start of BRT Green Line operations. The Operator will be responsible to distribute these cards proportionately to Bus Stations based on the demand patterns. In case the fare media cards are finished, the Employer will be responsible to provide more cards to the Operator. The Operator will inform the Employer well in advance before the Fare Media cards are finished. Employer reserves the rights of advertisement on Fare Media Card and proceeds of revenue from such exercise.
- 3.9 Fare policy and pricing. The Employer will determine the fare media structure and price, which may vary from time to time. The Operator shall ensure that these fare media are sold to passengers at the price determined by Employer marked up with no more than the price communicated by the Employer.
- 3.10 Personnel. The Operator shall ensure that the point-of-sales (Bus Station fare kiosks) are staffed with trained personnel at all Bus Stations and provide services to passengers during all operating hours. The number of personnel required and their associated skill requirements shall encompass the following areas:
  - a) Fare media registration and deregistration
  - b) Lost and stolen fare media processes
  - c) Fare media sales (contactless smart cards and single-use fare cards)
  - d) Depute staff at ticket vending machine for first three (3) months of operations only to help passengers in using TVMs.
  - e) Stored-value top-up sales
  - f) Registration and follow up of complaints
  - g) Registration and handling of passenger claims due to faults with the fare media.
  - h) Customer service inquiries related to fares, products, use of the fare media, equipment, top-up methods, etc.

- i) Potential partial refunds of stored value in case of BRT Green Line service malfunctions.
- 3.11 Customer communications
- a) Customer service and communications training. The Operator will put in place the necessary training and management to ensure excellence in customer service for all passenger interactions involving the fare system. Staff shall be trained to respond in a timely, friendly, and helpful manner to all customer requests.
  - b) The Operator will inform customers of any problems with the fare system prior to the receipt of payment, if the situation so requires. The Operator will also inform the Employer if such an eventuality occurs. The Operator will also use the public announcement system available at each Bus Station to communicate any general fare system issues.
- 3.12 Smart card registration. The Operator shall manage the registration of the fare media at the prices prescribed by the Employer. The Operator is responsible for initializing, personalizing, and distributing the fare media. The Operator shall develop the processes to register customers for receipt of the smart cards and for managing the card registration process through each of the sales channels.
- 3.13 Revenue management. The Operator shall be responsible for the collection, secure management, and transfer of all fare revenues into the system for each of the following sources:
- a) Cash sales. The Operator is responsible for the collection of all cash revenues from the fare system. Cash payments will be received by Operator Staff from fare sales at the Bus Station kiosks, at the Bus Station fare vending machines. The Operator shall ensure the security of the cash collected at all times from the moment the payment is received from the customer until the revenues are transferred to the staff of Fund Manager notified by the Employer. The Operator shall be fully responsible for any funds lost or stolen while the funds are under the purview of the Operator (i.e. from receipt of the customer payment through the handing over of funds to the Fund Manager representative every night before closing the Bus Station).
  - b) Credit/debit card sales. The Operator is responsible for the collection and charging of customer payments by credit cards or debit cards to the accounts notified by the Employer. Sales through credit or debit cards may take place at the Bus Station kiosks or through the fare vending machines and/or on-line app. On-board sales of single-use fare cards will only be conducted in cash.
  - c) Revenue protection. The Operator shall ensure the secure storage of cash collected at the Bus Stations

3.14 Clearing and settlement processing

- a) Processing and settlement audits. The Operator shall fully cooperate with the assigned information system auditor and extend all the necessary access, support, and cooperation for the completion of audits (as and when required).

**Fare validation**

3.14.1 Roles and responsibilities. The Operator is responsible for validating the fares of all passengers entering the BRT Green Line Corridor.

3.14.2 Pre-board fare validation at Bus Stations. The Operator shall manage pre-board fare validation at the Bus Stations. The process involves managing the validators and fare gates prior to customer entry into the closed station platform areas.

3.14.3 Fare gates. The Operator shall configure the direction of the automatic gates to optimize the passenger flow during operating hours.

3.14.4 Inspection. The Operator shall employ roving fare inspection personnel to inspect the right of travel for passengers in the system. The Operator shall assist the Employer in the development of a fine/penalty mechanism for passengers who fail to produce evidence of their right to travel. The Operator shall also implement the fine/penalty mechanism in the manner agreed upon with the Employer.

3.14.5 Refusal of customer entry. The Operator shall have no cause to refuse to convey a person entry to a Bus Station or Bus unless one of the following conditions apply:

- a) safe capacity of the Bus Station or Bus will be exceeded at the time in question by the person wishing to enter;
- b) person refuses to pay or cannot pay the fare to enter the paid area of the Bus Station or Bus;
- c) person does not comply with the security and safety regulations; or
- d) person does not cooperate with Operator personnel to establish compliance with the security and safety regulations;
- e) person exhibits violent or otherwise offensive conduct towards Operator staff or other passengers;
- f) Occurrence of other reasons stipulated in applicable road traffic legislation.

#### **4 PROCUREMENT OF GENERATOR FOR OPERATIONS CONTROL CENTRE**

The Operator shall:

- 4.1 The Operator will procure a brand new 1,000 KVA Diesel Generator Set for Operations Control Centre.
- 4.2 The Operator will also be responsible for operations and maintenance of the generator along with fuelling required to operate it.
- 4.3 The Operator should procure the generator of international standards from a reputable generator manufacturing supplier.

#### **5 FUELING OF ALL GENERATOR SETS**

- 5.1 The Operator will also be responsible for operations and maintenance of all generators installed by the Employer along the Green Line BRTS Corridor along with fuelling required to operate it.
- 5.2 Provide fuelling of diesel generators and timely evacuation from the Green Line corridor during non-operational hours as scheduled and directed by the Employer. The Operator may propose new or change in filling schedule and request for its approval from the Employer.
- 5.3 Arrange refuelling of generators in a manner that during the Bus operation hours the need to refuel any or all of the generators does not arise except generator sets at pumping stations located at the BRT Green Corridor and Operations Control Center.
- 5.4 Ensure security of fuel present in generators and auxiliary tanks, on 24-hour basis, 7 days per week (including public holidays), by implementing a system of theft prevention duly approved by the Employer.
- 5.5 Guard against dispensing of impure or substandard Diesel to protect warranty rights of Employer by performing basic quality tests (Graduated Cylinder (1 L) Fuel Test, water test and flash point test) at each delivery.
- 5.6 Ensure accurate recording of fuel quantity supplied/decanted.
- 5.7 Control and monitor spillage during decanting of Diesel.
- 5.8 Recognize and respond to security threats or breaches.
- 5.9 Establish, and provide the Employer with Standard Operating Procedures (SOPs) for approval to re-fuel Generators and Auxiliary tanks and strictly abide by them.
- 5.10 Maintain on-site as well as off-site record (e.g. log book) of all re-fueling activity. (Generator readings, quantity delivered at each supply, flow meter and graduated material dip rod readings etc.). Graduated dip rods must be made available at each Bus Station

- 5.11 The Operator has to ensure that in case of power failure from the main supply the power from generators should be made available without any delay at all times and to all equipment available at the station. List of Generators provided by the Employer at all Stations and any other place are attached as Exhibit 8.
- 5.12 Lab testing of delivered fuel; the Operator shall arrange lab test report, of a randomly drawn sample of fuel taken in presence of representative(s) from both Employer and the Operator, once a month. The Services of a company (lab) of repute and approved by Employer shall be utilized for lab tests. The specifications of Pakistan Standards Institute (PSI) for High Speed Diesel shall be treated as benchmark for quality.

## **6 MAINTENANCE OF STATION & CORRIDOR EQUIPMENT**

### **6.1 Scope and responsibility**

6.1.1 Minor maintenance and repair responsibility. The Operator shall also be responsible for minor maintenance and repair of equipment and supplies in the Bus Stations. It is expressly recorded and agreed that inasmuch as the Operator is responsible for the security of the Bus Stations and all equipment within these areas, Any loss or damage to the Employer Assets and any equipment (including equipment of other Contractors) as a result of vandalism shall be the responsibility of the Operator, who shall be obliged to repair and/or replace such lost or damaged assets at its own cost, and shall not be entitled to claim such costs from the Employer.

6.1.2 These responsibilities undertaken by the Operator include but are not necessarily limited to:

- Replacement of loose or damaged floor tiles, paving slabs and segmented paving, including along the ramps to street level
- Replacement of light bulbs, energy saver
- Repair or replacement of damaged sanitary ware and cisterns, paper holders, exhaust, and related equipment in toilets
- Repair or replacement of passenger seating/leaning bars at stations
- Repair or replacement of damaged joinery
- Maintenance of water fountains and replacement of any filters in the water fountains as per the schedule recommended by the equipment supplier
- Maintenance/repair of electric ventilator fans at Bus Stations
- Maintenance and repair of delineator barriers and fencing along the corridor due to accident or other reasons
- Repairs to the air conditioners at the Bus Station fare kiosks and data cabins
- Repair/upkeep of fire extinguishers, including regular checking of the fire extinguishers and refill of cylinders after use or expiry
- Upkeep and supply of medical first-aid kits
- Replacement/upkeep of recycling bins at Bus Stations and waste bins at Bus Stations
- Repair/upkeep of station signage and passenger information boards
- Repair of systems for “universal accessibility” including tactile surfaces, utility of ramps by wheelchairs
- Street lights and poles along the Green Line Corridor

The list above is not exhaustive, and minor maintenance and repairs shall also include such tasks as would reasonably be understood to constitute minor maintenance and repairs by a reasonable operator in the position of the Operator.

6.1.3 Excluded from minor maintenance and repairs. The following list of items are excluded from the Operator's responsibility under the minor maintenance and repairs:

- Repair and maintenance of stops, emergency generators, elevators, and escalators, automatic station doors (i.e. platform screen doors), entry gates (i.e. road blockers) for Green Line corridor access control, unless repair/replacement is necessitated due to actions or negligence by the Operator
- Extensive repair, maintenance or replacement of major structures within the Bus Stations such as glass panels, roofing material, floor structures and any other major parts, fittings and fixtures of structures within the Bus Stations
- Remodeling of Bus Station structures
- Pavement (rigid or flexible) along the Green Line Corridor and Bus Stations

For these items, the Employer will separately contract third-party firms for the procurement, maintenance, and repair. While the Operator shall not itself be required to undertake minor maintenance and repairs of any parts covered by the guarantees of third parties, the Operator shall be required to facilitate such third parties to undertake the necessary minor maintenance and repairs forthwith as and when required.

## **7 PERSONNEL**

### **7.1 Personnel requirements**

7.1.1 Personnel certification. The Operator shall, by no later than fifteen (15) days after the appointment of personnel, provide to the Employer in respect of each personnel, copies of:

- a) An appropriate valid identification document;
- b) Proof of having passed all training requirements.

7.1.2 Personnel list. The Operator shall deliver to Employer a list of personnel (in the form satisfactory to Employer) by not later than three (3) business days after appointment. The list shall be updated on a monthly basis for the duration of the Green Line Agreement. The names of incoming and exiting personnel shall be provided to the Employer by way of an exception report.

7.1.3 Disciplinary action. Where Employer has reason to believe that the Operator's personnel poses a risk to the safety of passengers, or where a member of the public requests the Employer to investigate the conduct of a particular employee of the Operator, the Employer shall notify the Operator in writing accordingly (setting out the reasons for its belief, where applicable), and the Operator shall be obliged to take all such steps as may be necessary, including, where appropriate, conducting an immediate investigation into the allegations and if appropriate, implementing the suspension of such employee



pending the finalization of appropriate disciplinary action. The Operator shall report on the investigation to the Employer and if any disciplinary inquiry is instituted, the Operator shall report the outcome thereof to the Employer immediately upon such inquiry being completed.

7.1.4 Dismissal. In the event that any employee is dismissed from the employment of the Operator as a result of any action or omission directly impacting the Services, or where the outcome of the disciplinary inquiry contemplated above results in a dismissal of the relevant employee, the Operator shall provide the name of such employee. The Operator shall keep biometric system/attendance system maintained and up-to-date. The Operator shall provide to the Employer online access to biometric/attendance record of their employee deployed at Bus Stations for verification.

#### 7.1.5 Training

- a) Training for Operator Personnel. The Operator shall ensure that before start of operations, sufficient personnel as are required to provide the services have attended and completed any training sessions (as may be held) and that such employees have obtained the relevant certifications and training and having reached the necessary proficiency to operate the fare collection, carry out facility management and any other tasks assigned thereof.
- b) Employer shall be entitled to perform regular spot checks and examinations in order to ensure that the skill levels of the employees are maintained in accordance with the Employer's requirements.

#### 7.1.6 Uniforms

- a) Uniform requirement. The Employer requires all the Employees who are required to fulfill their duties in view of the public to wear uniforms at all relevant times during the rendering of the services. The Operator shall ensure that its employees are appropriately attired in the prescribed and/or agreed uniforms with identification tags. Also, for security staff weapons mandatory requirements should also be fulfilled by the Operator
- b) Uniform specification. It is agreed that the uniforms provided by the Operator shall comply with the specification and/or design provided by the Employer from time to time. The Employer shall consult with the Operator before amending the specification and design of the Uniforms.
- c) Uniform upkeep. The Operator shall take such reasonable steps as may be necessary to ensure that the uniforms are kept in good condition and worn in a professional manner and in accordance with the high standards required by the Employer in relation to the branding.
- d) Facility Management Staff Personnel Uniform Design Samples are provided in Exhibit 5.

