

**ENGAGEMENT OF AGENCY FOR ADEVRTISEMENT ON CITY BUSES IN BHOPAL IN THE STATE
OF MADHYA PRADESH**

**RFP DOCUMENT
(Fourth Call)**

October, 2011



**Bhopal City Link Limited
Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003**

CONTENTS OF RFP DOCUMENT

The RFP document comprises of the sections as listed below and would additionally include any addenda issued before the due date of submission of the RFP. Any reference to the RFP document includes all the contents unless specifically mentioned otherwise.

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SECTION I: DISCLAIMER

This RFP document is being issued by Bhopal City Link Limited (BCLL), hereinafter referred to as the “Regulator” for inviting RFPs to engage entities and organizations for advertisement on city buses on such terms and conditions as set forth in this RFP or that may subsequently be provided to bidder(s) in documentary form by or on behalf of BCLL.

It is hereby clarified that this RFP document is not an agreement and the purpose of this RFP is to provide the bidder(s) with information to assist them in the formulation of their proposals. Bidder should carefully examine and analyze the RFP document and to carry out its own investigation with respect to all matters related to the project, seek professional advice on technical, financial, legal, regulatory and taxation matters and satisfy itself of consequences of entering into any agreement and / or arrangement relating to the project. BCLL makes no representation or warranty and shall incur no liability under any law as to the accuracy, reliability or completeness of the information contained in the RFP.

The RFP Document, if purchased by the Bidder is not transferable.

SECTION II: BRIEF OVERVIEW

1 PREAMBLE

Bhopal City Link Limited (BCLL) has been incorporated to operate and manage the public transport system with Private sector participation in Bhopal City. The new SPV is ideally constituted as a Public Limited Company incorporated under the Companies Act, 1956.

2 Procedure & Management

The company issues the RFPs to the interested, reputed & established advertisement agencies and individual companies to advertise on 225 city buses on various routes on the **Per bus per month** basis offer in the form of amount of Premium to be paid to the company.

BMC will act as an umbrella organization and coordinate with all other agencies involved in the project of city bus operations such as the RTO, traffic police etc to obtain all Applicable Clearances and Bus Permits that may be required, from time to time, for enabling the agencies involved in maintaining the Bus Services.

The advertisement agencies will have to follow the rules and regulations as decided by BCLL

3 Number of buses, and routes and bus stops

The company has identified 3 trunk and 8 standard routes in the city on which 225 buses would be operated daily (365 a day in a year), from 5 a.m. to 11 p.m.

	Type of Routes	Via	Number of Buses	Route Length
A	Trunk Routes			
TR1	Chirau Hospital, Bairagr to Akruti Eco City	Chirau Hospital, Bairagarh city depot, Bairagarh Station, Halalpur, Lalghati, VIP Guest House, Collectorate, Royal Market, Peer Gate, Moti Masjid, Kamla Park, Polytechnic, Roshanpura, New Market, Prakash Taran Pushkar, 1250 Hospital, Vyapam, Board Office, Sargam Talkies, BJP Bhawan, Habibganj Station, Habibganj Naka W, Paras City, 11 no, Ishwar Nagar, Tilak Nagar, Akruti Eco City	20	25.27
TR2	Old Bus Stand	Bus Stn, Alpana Tiraha, Bharat Talkies,	23	23.32