### 7.1.7 Public relations

- a) Employee conduct. In order to ensure that the services are rendered in a seamless manner and that the services as experienced by members of the public are consistent with the Employer's expectation of a high-quality BRT system and are regarded as such by the general public, the Operator shall ensure that employees:
  - Communicate with passengers and members of the public in a customer-friendly, professional and helpful manner
  - Conduct themselves as if they were the Employer staff and at all times, behave in a manner befitting the Employer's image and brand
  - Refrain from conduct that may bring the Employer and the BRT Green Line system into disrepute
  - Deal with customer complaints in a responsive and courteous manner.
- b) Training. In complying with clause 0 above, the Operator shall ensure that all the employees receive appropriate training in the following areas:
  - Service requirements of passengers with disabilities
  - Management of confrontational or difficult passengers
  - Occupational health and safety issues
  - Customer care and customer relations
  - Compilation of claims
  - Passenger safety, which shall include, amongst other things, procedures pertaining to safe embarking and disembarking of passengers and ensuring that Bus doors are closed only when it is safe to do so.
- c) Remedial actions. Should the Operator become aware of an Employee who is not fit and proper to execute his/her duties effectively, the Operator shall take appropriate action immediately.  
Language. All personnel, which are in direct interface with passengers, shall be literate and able to facilitate passengers.

7.2 Minimum personnel. The section specifies the minimum personnel requirements. Other personnel will be required in order to provide the services, but where a minimum requirement in terms of available personnel exists, these are listed below. It is the Operator's responsibility to translate the requirements below in relation to the total number of personnel to hire to meet a certain requirement, taking into account shifts, off-time, scope of work, and local labour laws.

#### 7.2.1 Fare Collection Personnel

- a) General. The Fare System personnel are focused upon card registration, fare sales, customer service, revenue management, and fare collection reporting.
- b) Type and number of personnel

Type	Requirement
Fare Collection Manager	One (1) person per Bus Station
Fare Collection Staff	At least two (2) persons per Bus station during operating hours
Ticket Vending Machine (TVM) Helper	One (1) person only for the first three (3) months of operations to guide people on how to use TVM.

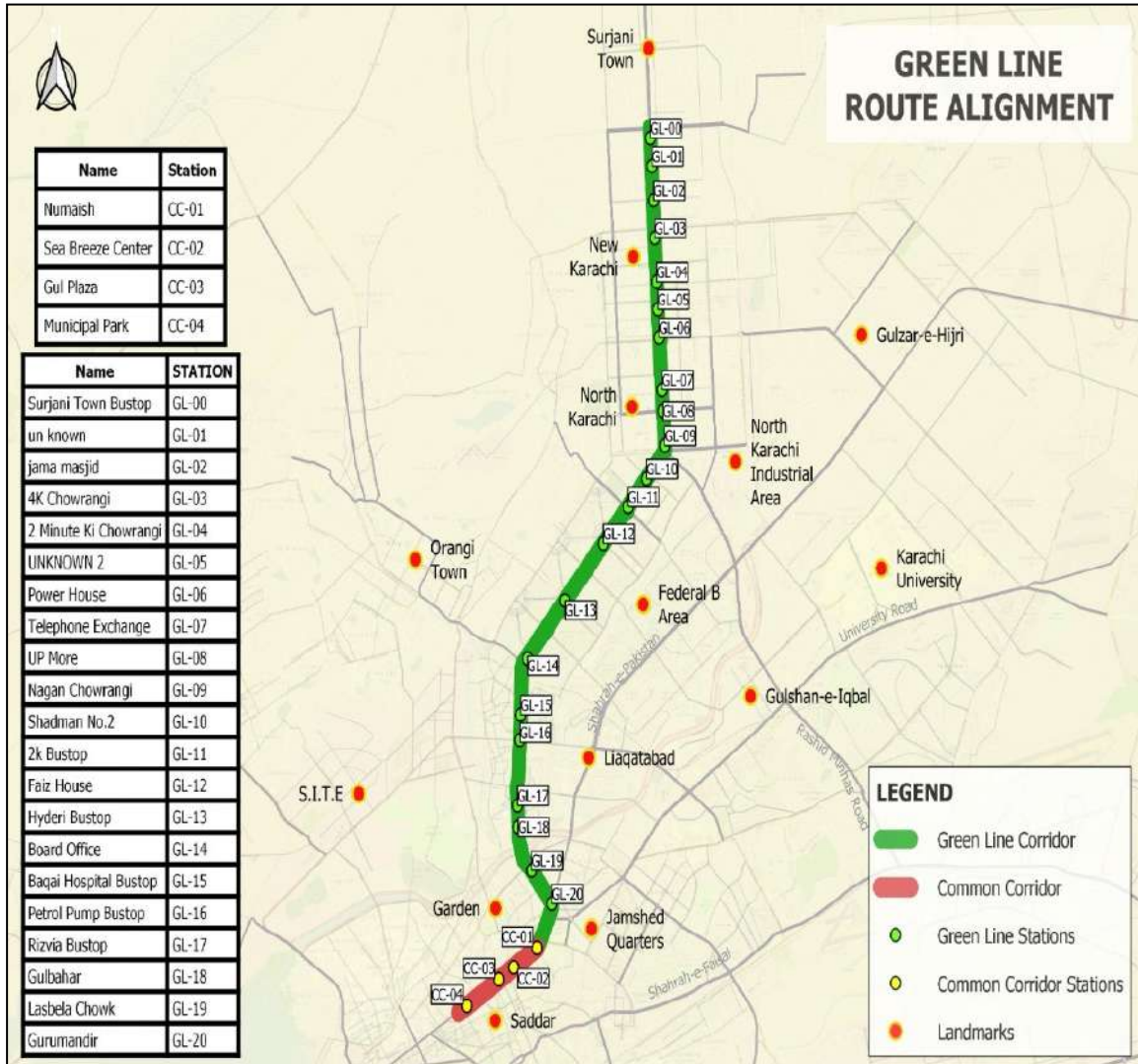
### 7.2.2 Facility Management personnel

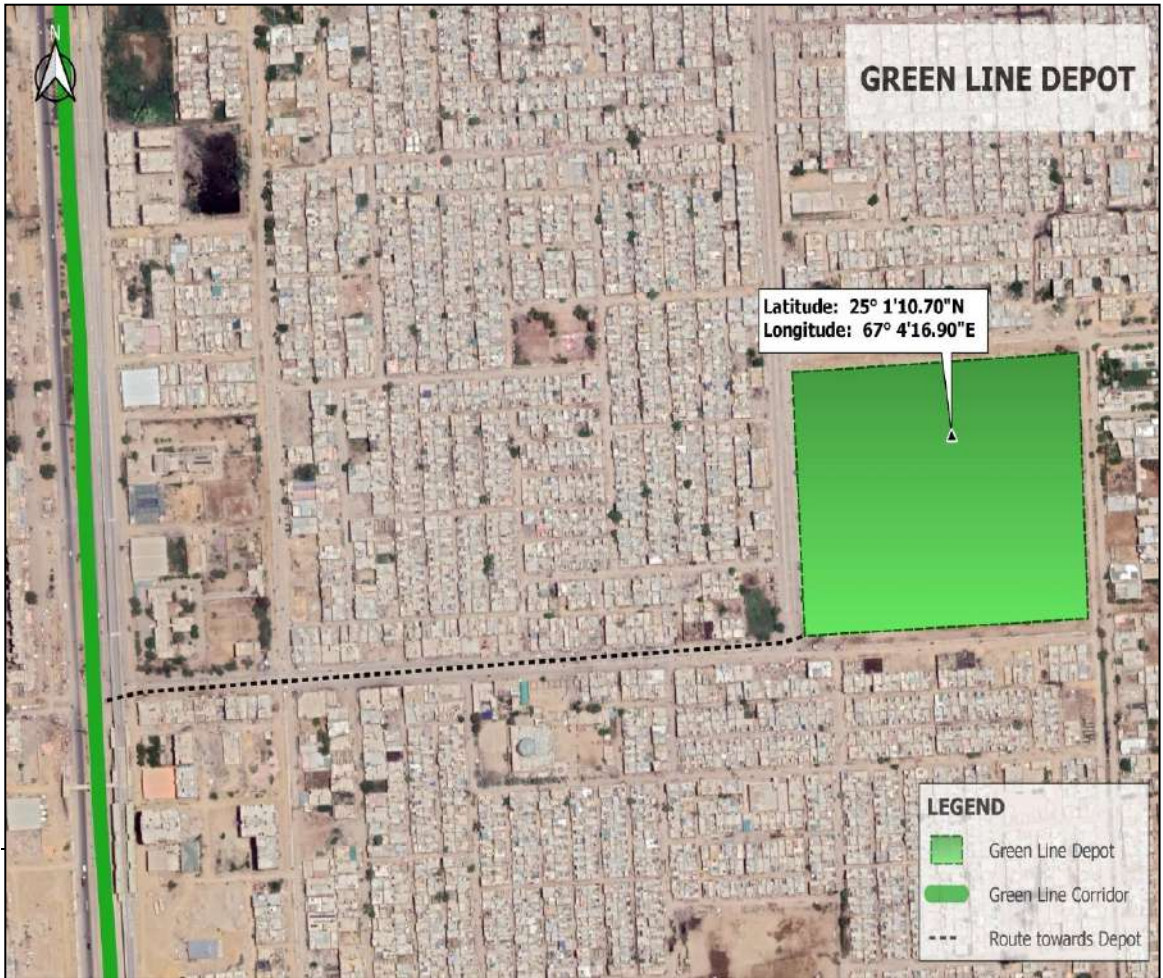
- a) General. The Facility Management personnel provide services on fare media sales and registration, sales of shared value top-ups, security, Bus Station cleaning, waste management, busway cleaning, pedestrian access to stations cleaning and maintenance, landscaping, and customer service. Minimum of Two (2) shifts will be required per day.
- b) Type and number of personnel

Type	Requirement (Per Shift)
Operator	One (1) person per station during operating hours
Security guards	One (1) male and one (1) female per access control barrier per station during operating hours, or more as required to meet KPIs Two (2) security guards per station at the platform level during operating hours One (1) person per station to watch over entire station during non-operating hours One (1) person per pedestrian bridge during operating hours. Additional as per requirements to meet requirements of scope and KPI
Passenger flow monitoring and customer service representatives	One (1) person per Bus Station during operating hours
Cleaning staff	Three (3) persons per station, or more as required to meet the KPIs and requirements of scope of work
Toilet attendant	One (1) person during business/operations hours per toilet set. Additional as per requirement to meet requirement of scope of work and KPI
Security guard at corridor entrance	One (1) armed security guard (procurement and license of weapon is the responsibility of the Operator) at each entry point of Green Line Corridor; there are five (5) entry point locations along Green Line BRT Corridor

Landscapers	Four (4) persons for the landscaping along the Green Line busway Corridor. Additional as per requirements to meet requirements of scope of work and KPI
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**EXHIBIT 1 - ROUTE ALIGNMENT & LIST OF STATIONS**





**EXHIBIT 2 - LIST OF ITS EQUIPMENT**

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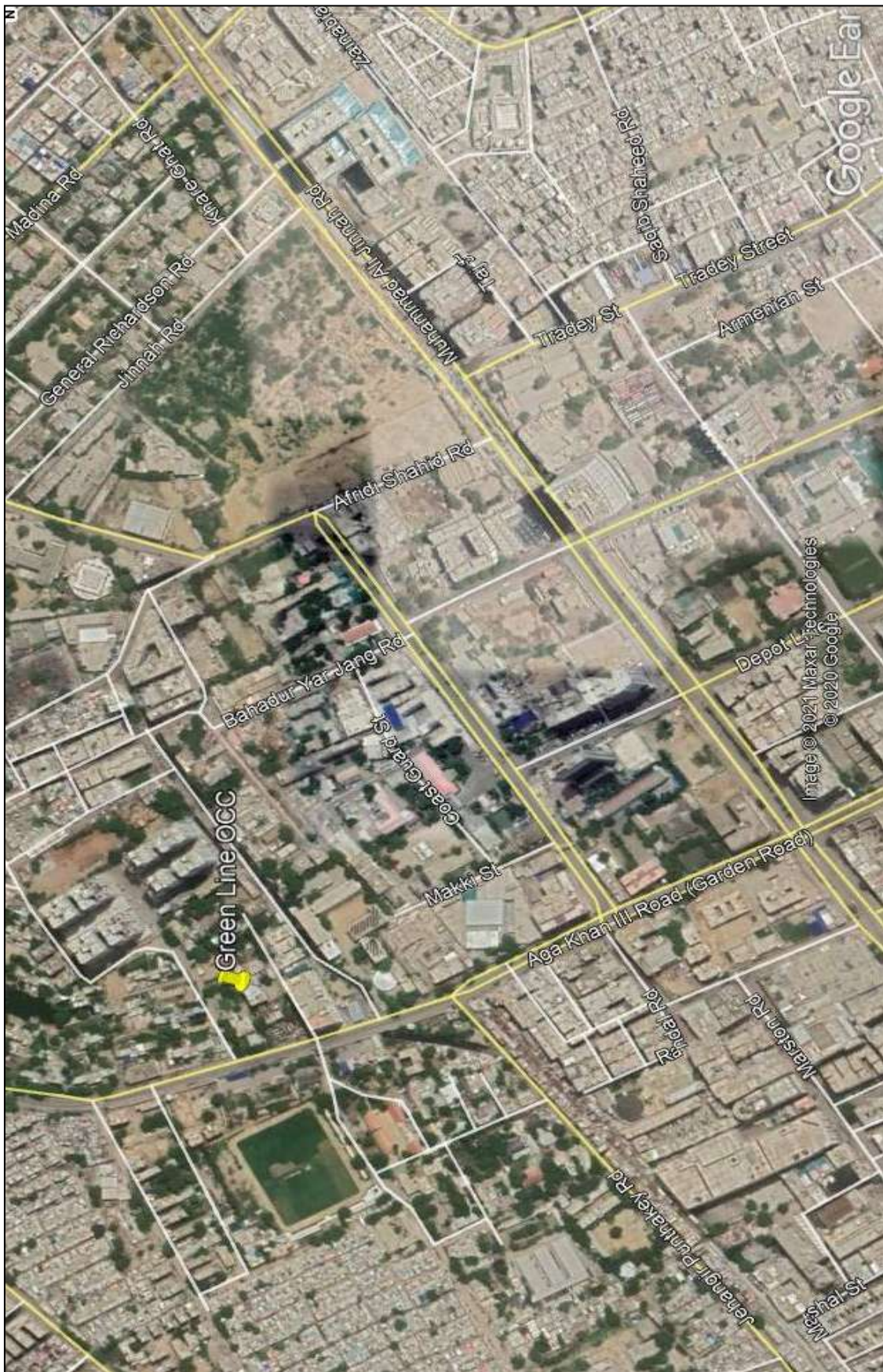
<b>ITS EQUIPMENT AT STATIONS</b>		<b>GREEN LINE</b>
1.	Turnstile	Yes
2.	Ticket Office machine	Yes
3.	Ticket Vending machine	Yes
4.	Handheld machines	Yes
5.	Bus Stop LEDs	Yes
6.	3 lines single sided                      70pcs	Yes
7.	3 lines doubled sided                      118 pcs	Yes
8.	5 lines single sided                      73 pcs	Yes
9.	3 lines doubled sided                      16 pcs	Yes
10.	Walk thru gates	Two at stations

**EXHIBIT 3 - LIST OF GENERAL SUPPLIES**

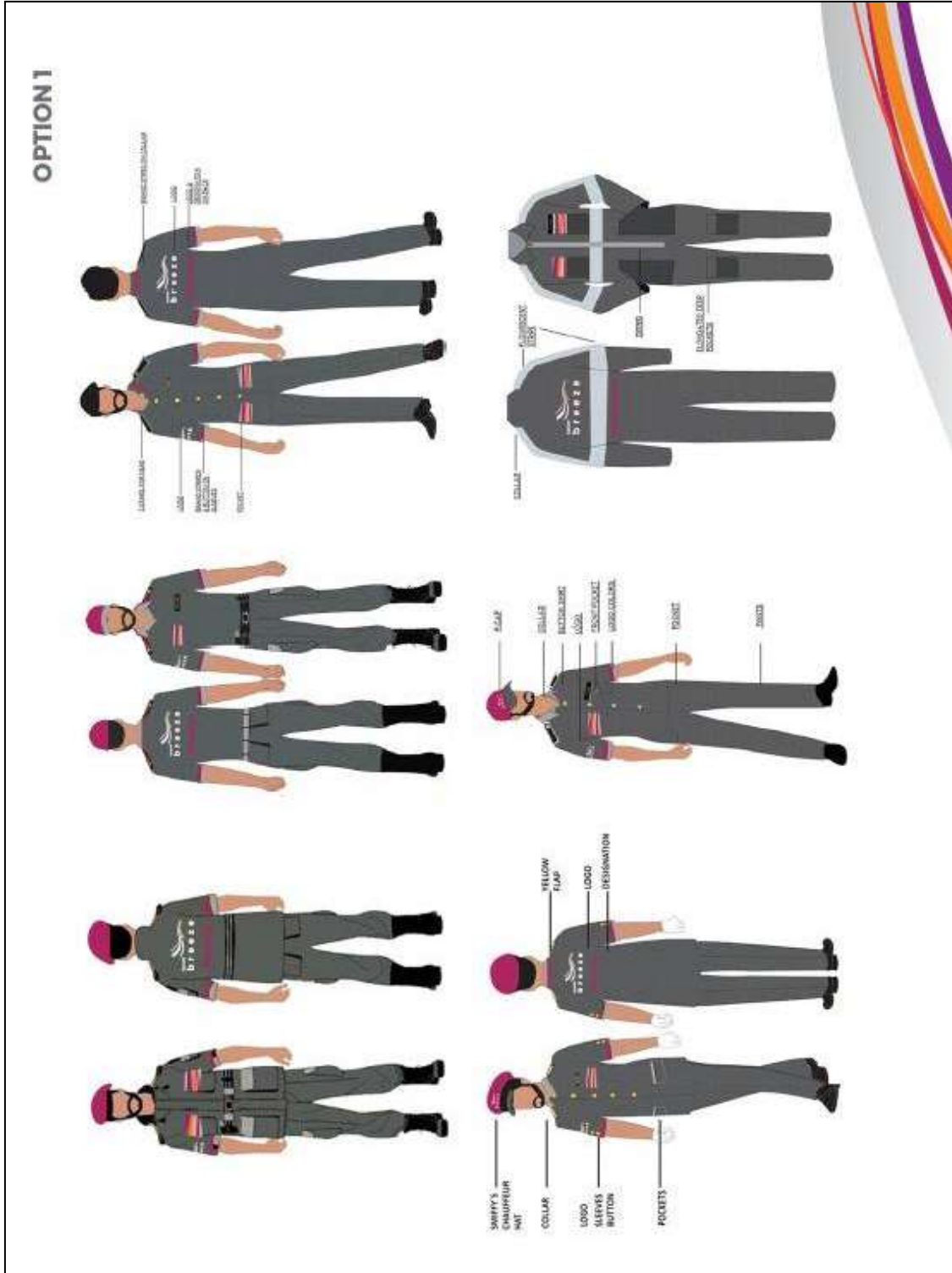
<b>ELECTROMECHANICAL EQUIPMENT AT STATIONS OF BRTS GREEN LINE</b>		
1.	<ul style="list-style-type: none"> <li>Transformers</li> </ul>	One at each station 200 KVA
2.	<ul style="list-style-type: none"> <li>Diesel Generator</li> <li>(Caterpillar &amp; FG Wilson UK)</li> </ul>	One at each station 8' x 3.5' – 200 KVA -
3.	<ul style="list-style-type: none"> <li>Lighting Fixtures</li> </ul>	Yes
4.	<ul style="list-style-type: none"> <li>Bracket Fans (BF) and exhaust fans</li> <li>at stations</li> </ul>	Yes, 24" Dia BF
5.	<ul style="list-style-type: none"> <li>Split A/C units</li> </ul>	Yes, for ticket booth
6.	<ul style="list-style-type: none"> <li>Public Address System Speaker</li> </ul>	
7.	<ul style="list-style-type: none"> <li>PSD door with sensors and signal -Spain</li> </ul>	Yes
8.	<ul style="list-style-type: none"> <li>Escalators (Schindler – Switzerland)</li> </ul>	Yes
9.	<ul style="list-style-type: none"> <li>Elevators (Sodimas – France)</li> </ul>	Yes
10.	<ul style="list-style-type: none"> <li>Washroom for Staff</li> </ul>	2 to 3 / station
<b>FURNITURE AT STATIONS</b>		
11.	<ul style="list-style-type: none"> <li>SS Benches</li> </ul>	Yes L 1700mm W 350mm H 450mm
12.	<ul style="list-style-type: none"> <li>Litter Bin</li> </ul>	Yes, mini 3 / station
13.	<ul style="list-style-type: none"> <li>Chairs for Ticket Booth</li> </ul>	Yes
14.	<ul style="list-style-type: none"> <li>Public Address Station</li> </ul>	Yes, information boards
15.	<ul style="list-style-type: none"> <li>Maps at stations</li> </ul>	Yes