	Type of Routes	Via	Number of Buses	Route Length
	to HEG Mandideep	Patra Pul, Barkhadi RC, Upaj Mandi, Bogda Pul, Jinsi Square, Subhash Railway Fatak, SBI LHO, Post Office, Press Complex, Board Office, Sargam Talkies, Habibganj Station, Paras City, RRL, University, Vidya Nagar, Nikhil Homes, JatKhedi, Misrod, 11 Mile, Fun City, Indus Town, Mandideep, HEG Mandideep		
TR3	Bairagarh RS to Raisen Hosangabad Bypass	Bairagarh Stand, Halalpur, Lalghati, VIP Guest House, Collectorate, State Bank Square, Royal Market, Taj Mahal, Bhopal Talkies, Bus Stand, Alpana Tiraha, Bharat Talkies, Patra Pul, Barkhadi RC, Upaj Mandi, Bogda Pul, Prabhat Petrol Pump, Govindpura South, JK Road Tiraha, Piplani Petrol Pump, Ratnagiri Bypass, Anand Nagar, Raj Express, Patel Nagar, Oriental College, St Mont Fort School	39	20.64
B	Standard Routes			
SR1	Lal Ghati to City Depot	VIP Guest House, Collectorate, Royal Market, Peer Gate, Moti Masjid, Kamla Park, Polytechnic, Banganga Square, Rangmahal, Jawahar Chowk, City Depot, P&T Square, Govt Quarters, Nehru Nagar, Route end by Loop to City Depot Via IIFM, Bhadbhada Square to City Depot	21	9.86
SR2	City Depot to Saket Nagar	Nehru Nagar, P.N.T., Jawahar Chowk, Rangmahal, Center Point, Tin Shed, Mata Mandir, Narmada Bhawan, Nutan College, BJP office, Sargam Talkies, Jyoti Talkies, ISBT, Habibganj Stn, Kasturba Tiraha, SPS Tiraha, AIMS gate-2, Arvind Vihar, Lahar pur, Katara hills	16	20.10
SR3	Gandhi Nagar to Alpana tiraha	Sant Asharam Tiraha, Airport Tiraha, Mahavir Tekri, Vijay Nagar, Halalpur, Lalghati, To Ram Nagar, Navri Road, Bhopal Sultania Infantry, Military Gate, Taj Mahal, Shahjahanabad, Bhopal Talkies, Bus Stand, Sabji Mandi	15	13.56
SR4	Karound Chauraha to Chichli Bairagarh	Housing Colony, Krishi Upaj Mandi, Arif Nagar, DIG Bungalow, Kazi Camp, Sindhi Colony, Bhopal Talkies, Bus Stand, Sabji Mandi, Airport Tiraha, Bharat Talkies, Lady Hospital, Jahangirabad, PHQ, Police Control Room, Old Vidhan Sabha, Roshanpura, Rangmahal, Jawahar	23	22.80

	Type of Routes	Via	Number of Buses	Route Length
		Chowk, City Depot, P & T Chouraha, Nehru nagar, Khusiram college, Sarvdharma Colony, Chichli Bairagarh		
SR5	Chirayu Hospital to Awadhपुरी Vidyasagar Collage.	Chirayu Hospital, Madhav Asram, Bairagarh stn, Halalpura, Halghati, Royal Market, Bus Stand ,Sabji Mandi, Alpana Tiraha, Bharat Talkies, Lady Hospital, Jahangirabad, PHQ, Motilal Nehru Stadium, Old Central Jail, New Court, Vallabh Bhawan, Paryavas Bhawan, Board Office, Jyoti Talkies, Kasturba Nagar, Anna Nagar, Carrier College, Thana Govindpura, BHEL Gate No 6, Vijay Market, Mahatma Gandhi Square, Ayyappa Temple Barkheda, St Xavier School, Avadhपुरी, Avadhपुरी Vidyasagar collage.	17	26.70
SR6	P&T to Rajeev Gandhi College	Govt Quarters, Nehru Nagar, Vaishali Nagar, MACT, Panchsheel Pulia, Patrakar Colony, Kolar Colony, Ekant Park, Main Road 3, Rajiv Ghandhi Chowk, Main Road 3, Regional Musium of Natural History, Hanuman Mandir, 11 No Stop, Sai Board, Basant Kunj, Bharat Nagar, Akash Ganga Colony, Gulmohar Colony West	16	10.07
SR7	Gandhi Nagar to Ratnagiri Bypass	Sant Asharam Tiraha, RGPV, New Jail, Truba College, Palasi, Karond Chauraha, BHMRC, People's Campus, Bhanpur Railway Crossing, Maholi, Damkheda 1, Damkheda 2, Sagar Homes, Sharda Nagar, Ayodhya Nagar, Narela Shankari, Rajeev Gandhi Nagar, Prakash Nagar	18	17.26
SR8	Chinchli Bairagh to Rly. Coach Factory	Chinchli Bairagh, Naya Pura, Bimakunj, Sarva Dharma B, Ayusman Hospital, Manisha market, Campion School, Paras City, Habibgang R II, Mansarowar, Board Office, Shanti Niketan, Subhas Fatak, New Ashoka Gardan, Pushpa Nagar CH, Railway Plat Form I, Railway Colony, Dwarka Nagar, Indus Tiraha, Rly. Coach Factory	17	21.60