**EXHIBIT 4 - LOCATION OF OPERATIONS CONTROL CENTER**



**EXHIBIT 5 - SAMPLE OF UNIFORM DESIGNS**



**EXHIBIT 6 - LIST OF TOILETS IN THE CORRIDOR**

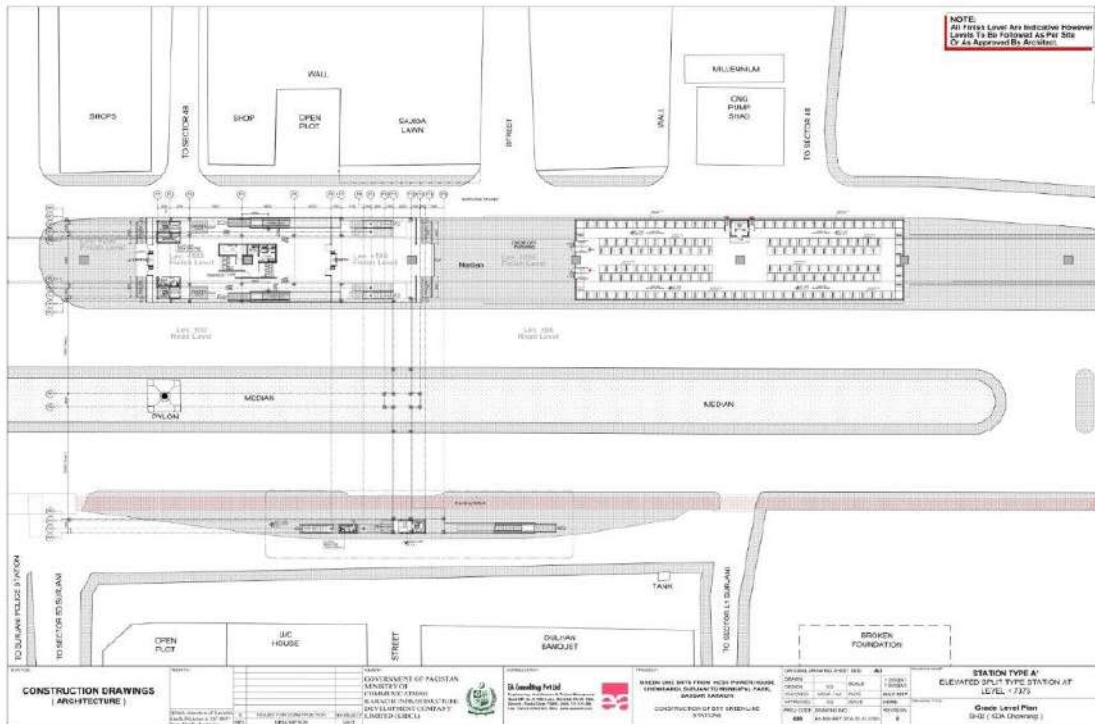
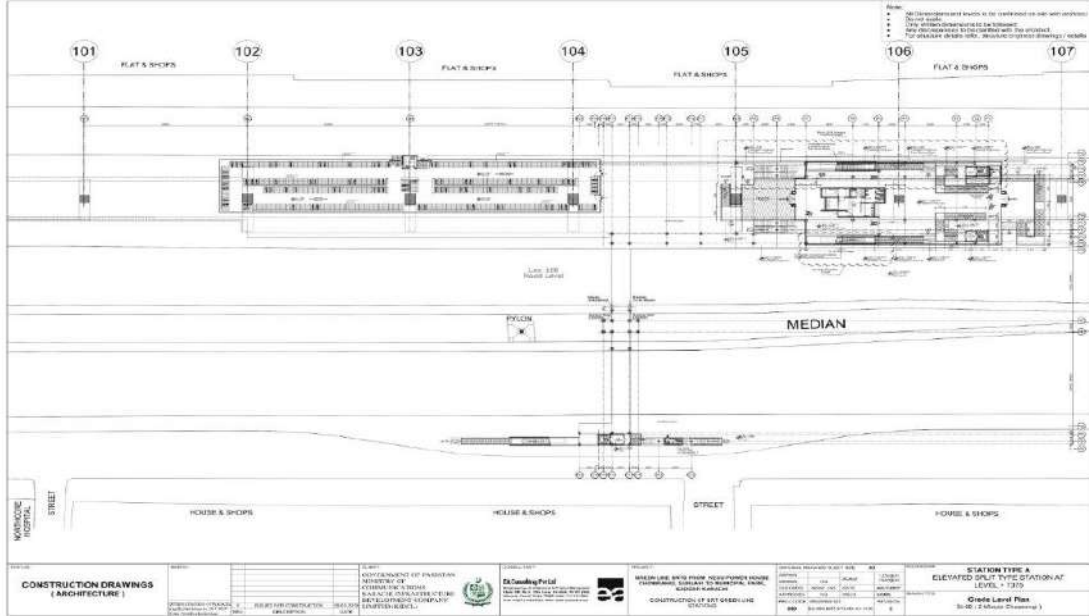
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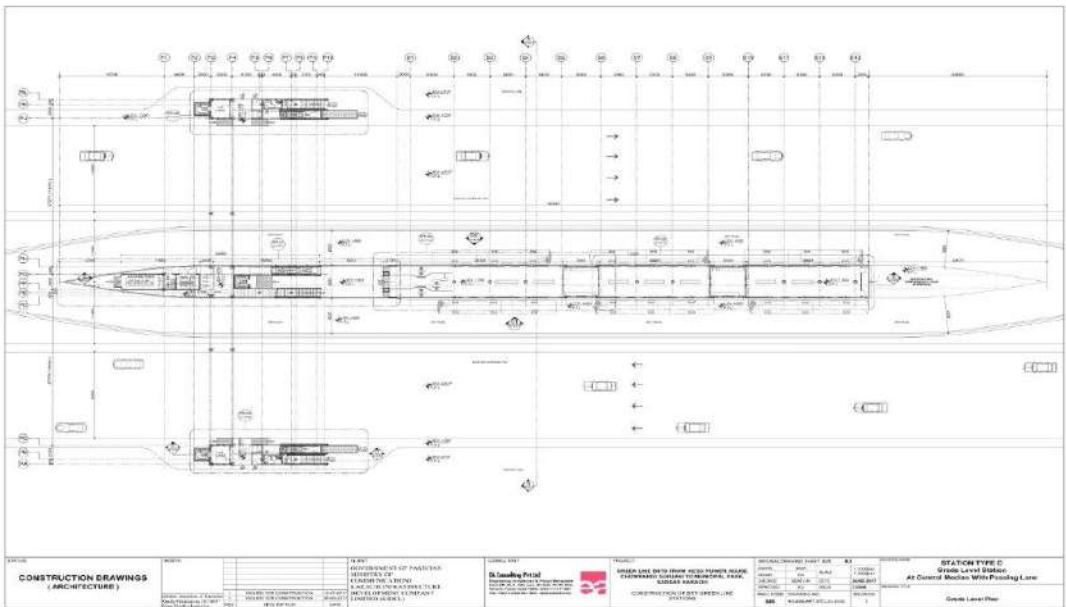
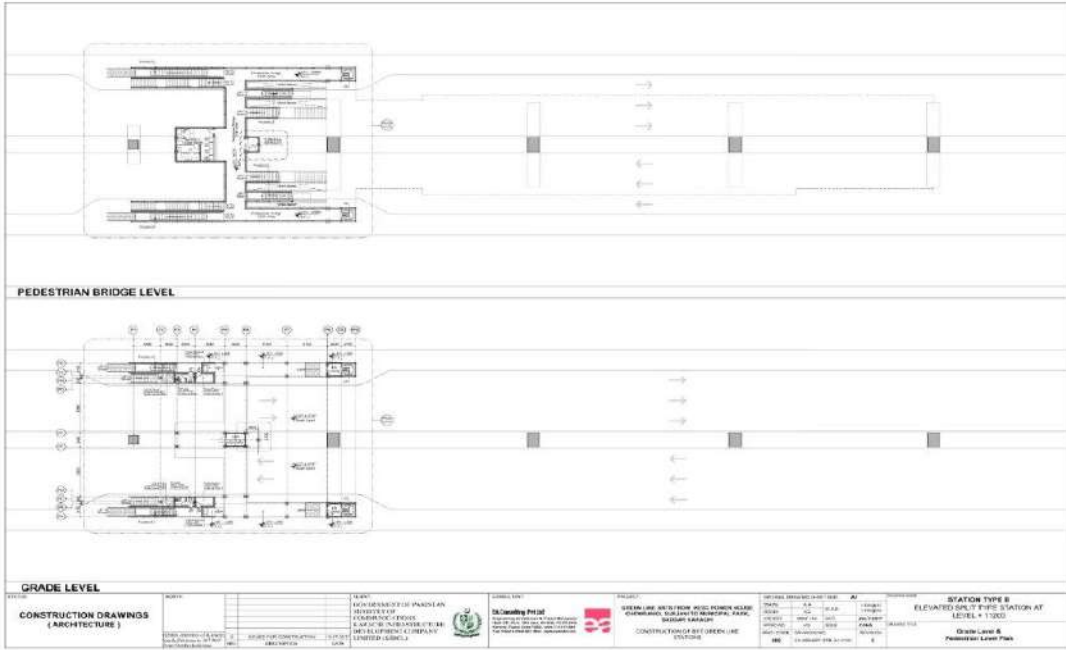
From Station # 02 to 09 – 3 Toilets per Bus Station

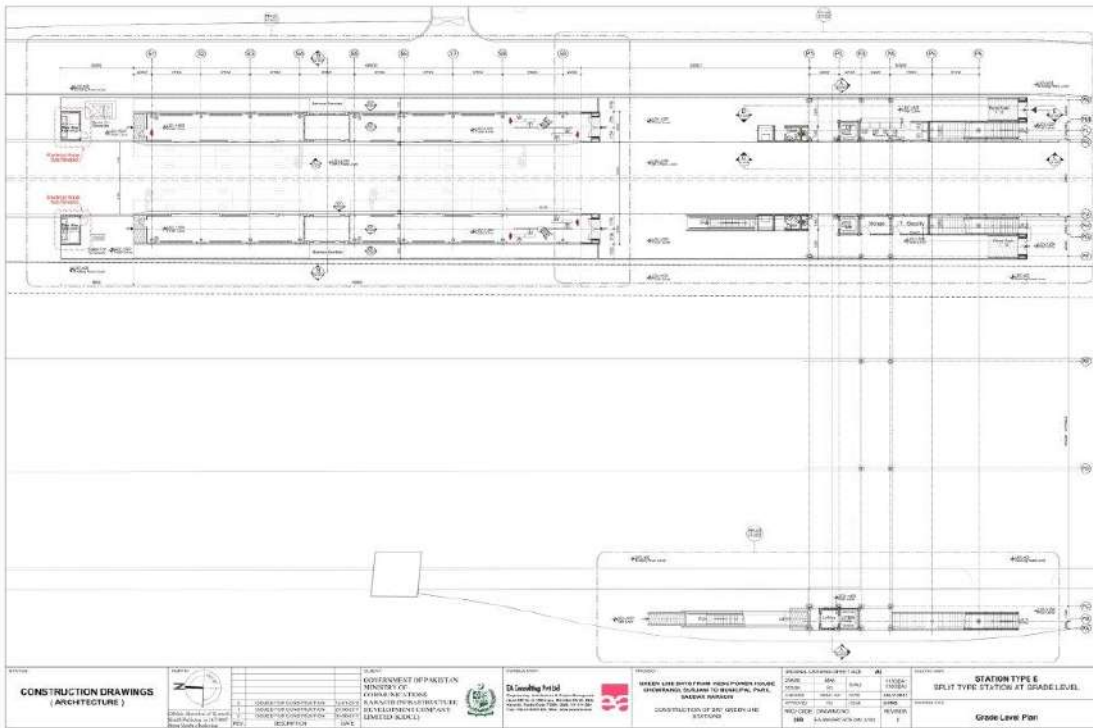
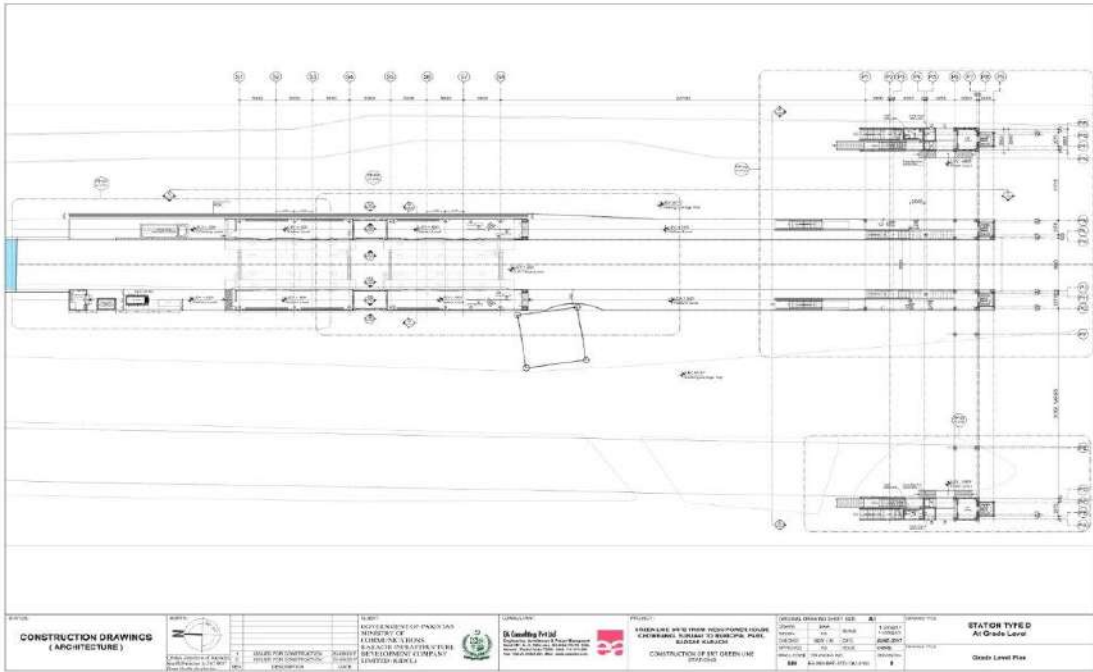
From Station # 14 to 21 – 2 Toilets per Bus Station

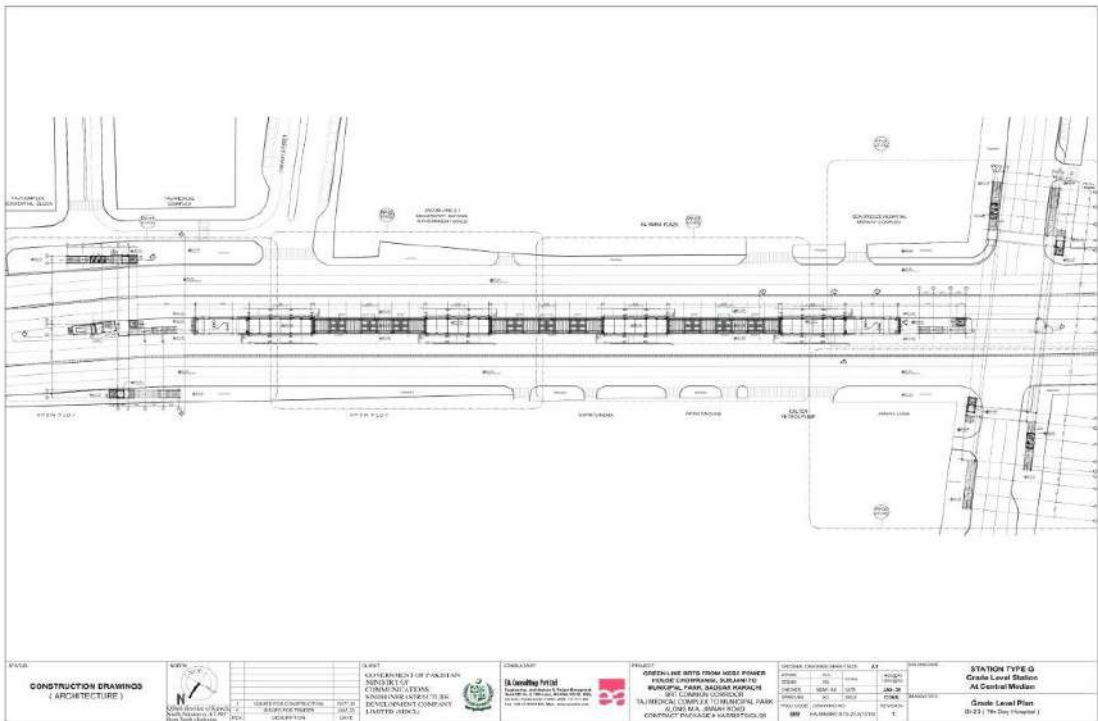
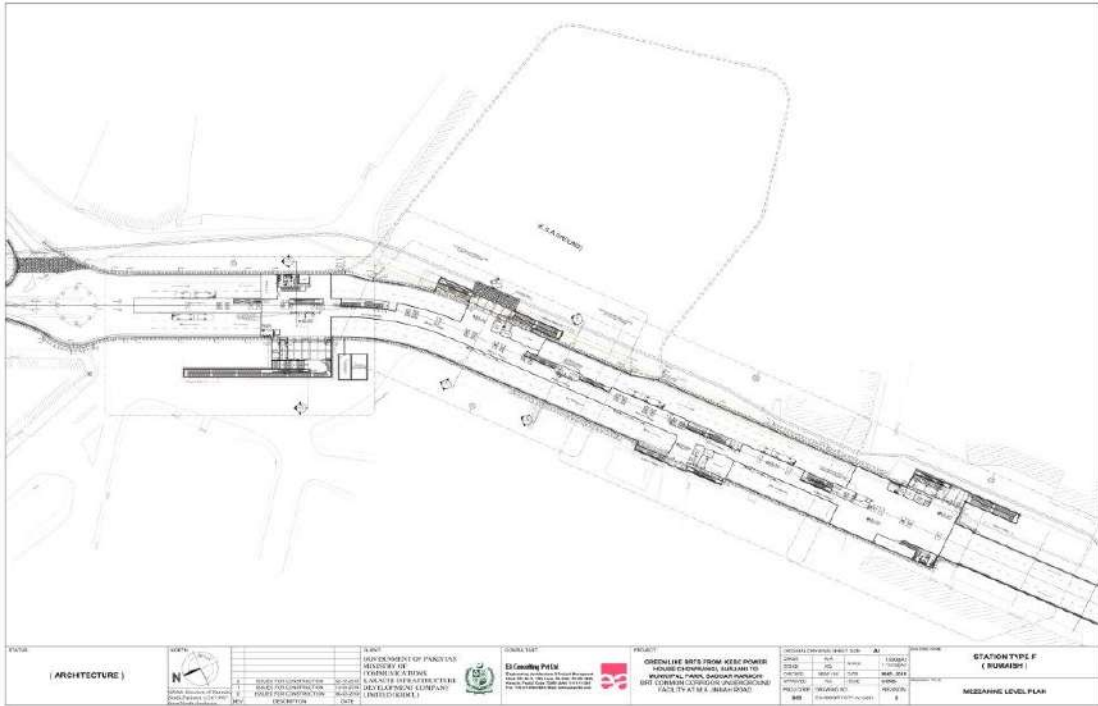
Total Toilets = 40