The map showing the bus service area and the number and category of buses available is given in Annexure 1. The order for all the buses has been placed and 105 numbers (900 mm)

Semi Low Floor Tata 43+1s city Bus LPO 1512/55 Buses are being operated by the Bus Operator appointed by BCLL. The balance semi low floor and low Floor AC buses would be delivered to BCLL shortly from the manufacturer and BCLL will offer those buses for operation to the operator immediately as per the agreement.

- 4 **Period of Contract:** The Term of advertisement contract will be for a time period commencing from the Appointed Date and extending till the expiry of 5 (five) years from Appointed Date. There shall be no automatic renewal of the Agreement after expiration of the Term. However, both Parties may mutually decide to renew the Agreement for another Term of 1 (One) years, subject to performance, on such terms and conditions as the Parties may agree at such time.
- 5 **Spaces / Area provided for Advertisement:** The company (or the selected Agency through bidding process – as a Agency on behalf of company) will be operating 225 standard buses. Area for advertisement/name/logo shall be as Schedule 1 on each side of the vehicle except the entire front portion and rear window of vehicle. The detailed specifications are given in Schedule 1.



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Bhopal City Link Limited

No.: BCLL/ Advertisement/

Bhopal, Date:

NOTICE INVITING TENDER
NIT No. 10 Dated 05-10-2011
(Fourth Call)

Bhopal City Link Limited (BCLL) incorporation as a SPV to operate and manage the public transport system in Bhopal City with private sector participation invites bids from the reputed & established companies for advertising rights on 225 City Buses on 11 high travel demand routes of the Bhopal City **per bus per month** that could be paid to BCLL Bhopal. The spaces/areas provided in the buses for advertising mainly includes Side Panels, Back Panel. Details and specific sizes of advertising spaces along with specifications are given in the RFP Schedule 1.

1. The detailed terms and conditions are given in the RFP, which can be downloaded from website: <http://www.bhopalmunicipal.com>
2. The RFP can also be purchased from the office of The Managing Director, Bhopal City Link Limited, Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003 on submission of a Demand Draft of Rs. 5,000/- (Five Thousand only) in favour of "**Managing Director, Bhopal City Link Limited**" payable at Bhopal.
3. **Earnest Money Deposit (EMD):** The bidders have to furnish an EMD of Rs. 1 lakh/- (Rupees one lakh) in the form of DD drawn in favor of "**Managing Director, Bhopal City Link Limited**" payable at Bhopal along with the each bid.
4. **Schedule of bidding activities:** Bids are to be submitted in sealed envelopes on or before the due date mentioned below

Cost of Bid Document (non refundable)	Rs. 5,000/-
Issue of RFP document	05.10.2011
Last date for receipt of Bids	15:00 hrs on 20.10.2011
Opening of Technical Bid	16:00 hrs on 20.10.2011
Contact person for any clarification and detail Managing Director, Bhopal City Link Limited, Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003 Phone No. 0755 2701222, Fax: 2701223 Email Id: bmc_jnnurm@yahoo.co.in	

**Managing Director,
Bhopal City Link Limited.**

SECTION IV: DEFINITIONS & ABBREVIATIONS

In this RFP, the following word(s), unless repugnant to the context or meaning thereof or defined in the Advertisement Agreement (as defined below), shall have the meaning(s) assigned to them herein below:

1. **“Advertisement Agreement”** means the agreement including, without limitation, any and all annexure thereto which will be entered into between BCLL, and the Successful Bidder/ agency through which rights will be granted to the Successful Bidder to provide advertisement on city buses in Bhopal.
2. **“Advertisement Fee”** means the fee to be paid by the Agency to BCLL per bus per month for the right to advertise on city buses in Bhopal.
3. **“Agency”** means the Successful Bidder for advertisement on Buses under in accordance with the terms and conditions of the Advertisement Agreement.
4. **“Applicable Law”** means all the laws, acts, ordinances, rules, regulations, notifications, guidelines or bye-laws, in force and effect, as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project.
5. **“Appointed Date”** means the date of the Advertisement Agreement.
6. **“Buses”** means specified number of new buses that are operated by BCLL or its selected Agency on the 11 identified city bus routes of Bhopal.
7. **“Concession Period”** means the first one month from the Commercial Operations Date, during which the fee for only those buses shall be payable by the Advertisement agency to BCLL on which the advertisement is displayed.
8. **“Event of Default”** shall have the same meaning as provided in Clause 9 of Advertisement Agreement.
9. **“Force Majeure” or “Force Majeure Event”** means circumstances or situations that are unusual occurrences which tend to disrupt normal activities and which are beyond the control of the Party affected by them (“Affected Party”) which is not attributable to the other Party and include, but not be limited to the following:
 - a. earthquake, flood, inundation and landslide;

- b. storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmosphere disturbances;
- c. fire caused by reasons not attributable to the Affected Party or any of the employees, representatives or agents appointed by the Affected Party
- d. acts of terrorism;
- e. strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Affected Party;
- f. national emergency or declaration of police emergency; and
- g. war, hostilities (whether declared or not) invasion act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionising radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions.

- 10. "Regulator"** shall mean Bhopal City Link Limited (BCLL).
- 11. "Parties"** means the parties to the Advertisement Agreement and "Party" means either of them, as the context may admit or require.
- 12. "Passenger"** means any individual who has purchased the ticket or pass or card for using the Bus Service.
- 13. "Person"** means any individual, corporation, partnership, joint venture, trust, unincorporated organization, government or governmental authority or agency or any other legal entity.
- 14. "Performance Guarantee"** shall have the same meaning as provided in Section V Clause 27 of this Agreement
- 15. "Project"** means the project of providing advertisement on buses in accordance with the terms and conditions of the Advertisement Agreement.
- 16. "RFP"** means this Request for Proposal document issued by BCLL on 05.10.2011 for the purposes of selecting an Operator for the Project in each Cluster on a competitive bidding basis including Disclaimer, Brief Overview, Notice Inviting RFP, Instructions To Bidders, Letter Of Acceptance and Bus Operators Agreement any Amendments thereto.
- 17. "Routes"** means the routes, as determined by BCLL, from time to time, on which the Buses would operate as part of the Bus Service which are provided in **Section II Clause 3.**

18. **“Successful Bidder”** means Person who has been selected by BCLL pursuant to competitive bidding process pursuant to the RFP.
19. **“Termination”** means the early termination of the Advertisement Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of the Advertisement Agreement but shall not, unless the context otherwise requires, include expiry of the Advertisement Agreement from the Appointed Date due to efflux of time in the normal course.
20. **“Termination Date”** means the date specified in the Termination Notice as the date on which Termination occurs.
21. **“Termination Notice”** means the notice of Termination by either Party to the other Party, in accordance with the Advertisement Agreement.

SECTION V: INSTRUCTIONS TO BIDDERS (ITB)

1. **Due Diligence:** The bidder is expected to examine all instructions, forms, terms and specifications in the RFP document. The bid should be precise, complete and in the prescribed format as per the requirement(s) of the RFP document.
2. **Cost of Bidding and RFP document:** The bidder shall bear all costs associated with the preparation and submission of its bid and BCLL will not be liable any costs, regardless of the outcome of the bidding process. The RFP document would cost **Rs. 5,000 (Rupees five thousand only)** and is available at the office of Managing Director, Bhopal City Link Limited, Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003. The RFP can also be downloaded from the website **<http://www.bhopalmunicipal.com>**, in which case then each bid should carry a demand draft of Rs. 5,000/- drawn in favour of “**Managing Director, Bhopal City Link Limited**” and payable at **Bhopal**.
3. **Amendment of Bidding Documents:** At any time before the deadline for submission of bids, BCLL may, for any reason, modify the RFP document by amendment. Any amendments / modifications to the RFP shall be through the issue of addendum(s) to the RFP, which shall set forth the said amendments / modifications thereto (hereinafter referred to as the “**Addendum(s)**”). All prospective bidders who have purchased the RFP document shall be informed of such Addendum(s) only through website, and the contents, terms and conditions of all such Addendums(s) shall be binding on all bidders.

4. **Documents constituting Bid:** In order for bidder(s) to qualify to bid for this RFP document, the bidder(s) shall be liable to submit the amount quoted per bus per month by the advertisement agency/ individual companies to display & advertise in the city buses on various routes in Bhopal city in the form and manner set forth in **Form T1 to Form T5** of the RFP along with all documents required to be submitted as per the said appendix including the bid security. The Price Bid Offer given in these RFP document shall be firm including taxes and duties, incidental expenses and shall no be subjected to any exchange variations, labour conditions, fluctuations in railway freight, taxes and any conditions whatsoever.

5. **Preparation of Bids**

- a. **Earnest Money Deposit:** Bid submitted in response to the NIT shall be accompanied by a bid security of sum of Rs. 1 lakh (Rs. One Lakhs) (hereinafter referred to as "Bid Security" or "EMD") in the form of a Demand Draft drawn in favour of "**Managing Director, Bhopal City Link Limited**", from any scheduled bank. (Demand Drafts of non-schedule bank will not be accepted.).
- b. If the earnest money deposit is not found in accordance with the prescribed mode & amount mentioned as mentioned above, offer will be rejected.
- c. **Authentication of Bid:** The original and the copy of the bid shall preferably be typed and shall be signed by a person or persons duly authorized by the bidder in this behalf by way of a power of attorney duly executed by the bidder in the form set forth in **Form T2** hereto. The person or persons signing the bid shall initial all pages of the bid document and provide full name and signature on the signature pages. Bidder should submit the self attested copies of all the supporting documents.
- d. **Number of Copies of Bid:** The bidder shall submit one original and one copy of the technical bid separately, clearly marking each "Technical Bid– Original" and "Technical Bid Copy", as appropriate. Bidder shall submit only one original of the financial bid, clearly marking the same as "Financial Bid".
- e. **Sealing and Marking of Bids**

- i. The original Bid Security of the required value and in approved format shall be sealed separately in an envelope on which the following shall be superscribed:

“Bid Security for Advertisement Contract”

- ii. The original and copy of the original of the prequalification bid shall be sealed separately in an envelope on which the following shall be super scribed:

“Envelope – A Technical Bid for Advertisement Contract”

- iii. The original of the financial bid shall be sealed separately in an envelope on which the following shall be super scribed:

“Envelope – B Financial Bid for Advertisement Contract”

- iv. The original and copy of the technical bid and the original of the financial bid shall also be sealed separately before sealing the same in their respective envelopes of A and B respectively.
- v. All the above envelopes viz. ‘A’ and ‘B’ along with the original bid documents issued by BCLL along with updated Addendums (if any), duly signed by the bidder through its authorized signatory on all pages shall then be sealed in one outer envelope.

1. The inner and outer envelopes shall be addressed to Managing Director, Bhopal City Link Limited and marked as below:

“RFP for the Advertisement Contract”

2. The outer as well as inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is received late.

6. **Evaluation of bids:** Notwithstanding anything contained in this RFP document, BCLL will have sole and absolute right to evaluate each bid received in accordance with this RFP document.
7. **Validity Period:** Bids shall remain valid for a period of 180 days (one hundred and eighty) after the last date of submission of bids prescribed by BCLL. BCLL reserves the

right to reject a bid as non-responsive if such bid is valid for a period of less than 180 (one hundred and eighty) days and BCLL shall not be liable to send an intimation of any such rejection to such bidder.

8. Extension of Period of Validity: In exceptional circumstances, BCLL may solicit the bidder's consent for an extension of the period of bid validity period. Any such request by BCLL and the response thereto shall be made in writing and such extension of bid validity period by the bidder should be unconditional. A bidder may refuse BCLL's request for such extension without forfeiting the Bid Security. A bidder accepting the request of BCLL shall not be permitted to modify its bid.