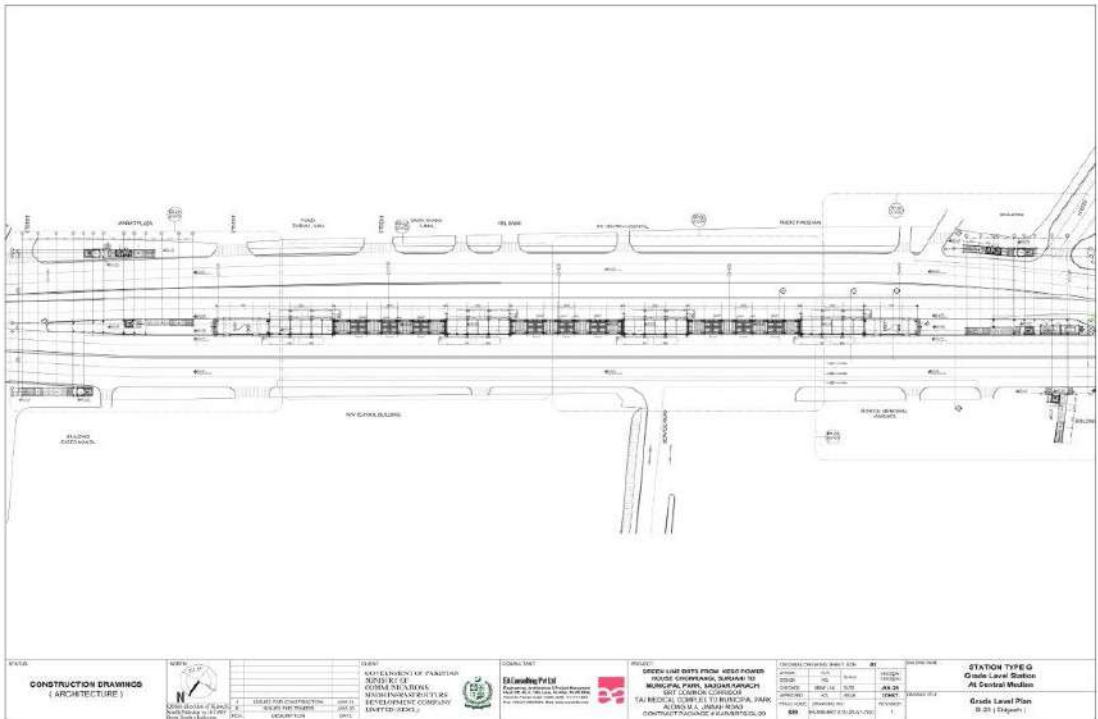
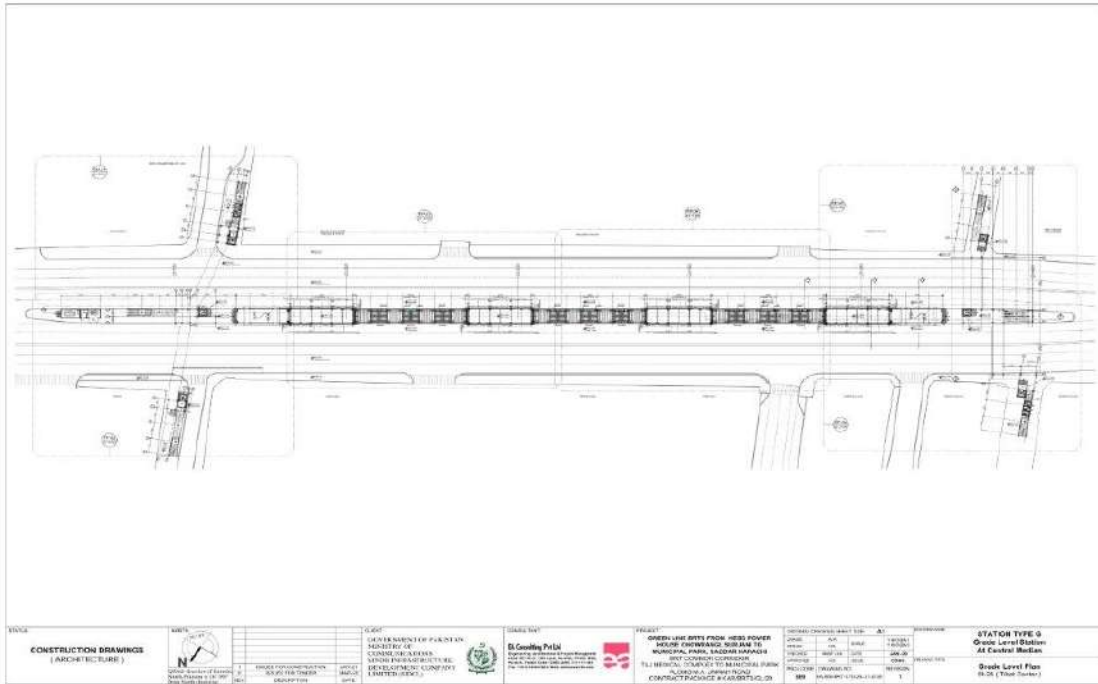
## EXHIBIT 7 - DRAWING OF EACH TYPE OF BUS STATION ALONG BRT GREEN LINE CORRIDOR













**EXHIBIT 8 - LIST OF GENERATORS**

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Diesel Generator 200 KVA (8'x3.5') one at each Bus Station

Total 24 Generators

## EXHIBIT 9 – ELECTRIC LOAD CALCULATIONS

### List of Electro / Mechanical Equipment

#### CORRIDOR STATIONS

S.No	Station No	Escalators	Elevators	Generators (Capacity)	No of Toilets	No. of PSD	Total Demand Load	No of Pumps/Meters/ Boosters
1	1E	02 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	52 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 02 Set
2	2A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
3	3A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
4	4A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
5	5A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
6	6A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
7	7A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
8	8A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set

### List of Electro / Mechanical Equipment

#### CORRIDOR STATIONS

S.No	Station No	Escalators	Elevators	Generators (Capacity)	No of Toilets	No. of PSD	Total Demand Load	No of Pumps/Meters/ Boosters
9	9A	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	63 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
10	10D	4 Nos	4 Nos	01 No. (200 KVA)	02 Nos	08 Nos (4 per direction)	84 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 04 Set
11	11C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -01 Set Submersible Pump - 03 Set
12	12C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
13	13C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -02 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
14	14C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -02 Set Submersible Pump - 03 Set
15	15C	03 Nos	03 Nos	01 No. (200 KVA)	-	12 Nos (6 per direction)	45 KW	Booster Pump -01 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
16	16C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -02 Set Submersible Pump - 03 Set
17	17C	03 Nos	03 Nos	01 No. (200 KVA)	02 Nos	12 Nos (6 per direction)	45 KW	Booster Pump -02 Set Capacity: 30 GPM 70 ft Head Submersible Pump - 03 Set
18	18B	04 Nos	02 Nos	01 No. (200 KVA)	-	08 Nos (4 per direction)	64 KW	Submersible Pump - 02 Set Capacity: 30 GPM 70 ft Head

List of Electro / Mechanical Equipment

CORRIDOR STATIONS

S.No	Station No	Escalators	Elevators	Generators (Capacity)	No of Toilets	No. of PSD	Total Demand Load	No of Pumps/Meters/ Boosters
19	19B	04 Nos	02 Nos	01 No. (200 KVA)	-	08 Nos (4 per direction)	64 KW	Submersible Pump - 02 Set
20	20B	04 Nos	02 Nos	01 No. (200 KVA)	-	08 Nos (4 per direction)	64 KW	Submersible Pump - 02 Set Capacity: 30 GPM 70 ft Head
21	21B	04 Nos	01 Nos	01 No. (200 KVA)	-	08 Nos (4 per direction)	64 KW	Submersible Pump - 02 Set Capacity: 30 GPM 70 ft Head

List of Electro / Mechanical Equipments

OCC BUILDING

S.No	Station No	Escalators	Elevators	Generators (Capacity)	No of Toilets	No. of PSD	Total Demand Load	No of Pumps/ Meters/ Boosters
1	--	--	1 No (Capacity:800 kg)	--	03 Nos	--	618 KW	Submersible pump - 01 Set Capacity: 30 GPM @ 08 m Head Water Transfer Pump - 01 Set Capacity:50GPM@30 m Head

**List of Electro / Mechanical Equipments**

NUMAISH

Escalators		Generators (Capacity)	No. of Toilets	No. of PSD	Total Demand Load	No of Pumps/ Meters/ Boosters	
Entrerance	Station Level Access	01 No (1500 KVA)	02 Nos	24 Nos (12 each direction)	878 KVA	Submersible pump Capacity: 50 GPM @28m Head 18 GPM @8m Head	02 Set
04 Nos (01 per entrance)	03 Nos					Booster pump Capacity: 50 GPM @90 ft Head	01 Set

**List of Electro / Mechanical Equipment**

Taj Complex GL- 20

S.No	Station No	Escalators	Elevators	Generators (Capacity)	No of Toilets	No. of PSD	Total Demand Load	No of Pumps/ Meters/ Boosters
1	23G	--	6	1 No 100 KVA	03 Nos	24 (12 each Direction)	Aprox 1000 KVA Deamand Load precise Figure will be confirmed	Booster pump - 04 Set Capacity: 30 GPM @ 70 ft Head. ( 1 Set ) Capacity: 8 GPM @ 40 ft Head. ( 3 Set )
2	24G	--	6	1 No 100 KVA	02 Nos	24 (12 each Direction)		Booster pump - 04 Set Capacity: 30 GPM @ 70 ft Head. ( 1 Set ) Capacity: 8 GPM @ 40 ft Head. ( 3 Set )
3	25G	--	6	1 No 100 KVA	02 Nos	24 (12 each Direction)		Booster pump - 04 Set Capacity: 30 GPM @ 70 ft Head. ( 1 Set ) Capacity: 8 GPM @ 40 ft Head. ( 3 Set )

**Green Line - BRTS**  
**Electrical - Load Calculation**  
**Numaish Station (Underground)**

11.06.2019

S.No	Load Description	Quantity (No.)	Unit Load (kW)	Total Connected Load (kW)	Demand Factor	Demand Load (kW)	Remarks
<b>1.0</b>	<b>Lighting &amp; Small Power</b>						
1.1	Tunnel Lighting	120	0.14	17	1.0	17	
1.2	Lighting for branding - Tunnel	100	0.10	10	1.0	10	
1.3	Tunnel Small Power	75	0.30	23	0.8	14	
1.4	Station Lighting	110	0.05	6	1.0	6	
1.5	Station Small Power	30	0.30	9	0.8	7	
1.6	External Area Lighting	150	0.16	24	1.0	24	
1.7	ELV Equipment	4	5.0	20	1.0	20	Tentative Load.
1.8	Turnstile	37	0.500	19	1.0	19	
1.9	Miscellaneous Rooms / Areas	12	1.0	12	0.6	7	Tentative Load
<b>1.0 - Sub-Total</b>				<b>138</b>		<b>123</b>	
<b>2.0</b>	<b>Vertical Transportation</b>						
2.1	Elevator	0	10	0	0.7	0	
2.2	Escalator	7	12	84	0.7	59	
<b>2.0 - Sub-Total</b>				<b>84</b>		<b>59</b>	
<b>3.0</b>	<b>HVAC</b>						
3.1	GSF - Supply (Gen set Room)	2	4	8.0	1.0	8	
3.2	SEF 1 to 32 Smoke Exhaust	32	6	192	0.9	173	
3.3	SF 1 to 4 Supply Station Level	4	7.5	30	1.0	30	
3.4	SF 5 to 8 Supply Mezzanine Level	4	37.5	150	0.9	135	
3.5	Toilet Exhaust Mezzanine Level	2	0.8	1.6	1.0	2	
<b>3.0 - Sub-Total</b>				<b>382</b>		<b>347</b>	
<b>4.0</b>	<b>Pumps</b>						
4.1	PHED - Drainage Pumps	2	82	164	1.0	164	Provided by PHED dept.
4.1	Fire Fighting Pumps	1	94	94	0.0	0	Provided by Plumbing dept.
4.2	Domestic Water Pump	1	3	3	1.0	3	
<b>4.0 - Sub-Total</b>				<b>261</b>		<b>167</b>	
5.0	Miscellaneous Load	1	8	8	0.8	6	Unforeseen
<b>5.0 - Sub-Total</b>				<b>8</b>		<b>6</b>	

Total Connected Load (kW)      **873**  
Total Demand Load (kW)          **702**  
Demand Load in kVA                **878**  
Recommended Size of Transformer (kVA)    **976**

**BRT-GREEN LINE**

FROM KESC POWER HOUSE CHOWRANGI, SURJANI TO MUNICIPAL PARK, SADDAR KARACHI.

July - 2017

Operation, Command & Control Center (OCC) - Electrical Load Calculation				
S. No.	Load Description	Estimated Connected Load (kW)	Estimated Max. Demand Load (kW)	Remarks
1	Lighting & Gen. Small Power	86	86	
2	HVAC	201	201	Includes AHUs & Chillers Load.
3	Data Center	200	200	Includes CRAC units, Data Racks & UPS Load
4	OCC Control Room	110	110	Includes Video Wall, Work Stations
5	Lift Load (1No.)	15	15	
6	Fire Fighting Pump	75	0	
7	Jockey Pump	2.25	2.25	
8	Transfer Pump	2.5	2.5	
9	Submersible Pumps	0.75	0.75	
Estimated Connected Load (kW)		693		
Estimated Demand Load (kW)		618		

1 of 1

## EXHIBIT 10 – ELEVATOR DETAILS

BRT - Green Line								
Elevator Details								
S.No	Station Type	Station Level	Total Stations (to be construct)	Lift Details				
				Quantity (Individual Station)	Total Quantity (Entire Project)	Stops	Single Unit Load (kW)	Total Load (kW)
1	A	Split Type of Elevated	8	3	24	2	10	240
						2		
						2		
2	B	Split Type of Elevated	4	2	8	3	10	80
						3		
						3		
3	C	Center Median at Grade	7	3	14	2	10	84
						2		
						7		
4	D	Split Type at Grade	1	4	4	2	10	40
						2		
						2		
5	E	Split Type at Grade	1	3	3	2	10	30
						2		
						2		
<b>Total</b>			<b>21</b>		<b>60</b>			<b>474</b>

BRT - Green Line							
Escalator Details							
S.No	Station Type	Station Level	Total Stations (to be construct)	Escalator			
				Quantity (Individual Station)	Total Quantity (Entire Project)	Single Unit Load (kW)	Total Load (kW)
1	A	Split Type at Elevated	8	3	24	11	264
2	B	Split Type at Elevated	4	4	16	11	176
3	C	Center Median at Grade	7	3	21	11	231
4	D	Split Type at Grade	1	4	4	11	44
5	E	Split Type at Grade	1	2	2	11	22
<b>Total</b>			<b>21</b>		<b>67</b>		<b>737</b>

**SCHEDULE B: FORM OF O&M PLAN**

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[to be inserted on Notice to Proceed]

ALL THE PROSPECTIVE BIDDERS SHALL PROVIDE THEIR DETAILED METHODOLOGY AND PLAN, SECTION-WISE FOR EVALUATION OF METHODOLOGY.

THE AGREED UPON FORM WILL BE MADE PART OF THE CONTRACT AGREEMENTS.



## **SCHEDULE C: EXCLUDED ASSETS AND EXCLUDED SERVICES**

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The following are the Excluded Assets:

- (a) automatic station doors (i.e., platform screen doors);
- (b) elevators;
- (c) escalators;
- (d) Bus Station power generator including emergency generators;
- (e) busway entry gates (i.e. road blockers) for corridor access control;
- (f) busway pavement; and
- (g) delineator curbs.

The following are the Excluded Services including in respect of the Excluded Assets:

- (a) Repair and maintenance of Excluded Assets unless repair/replacement is necessitated due to actions or negligence by the Operator.
- (b) Extensive repair, maintenance or replacement of major structures within the Bus Stations such as glass panels, roofing material, floor structures and any other major parts, fittings and fixtures of structures within the Bus Stations.
- (c) Remodelling of Bus Station structures.
- (d) Pavement (rigid or flexible) along the BRT Corridor and Bus Stations.

For performance of such Excluded Services, the Employer will contract third-party firms. While the Operator shall not itself be required to undertake minor maintenance and repairs of any Excluded Assets, parts covered by the guarantees of third parties, the Operator shall be required to facilitate such third parties to undertake the necessary minor maintenance and repairs forthwith as and when required.

## SCHEDULE D: FORM OF CORPORATE GUARANTEE

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This Corporate Guarantee (the “**Guarantee**”) is executed and issued on this [●] day of [●] 2021 by [●], a company incorporated under the laws of [●], having its registered office located at [●] (the “**Guarantor**”) <sup>1</sup> in favour of Sindh Infrastructure Company Limited, a public limited company incorporated under the laws of Pakistan with its registered office located at 6<sup>th</sup> Floor, Extension Block, Bahria Complex IV, Karachi (the “**Employer**”).

### RECITALS

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- (a) The Employer shall execute, on or about the date hereof, an agreement entitled “Facility Management Agreement” (the “**Agreement**”) with [●], a company duly organized and existing under the laws of [●], with its primary place of business at [●] (the “**Operator**”) for the performance of the Guaranteed Obligations.
- (b) It is a condition of the Agreement that the Operator procures the execution and delivery to the Employer of this Guarantee.
- (c) The Guarantor has agreed to guarantee the performance by the Operator of its obligations under and in accordance with the Agreement and to undertake and discharge its obligations and liabilities under and pursuant to this Guarantee.

**NOW THEREFORE**, the Guarantor hereby agrees as follows:

### 1. DEFINITIONS AND INTERPRETATION

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Unless a contrary indication appears, a term defined in the Agreement has the same meaning in this Guarantee.

### 2. THE GUARANTEES & UNDERTAKINGS

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- 2.1. The Guarantor hereby irrevocably and unconditionally guarantees to the Employer the due performance and discharge by the Operator of the Guaranteed Obligations. The Guarantee shall be binding upon the successors and assignees of the Guarantor and shall extend to and ensure for the benefit of the successors or assignees of the Employer.
- 2.2. For the purposes of this Guarantee, “**Guaranteed Obligations**” shall mean all obligations and liabilities of the Operator under the Agreement when they or any part of them become due and performable according to the terms of the Agreement, including the:
  - (a) performance and implementation by the Operator of all of its duties, obligations, covenants, warranties and undertakings (whether actual or contingent, present or future, express or implied) under or in connection with the terms and conditions of the Agreement; and

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<sup>1</sup> In case of consortium all Sponsors/consortium members to execute this Corporate Guarantee as Guarantors.

(b) payment by the Operator of all amounts due to the Employer under the Agreement, in each case, in accordance with the terms of the Agreement, it being always understood that:

- (i) the Guarantor's obligations and liabilities under this Guarantee shall be the same and shall not exceed the obligations and liabilities of the Operator under the Agreement; and
- (ii) the Guarantor shall be entitled to assert any defence, limitation and exclusion that the Operator could assert had such claim been made directly against the Operator under the Agreement.

2.3. The Guarantor hereby undertakes to perform its obligations under the Guarantee (including performance of Guaranteed Obligations (as if they were the Guaranteed Obligations of the Guarantor)) within five (5) business days (or such other period of time as reasonably determined by the Employer) of receipt of the Employer's written demand to the Guarantor ("**Demand**"), provided that such Demand has attached copies of the Employer's notifications to the Operator:

- (a) specifying the Operator's breach and indicating in what respect the Operator is in breach of its obligations under the Agreement and requesting the Operator to cure the breach; and
- (b) certifying that the Operator has failed to remedy the breach within the cure period (if any) provided for under the Agreement or as otherwise agreed between the Operator and the Employer (acting reasonably).

A Demand shall only be honoured by the Guarantor, if it is made by and bears the signature of an authorised officer or other representative of the Employer.

2.4. Without prejudice to and without limiting the generality of the provisions of Section 2.2, in respect of all monetary Demands made by the Employer hereunder, the Guarantor hereby undertakes to honour such Demands and to pay to the Employer any amounts or sums demanded by the Employer and such amounts shall be paid within five (5) business days from the date of receipt by the Guarantor of the Employer's first demand stating the total amounts demanded and the bank name and account in which the amounts and sums demanded are to be transferred or deposited, provided always that such demand specifies the breach and satisfies the requirements of Section 2.3.

2.5. This Guarantee shall come into force and shall become automatically effective upon the execution by the Employer and the Operator of the Agreement. After having come into force, this Guarantee and all of the Guarantor's obligations set out herein shall constitute and be continuing obligations and accordingly shall remain in full force and effect until the date falling sixty (60) Days following the expiry of the Term, upon which it shall automatically terminate (the "**Guarantee Expiry Date**"). The expiration of the Guarantor's obligations under this Guarantee, however, shall be without prejudice to any liability of the Guarantor accrued and notified to the Guarantor by Employer in writing

and in respect of which the Employer has delivered a Demand to the Guarantor in accordance with Section 2.3 prior to the Guarantee Expiry Date.

- 2.6. All amounts and sums payable by the Guarantor pursuant to this Guarantee shall be without any set-off or deductions for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed (the “**Deductions**”). If the Guarantor is prevented by operation of law or otherwise from making or causing to be made such payments without Deductions, the amounts demanded by the Employer shall be increased to such amount as may be necessary so that the Employer receives the full amount it would have received had such payments been made without such Deductions.
- 2.7. The Guarantor hereby agrees that multiple claims and demands may be made by the Employer under this Guarantee.
- 2.8. The obligations of the Guarantor under this Guarantee shall not be discharged by and shall not be affected in any manner by any of the following:
  - (a) any amendment to, or any variation, waiver or release of any obligation of the Operator under or pursuant to the Agreement;
  - (b) any time or indulgence being granted or agreed to be granted to the Operator under or pursuant to the Agreement;
  - (c) the taking, variation or release of, or enforcement or neglect to perfect or enforce any right, guarantee, remedy or security from or against the Operator;
  - (d) any legal limitation, disability, incapacity or other circumstances relating to the Operator; and/or
  - (e) the winding-up, dissolution, administration or reorganisation of the Guarantor, the Operator or any change in the status, function, control or beneficial ownership of the same.
- 2.9. The Guarantor’s liability under this Guarantee shall be that of a principal debtor and not as a surety and the Employer may at its option hold the Guarantor primarily responsible for the Guaranteed Obligations. The rights of the Employer under and pursuant to this Guarantee and the exercise by the Employer of the same in terms hereof shall be without prejudice to rights and remedies of the Employer against the Operator under the Agreement, provided that the Employer shall not be entitled to enforce its rights and claims under this Guarantee to the extent that the Employer has already received payment or other performance under any other security that the Employer may hold in respect of the Operator's obligations which are supported by this Guarantee.
- 2.10. No delay or omission of the Employer in exercising any right, power or privilege under this Guarantee or the Agreement shall impair or be construed as a waiver of such right, power or privilege, nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

- 2.11. The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.
- 2.12. In the event of the Guarantor's bankruptcy or insolvency, this Guarantee shall not be terminated or cancelled but rather shall continue to be operative against the Guarantor's successors-in-interest and assigns.
- 2.13. The Guarantor hereby represents that:
- (a) the Guarantor has taken all necessary corporate actions and has all necessary authorizations to execute and deliver this Guarantee to the Employer;
  - (b) the Guarantor is empowered under applicable laws of [●] and its constitutive documents (including the memorandum and articles of association or charter) to execute and deliver this Guarantee and to perform its obligations hereunder; and
  - (c) this Guarantee has been executed by the Guarantor's duly authorized persons on the Guarantor's behalf and is and shall continue to remain, until the Guarantee Expiry Date, binding and enforceable against the Guarantor.
- 2.14. The Guarantor hereby agrees that any part of the Agreement may be amended, renewed, extended, modified, compromised, released or discharged by agreement between the Guarantor and the Operator, so that references to the Agreement in this Guarantee shall include each such amendment, renewal, extension, modification, compromise, release or discharge.
- 2.15. The Employer may not assign, transfer or cause or permit to be assigned, transferred, hypothecated, pledged, encumbered as a security interest or other disposition, in each case, any of its rights, titles, interests and benefits under this Guarantee to any third party without the Guarantor's prior written consent, which consent shall not be unreasonably withheld or delayed, provided however that the Employer may assign, transfer or cause or permit to be assigned, transferred, hypothecated, pledged, encumbered as a security interest or other disposition, in each case, any of its rights, titles, interests and benefits under or arising from this Guarantee to its lenders without the Guarantor's prior approval but with prior written notice to the Guarantor.
- 2.16. Except to the extent stated otherwise in this Guarantee, all references to any contract (including the Agreement) or other instruments are by way of reference only and shall not affect the obligations of the Guarantor under the Guarantee.
- 2.17. This Guarantee has been executed and delivered to the Employer for valid commercial consideration between the Operator and the Guarantor and no objection or defence shall be raised on the grounds of lack of consideration or any other ground.
- 2.18. This Guarantee and any dispute arising in relation to it shall be governed by the laws of Pakistan.

- 2.19. Any dispute concerning the validity, the interpretation or the performance of this Guarantee or otherwise in connection with it which cannot be settled amicably by the parties shall be finally settled under the rules of arbitration and the terms and conditions set out in Section 19 (*Dispute Resolution*) of the Agreement, which shall be incorporated into this Guarantee as if set out in full in this Guarantee and as if references in those clauses to “this Agreement” and “the Operator” were references to this Guarantee and the Guarantor, respectively.
- 2.20. Any notice or communication to or demand or claim on the Guarantor to be made under this Guarantee shall be in writing and may be delivered in person or sent by courier to the Guarantor at its address below:

To: [●]  
Designation: [●]  
Address: [●]  
Telephone: [●]  
Fax: [●]

Any such notice or demand shall be deemed to have been served at the time of delivery, if delivered by hand or courier.

The Guarantor may change its nominated addresses for delivery of communications, demands or claims by prior written notice to the Employer.

**IN WITNESS WHEREOF** the Guarantor hereto has caused this Guarantee to be executed by its duly authorised representatives as of the day, month and year first above written.

For and on behalf of [●] through its authorised signatory

Name: [●]

Designation: [●]



SIGNATURE

.....

IN THE PRESENCE OF  
**WITNESSES:**

SIGNATURE

1- Name:  
Address:  
NIC / Passport No:

.....

2- Name:  
Address:  
NIC / Passport No:

.....

**SCHEDULE E: FORM OF PERFORMANCE SECURITY**

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To: ..... , 2021  
[●]  
[Insert Address]

**PERFORMANCE SECURITY NO.** ..... (the **Security**)

We, [●]<sup>2</sup>, being the Security issuing bank (the Issuing Bank) understand that the following parties have entered into an agreement entitled “FACILITY MANAGEMENT AGREEMENT” dated ....., 2021 (the **Agreement**):

- (a) Sindh Infrastructure Development Company, a public limited company incorporated under the laws of Pakistan with its registered office located at 6<sup>th</sup> Floor, Extension Block, Bahria Complex IV, Karachi (the **Employer**); and
- (b) [●], a company incorporated under the laws of [●] having its registered office located at [●] (the **Operator**).

Further, we understand that pursuant to the Notification of Award dated [●] (the “**Notification of Award**”) and the Agreement, the Operator is required to provide the Employer with a performance Security equal to [●] [●]/- ([●] [●]) and maintain the same in accordance with the terms of the Agreement.

The above premised, we (the Issuing Bank) hereby undertake irrevocably and unconditionally on demand to pay to the Employer, without any notice, reference or recourse to the Operator or to any other entity or without any recourse or reference to the Notification of Award, Agreement or any other document, agreement, instrument or deed, any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

[●] [●]/- ([●][●])  
(the **Guaranteed Amount**)

at sight and immediately, however not later than three (3) business days from the date of receipt of the Employer’s first written demand (the Demand) at the Issuing Bank’s offices located at [●] or through SWIFT instructions transmitted by the Employer’s bank (i.e., the National Bank of Pakistan), on behalf of the Employer, to the Issuing Bank, such Demand stating:

- (a) that the Operator is in breach of its obligations towards the Employer:
  - (i) specifying the breach and, if applicable, requesting the Operator to cure the breach;
  - (ii) if applicable, certifying that the Operator has failed to remedy the breach within the period allowed for remedial action; and

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<sup>2</sup> Insert name of Issuing Bank;



(b) the total amounts demanded.

A Demand shall only be honoured by us: (i) in the case of a written Demand, if it is made by and bears the signature of an authorised officer or other representative of the Employer; or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by the Employer's bank (i.e., National Bank of Pakistan), on behalf of the Employer.

We, the Issuing Bank, shall unconditionally honour a Demand hereunder made in compliance with this Security at sight and immediately on the date of receipt of your Demand, as stated earlier, and shall transfer the amount specified in the Demand to the bank account, as notified in the Demand, in immediately available and freely transferable funds in the currency of this Security, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Security shall come into force and shall become automatically effective upon its issuance.

After having come into force, this Security and our obligations hereunder will expire on the earlier of:

- (i) [●] (the **Performance Security Original Expiry Date**) provided that, in the event the Issuing Bank has receipt of the Demand on or immediately prior to the Performance Security Original Expiry Date, the Issuing Bank shall honour that Demand; or
- (ii) when the aggregate of all payments made by us under this Security equal the Guaranteed Amount.

Upon expiry, this Security shall be returned to the Operator without undue delay. Multiple Demands may be made by the Employer under this Security but our aggregate liability will be restricted up to the Guaranteed Amount.

The Guaranteed Amount shall be revised upon receipt by us of a notice duly signed by the Employer and the Operator of the revised guaranteed amount.

We hereby agree that any amendment, renewal, extension, modification, compromise, release or discharge by mutual agreement by the Employer, the Operator or any other entity of any document, agreement, instrument or deed shall not in any way impair or affect our liabilities hereunder and maybe undertaken without notice to us and without the necessity for any additional endorsement, consent or guarantee by us.

This Security for its validity period shall not be affected in any manner by any change in our constitution or of the Operator's constitution or of their successors and assignees and this Security shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

All references to any contract, agreement, deed or other instruments or documents are by way of reference only and shall not affect our obligations to make payment under the terms of this Security.

If one or more of the provisions of this Security are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Security.

We hereby declare and confirm that under our constitution and applicable laws and regulations, we have the necessary power and authority, and all necessary authorizations, approvals and consents thereunder to enter into, execute, deliver and perform the obligations we have undertaken under this Security, which obligations are valid and legally binding on and enforceable against us under the laws of Pakistan and under the laws of the jurisdiction where this Security is issued. For the avoidance of doubt, in the event of any inconsistency between the laws of Pakistan and the laws of the jurisdiction where the Security was issued, we agree that the laws of Pakistan shall prevail. Further, that the signatory(ies) to this Security is/are our duly authorized officer(s) to execute this Security.

This Security and all rights and obligations arising from this Security shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein. The issuance of this Security is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Security is issued.

This Security is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758. To the extent that there is any inconsistency between the terms of this Security and the Uniform Rules for Demand Guarantees, ICC Publication No. 758, the terms of this Security shall prevail.

.....  
Name: .....  
Designation: .....

**SCHEDULE F: PAYMENT SCHEDULE**

For each month, the Operator shall be entitled to a payment (Monthly Service Fee and Monthly Performance Payment)

<b>Facilities Manager: Form of invoice</b>			
<b>Component</b>	<b>Reference</b>	<b>PKR/Month</b>	<b>Indexation</b>
Revised Salaries and Management Fee (S&MF)	(a)		Annually based on Consumer Price Index published by the Pakistan Bureau of Statistics.
Revised Insurance (I)	(b)		Annually based on actual insurance premiums.
Generator fuel reimbursement	(c)		As per actual consumption subject to verification from the Energy Management System.
Revised Supplies and maintenance items (S)	(d)		Annually based on Washing soap/Detergent index published by the Pakistan Bureau of Statistics.
Adjusted Monthly Service Fee (MSF)	(a)+(b)+(c)+(d)		

**Note**

- Payments for Phase 1 will be made based on 80% of Adjusted Monthly Service Fee.
- Electricity bills will be paid directly by the Employer to the power utility, subject to a cap of 60% of maximum load. Revisions to load will be allowed upon mutual agreement between Employer and Operator. Any consumption above 60% will be deducted from the Adjusted Monthly Service Fee.

**Monthly Service Fees (MSF) = Adjusted MSF x (1 – PP%)**

Where Adjusted MSF is MSF is after accounting for indexation

PP% means the Performance Payout Percentage, which shall be ten percent (10%) of the Monthly Service Fee and paid in Monthly Performance Payment

**Monthly Performance Payment (MPP)**

$$MPP = (1 - PD\%) \times MSF \times \frac{PP\%}{1-PP\%}$$

PD% means the Performance Deduction Percentage applicable to the Operator for Month as provided in Schedule G: Key Performance Indicators

**Adjustments to Salaries and Management Fee component**

$$S\&MF_{\text{Revised}} = S\&MF_{\text{Reference}} \times CPI_{\text{Revised}} / CPI_{\text{Reference}}$$

- $S\&MF_{\text{Revised}}$  = Adjusted Salaries and Management Fee component
- $S\&MF_{\text{Reference}}$  = Salaries and Management Fee component quoted in the bid
- $CPI_{\text{Revised}}$  = Revised CPI at the start of each year.
- $CPI_{\text{Reference}}$  = Reference CPI at the time of commencement of operations.

### **Adjustments to Insurance component**

$$I_{\text{Revised}} = I_{\text{Reference}} \times \text{Insurance premium}_{\text{Revised}} / \text{Insurance premium}_{\text{Reference}}$$

- $I_{\text{Revised}}$  = Adjusted Insurance component
- $I_{\text{Reference}}$  = Insurance component quoted in the bid
- $\text{Insurance premium}_{\text{Revised}}$  = Insurance premium rate at the start of each year.
- $\text{Insurance premium}_{\text{Reference}}$  = Insurance premium rate at the time of commencement of operations.

### **Adjustments to Supplies component**

$$S_{\text{Revised}} = S_{\text{Reference}} \times \text{Detergent Index}_{\text{Revised}} / \text{Detergent Index}_{\text{Reference}}$$

- $S_{\text{Revised}}$  = Adjusted Supplies component
- $S_{\text{Reference}}$  = Supplies quoted in the bid
- $\text{Detergent Index}_{\text{Revised}}$  = Detergent index at the start of each year.
- $\text{Detergent Index}_{\text{Reference}}$  = Detergent index at the time of commencement of operations.

**SCHEDULE G: KEY PERFORMANCE INDICATORS**

Definition of Key Performance Indicators. The Operator’s performance on operations and services as defined in this document shall be evaluated by means of required service levels for Key Performance Indicators (KPIs).

Deduction Percentages. Failure to meet these service levels shall lead to the application of Performance Deduction Percentages as per the table shown below. The Employer shall notify Performance Deduction Percentage within 10 days of submission of invoice by the Operator.

Employer review of KPIs. Employer may at all reasonable times, directly or through an Employer-appointed independent agent, observe, inspect, and satisfy itself with the observance by Operator of the KPIs.

KPI table. The systems must be designed and operated to meet these KPIs in the following table.

Table 1. Key Performance Indicators

	<b>KPI</b>	<b>Failure Event</b>	<b>Performance Deduction Percentage</b>
<b>1</b>	<b>STATION SAFETY</b>	<i>Assessment through self-reporting and monitoring by the Employer</i>	
1.1	Prevention of Severe Accidents	Accident involving station operations and management due to the Operator’s fault resulting in death or severe physical injury of a passenger or other person ( <b>Severe Accident</b> )	10% per occurrence
1.2	Prevention of Material Accidents	Accident involving station operations and management due to the Operator’s fault resulting in minor physical injury of a passenger or other person or material damage to the Employer assets ( <b>Material Accident</b> )	5% per occurrence
1.3	Immediate reporting of emergencies	Emergency not reported to Employer and the Police within 15 (fifteen) minutes of its occurrence	0.2 % per occurrence
1.5	Prevention of strikes	Number of operating minutes in which the Operator or its staff did strike and shutdown system partially or fully	5 % per incident which continue for more than 20 minutes plus loss of passenger revenue (if any)
1.6	Misbehavior	Personnel does not adhere to code of conduct or misbehaves severely with Employer staff or passengers	0.3% per occurrence

	<b>KPI</b>	<b>Failure Event</b>	<b>Performance Deduction Percentage</b>
<b>2</b>	<b>Fare Collection Services</b>	<i>Assessment through monthly reporting</i>	
2.1	Personnel	Non-compliance with any aspect of the requirements of paragraph 3.10.	0.5 % per occurrence
2.2	Fare collection services	Non-compliance with any aspect of the requirements of section 3 (Excluding Fare System failure)	0.6% per occurrence
2.3	Passenger service	Queuing time at point-of-sales exceeding 30 seconds per point-of-sales (Average time between issuance or recharge of fare measured over a fifteen-minute period in face of queue).	0.05% per occurrence
2.4	Enforcement of validation	Number of occurrences wherein a passenger is detected by Employer in the paid area of a station or on a Bus without a validated fare media	0.1% per occurrence
2.5	Daily Cash revenues	Failure to remit to the Funds Manager the cash collected at stations through sales kiosks and single-use fare sales	0.2% per incident of delay per day
<b>3</b>	<b>Station Management Services</b>	<i>Assessment through monitoring by the Employer</i>	
3.1	Quick resolution of station defects	Station Defect (SD) (as defined in paragraph 9.2) not resolved within the relevant Defect Resolution Period (as defined in paragraph 9.2) SD = (No of SD not responded Timely/Total number of SD reported by Employer) x 100	1% per 5 % of SD not resolved timely
3.2	Station operating hours	Stations not being open for the full duration of the daily operations	0.7% per station
3.3	Station management	Disruption of, or negative impacts on, the Bus Services due to any conduct of the Operator	0.5% per hour or part thereof for as long as the disruption occurs.
3.4	Toilet supervision	Failure to ensure continuous supervision of the toilets on the stations, inclusive of cleaning the toilet and replenishing supplies (dirty Toilets).	0.5% per station per day of occurrence
3.5	Staff behavior	Any conduct the brings the Employer or the BRT Services into disrepute	0.5% per occurrence

	<b>KPI</b>	<b>Failure Event</b>	<b>Performance Deduction Percentage</b>
3.6	Maintenance and general	Non-compliance with any aspect of the requirements of section 6 of this Schedule excluding Station Defects	0.7% per occurrence
3.7	Security and surveillance, Cleaning and Landscaping	Non-compliance with any aspect of the requirements of section 2 excluding Station Defects	0.5% per occurrence
3.8	Construction safety	Execute works without precautionary measures for passengers/general public safety	1% per day
3.9	Emergency response	Any incident in which an emergency vehicle has not reached the emergency area within 30 minutes from being notified	1% per occurrence
3.10	On-board security and inspection	Failure to provide eight (8) teams of two (2) personnel for on-board security on Corridor vehicles	0.5% per team per occurrence 1% per vehicle delayed or not operating due to lack of conductors
<b>4</b>	<b>Reporting</b>	<b><i>Assessment through monitoring by the Employer</i></b>	
4.1	Daily settlement report	Daily settlement report, including all required constituent parts.– <i>Reporting Requirements</i> , not provided for each business day specified submission date	1% per day
4.2	Monthly operations report	Monthly operations report, including all required constituent parts – <i>Reporting Requirements</i> , not provided for each business day specified submission date	1% per day of delay
4.3	Transparent self-reporting	Misrepresentative monthly operations report	2 % per occurrence
4.4	Integrity	Falsification of facts and information or breach of confidentiality of information/documents	2 % per occurrence
4.5	Dragnet clause	Any act/instance that is non-conforming or a violation of Contract / scope of services / Schedule of Requirements/Rules or Regulations of Employer / Instructions given by the Employer, unless covered by another KPI	1 % per occurrence
4.6	Frequently occurred major violations	Occurrence per violation listed in table below, unless covered by another KPI Note: This Liquidated Damages will be only applicable, if any other Liquidated Damages is not applicable under the Agreement/Contract	0.2% per occurrence

	<b>KPI</b>	<b>Failure Event</b>	<b>Performance Deduction Percentage</b>
4.6	Frequently occurred minor violations	Occurrence per violation listed in table below, unless covered by another KPI Note: This Liquidated Damages will be only applicable, if any other Liquidated Damages is not applicable under the Agreement/Contract	0.1% per occurrence

**Frequently occurred major violations.** The table below defines the frequently occurred major violations that are covered in the KPIs.

Table 2. Frequently occurred major violations

	<b>Failure Event</b>
1	Generator not functional (irrespective of power failure) (calculated per device)
2	Non-availability of fare media in fare vending offices and at fare vending machines based on the cards provided by the Employer (calculated per fare sales office / fare vending machine)
3	Entering of Any Private Non-Designated Vehicle in the corridor
4	To omit compliance with obligations regarding Staff training
5	Inadequate operation of passenger access doors, either due to damage or incorrect operation which affects boarding and alighting times by passengers.
6	To violate, tamper or to alter without prior authorization of the ITS related equipment.
7	Manipulation of data
8	Operator staff violates the approved code of conduct
9	Loss of Employer assets due to Operator's fault (calculated per device per day)
10	Operator office in location that is not accessible by specially challenged persons (calculated per month)
11	Delay of repair of Employer property caused by Operator (calculated per day)
12	Use of equipment/power in non-operating hours
13	Misuse of Employer infrastructure
14	Failure to meet required function of Schedule of Requirements (all sections)
15	Non-availability of fare media at fare sales office (calculated per 10 minutes)
16	Non-availability of insurance or late renewal of insurances (calculated per day)
17	Disruption in Operation of BRT Service/Stations due to failure of Operator to timely refuel the generators (within the allocated time slot) or in sufficient quantities.
18	Failure to abide by any rules, regulations, instructions, SOPs, Contractual Obligations laid down by the Employer
19	Failure to contain spillage within acceptable fuel spillage levels as may be ascertained/reported by Employer's representative/inspector along with a photographic evidence
20	Any Loss or damage caused to movable or immovable property of the Employer or any other BRT Service Provider directly and solely attributable to the Operator.
21	Failure to comply with O&M requirements as laid in scope of the contract within 24 hours of the identification of fault



	<b>Failure Event</b>
22	Voidance of Warranty due to supply and use of sub-standard fuel as described in scope of the contract
23	Failure to arrange lab test as per scope of the contract.
24	Unable to launch application I FIR in concerned Police Station as per directions from employer.
25	Security Personnel found in violation to the age criteria defined in the scope of contract. <i>(In addition to fine, Security Personnel(s) shall be immediately removed from site followed by replacement)</i>
26	Any Security Personnel found with Criminal record at the time of hiring, <i>(In addition to fine, concerned Security Personnel(s) shall be immediately terminated followed by replacement)</i>

**Frequently occurred minor violations.** The table below defines the frequently occurred minor violations that are covered in the KPIs.

Table 3. Frequently occurred minor violations

	<b>Failure Event</b>
1	Late arrival of staff at stations (calculated per person)
2	Late opening or early closing of fare sales offices (calculated per fare sales office per 30 minutes)
3	To use unauthorized electronic equipment by the Staff (cell phones, etc.) during duty
4	All Utility Bills should be paid in time.
5	Staff involves in allowing any passenger traveling without paying fare
6	Staff failed to stop any passenger traveling without paying fare
7	Lack of illumination or incorrect arrangement in terms of visibility on the stations
8	Smoking/Drunkenness or using drugs on duty
9	Staff seen spitting
10	Staff shouting at passengers
11	Staff not giving receipts of sale to passenger or for card repair (calculated/instance)
12	Reports in required format are not provided (calculated per month per report)
13	Absence of the staff at designated points for more than hour (calculated per hour)
14	Failed to inform malfunctioning equipment
15	Failed to facilitate physically disabled person (calculated per instance)
16	Lack of policies that promote environment for female employee (calculated per instance)
17	Non-availability of online attendance of staff assigned to stations (calculated per day)
18	No- announcement or wrong announcement or lack of display on PIS
19	Failure to maintain adequate and up-to-date logbook of all re-fueling activity (Generator readings, quantity delivered at each supply, flow meter reading, dip rod readings etc.) OR Failure to submit reports as per prescribed schedule and format
20	Failure to ensure provision of resources including human resource and equipment within time period specified under scope of contract, reasonably required to complete the duties of this contract to the satisfaction of the Employer
21	Failure to remove broken-down delivery or staff vehicle from the BRT corridor before commencement of Operations

	<b>Failure Event</b>
22	Ensure its personnel do not enter into the Bus Stations without valid entry cards/permit issued by the employer.

## SCHEDULE H: TERM EXPIRY CRITERIA

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**Term Expiry Criteria** means the Operator fulfilling each of the following criteria:

- (a) all Services have been completed as per this Agreement free of Defects or Deficiencies that are contemplated under this Agreement to be performed by the Operator prior to expiry of the Term;
- (b) all reports under this Agreement have been submitted to the Employer;
- (c) the Operator has paid the Liquidated Damages to the Employer in accordance with **Schedule G (*Key Performance Indicators*)** of this Agreement;
- (d) the Operator has settled and paid the Employer all amounts that are due to the Employer pursuant to the terms and conditions of this Agreement;
- (e) the Facilities have been handed over to the Employer;
- (f) the Facilities are free of Defects or Deficiencies.

**SCHEDULE I: RELEASE CERTIFICATE**

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Date: .....

**To,**

**[THE OPERATOR],**  
[Address]

**REFERENCE: RELEASE CERTIFICATE**

Dear Sir/Madam,

We, [*INSERT COMPANY NAME*] (the **Employer**), hereby refer you, the Operator to the agreement entitled "Facility Management Agreement" entered into between the Employer and the Operator on [●], 202[1] (the **Agreement**).

*Unless defined herein, all capitalized terms shall bear the meaning ascribed thereto in the Agreement.*

Further to the written notice issued by you to the Employer dated [●], as attached hereto at Exhibit A (the **Operator Request Notice**), the Employer hereby issues this Release Certificate and confirms satisfaction of the Term Expiry Criteria on [●].

**IN WITNESS WHEREOF**, the Employer has caused this Release Certificate to be executed by its duly authorized representative.

For and on behalf of,  
**[INSERT COMPANY NAME]**

.....

Name: .....  
Designation: .....

**WITNESS I**

**WITNESS II**

.....  
Name: .....  
CNIC: .....

.....  
Name: .....  
CNIC: .....

**RELEASE CERTIFICATE - EXHIBIT A – OPERATOR REQUEST NOTICE**

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Date: .....

**To,**

[*INSERT COMPANY NAME*],  
[*insert address*].

**REFERENCE: NOTICE TO REQUEST ISSUANCE OF RELEASE CERTIFICATE**

Dear Sir/Madam,

We, the Operator hereby refer you, [●] (the **Employer**), to the agreement entitled “Facility Management Agreement” entered into between the Employer and the Operator on [●], 20[21] (the **Agreement**).

*Unless defined herein, all capitalized terms shall bear the meaning ascribed thereto in the Agreement.*

Pursuant to and in accordance with the terms of the Agreement, the Operator hereby confirms that each of the Term Expiry Criteria has been met and satisfied.

Based on the foregoing, the Operator hereby issues this notice to the Employer requesting the issuance of the Release Certificate by the Employer in accordance with the terms of the Agreement

**IN WITNESS WHEREOF**, the Operator has caused this notice to be executed by its duly authorized representative as of the ..... day of ....., 20.....

For and on behalf of,  
**THE OPERATOR**

.....

Name: .....  
Designation: .....

**WITNESS I**

**WITNESS II**

.....  
Name: .....  
NIC: .....

.....  
Name: .....  
NIC: .....

**SCHEDULE J: LIST OF SUB-OPERATORS**

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[to be inserted on Effective Date]

## SCHEDULE K: INSURANCE

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The Operator shall procure and maintain the following insurance coverage, at its own cost:

A. *[to be inserted from the list submitted as part of the Bid]*

With regard to the insurance policies, the Operator or the Operator's insurers will endeavour to provide thirty (30) days (except ten (10) days in the event of cancellation for non-payment of premium) notice to Employer in the event of cancellation or change.

Upon the request of the Employer the Operator shall deliver to the Employer certificate(s) of insurance showing that the insurance policies are in full force and effect.

The Employer shall maintain the following insurance coverage:

A. *[to be inserted]*

With regard to the insurance policies, the Employer or the Employer's insurer shall provide thirty (30) days (except ten (10) days in the event of cancellation for non-payment of premium) written notice to the Operator in the event of cancellation or change.

### **FAILURE TO MAINTAIN INSURANCE:**

Failure by either Party to maintain any insurance required under this **Schedule K (Insurances)** shall constitute a material breach of this Agreement.

**SCHEDULE L: CONSENTS**

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[to be inserted within ten (10) days of Notice to Proceed]



**SCHEDULE M: FORM OF INVOICE**

<b>Facilities Manager: Form of invoice</b>			
<b>Component</b>	<b>Reference</b>	<b>PKR/Month</b>	<b>Indexation</b>
Revised Salaries and Management Fee (S&MF)	(a)		Annually based on Consumer Price Index published by the Pakistan Bureau of Statistics.
Revised Insurance (I)	(b)		Annually based on actual insurance premiums.
Generator fuel reimbursement	(c)		As per actual consumption subject to verification from the Energy Management System
Revised Supplies and maintenance items (S)	(d)		Annually based on Washing soap/Detergent index published by the Pakistan Bureau of Statistics.
Adjusted Monthly Service Fee (MSF)	(a)+(b)+(c)+(d)		

- Payments for Phase 1 will be made based on 80% of Adjusted Monthly Service Fee.
- Electricity bills will be paid directly by the Employer to the power utility, subject to a cap of 60% of maximum load. Revisions to load will be allowed upon mutual agreement between Employer and Operator. Any consumption above 60% will be deducted from the Adjusted Monthly Service Fee.

**SCHEDULE N: PERFORMANCE SECURITY AMOUNT**

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**Performance Security Amount** = [(Adjusted Monthly Service Fee x 12)] x 5%