9. Mailing Address for Bids: Bids shall be addressed to BCLL and sent (through either registered post or courier) at the following address:

Managing Director, Bhopal City Link Limited,
O/o Commissioner, Bhopal Municipal Corporation,
Harshwardhan Complex Phase-1,
Mata Mandir, Bhopal, 462003

10. Last Date and Time for Submission: The bids must be received by BCLL, at the specified address, latest by **15:00 hrs** on **20.10.2011**. In the event of the specified date which is stipulated as the deadline for submission of bids is declared as a holiday for BCLL, the bids will be received up to the appointed time on the next working day at the same time.

11. Extension of Deadline for Submission of Bids: If the need so arises, BCLL may, in its sole discretion, extend the deadline for submission of bids by amending the RFP in this behalf. In such event, all rights and obligations of BCLL and bidders previously subject to the earlier deadline will thereafter be subject to the deadline as extended. Any such change in the deadline for submission of bids shall be notified to the bidders by dissemination of requisite information in this behalf on the website i.e. **<http://www.bhopalmunicipal.com>**

12. Late Bids: Any bid received by BCLL after the deadline for submission of bids prescribed by BCLL will be summarily rejected and may be returned unopened to the bidder. BCLL shall not be responsible for any postal delay or non-receipt / non-delivery of any documents.

13. **Modification and Withdrawal of Bids:** Bidder shall not be allowed to modify any part of its bid after the bid submission. In order to avoid forfeiture of Bid Security, a bidder may withdraw its bid after submission thereof, provided that BCLL receives written notice of such withdrawal before the expiry of deadline for submission of bids.

14. **Bid Process**

- a. **Opening of Prequalification Bid:** All technical bids received by BCLL in response to this RFP document shall be opened by BCLL in the presence of bidders' representatives who choose to attend the opening of technical bid at **16:00 hrs on 20.10.2011** in the office of the Managing Director, Bhopal City Link Limited, Commissioner, Bhopal Municipal Corporation, Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003
- b. **Opening of Financial Bids:** After the evaluation of technical bid has been completed, BCLL shall open the financial bids, on the date and time intimated at a later stage, of only those bidders who qualify the prescribed criteria for the technical bid. Financial bids of those bidders whose technical bid are rejected shall not be opened and shall be returned to such bidders.
- c. **Announcement of Bids:** After every round of bid bidder's names, presence or absence of requisite Bid Security and such other details as BCLL in its sole discretion may consider appropriate, will be announced.

15. Criteria for Technical Bid Evaluation

Technical Bid will be evaluated on Pass-Fail basis subject to fulfilment of the following criteria:

- a. The Average Annual Turnover of the agency should be Rs. 60 lakhs (Rupees Sixty lakhs) and the Net Worth of Rs 30 lakhs (Rupees Thirty lakhs) during the last three Financial Year (2008-09, 2009-10, 2010-11).

16. Determination of Successful Bidder: The Successful Bidder shall be determined on the basis of highest advertisement rate per month for all categories of buses. Successful Bidder shall, have non-exclusive non-transferable rights to advertise on the buses in the city.

17. Clarification of Bids: During evaluation of bids, BCLL may, at its discretion, ask the bidder(s) for a clarification of its bid. The request for clarification and the response shall be in writing. If the response to the clarification is not received by BCLL before the expiration of the deadline prescribed in the written request for clarification, BCLL reserves the right to make its own reasonable assumptions at the total risk and cost of the bidder.

18. Rejection of Bid

- a. A bid is likely to be rejected by BCLL without any further correspondence, as non-responsive, if:-
 - i. bid is not submitted in the manner as prescribed in the Instructions to Bidders Section of this RFP document and is otherwise not in conformity with the terms and provisions of this RFP; or
 - ii. bid is not submitted in the bid-forms annexed in the RFP document; or
 - iii. bid is submitted by telex, fax or email; or
 - iv. Bid Security does not conform to the provisions set forth in this RFP document; or
- b. Failure of any one (or more) of the conditions set forth herein above shall result in rejection of bid.

- c. In addition to the foregoing, in the event a bidder makes an effort to influence BCLL in its decisions on bid evaluation, bid comparison or selection of the Successful Bidder, it may result in rejection of such bidder's bid.

19. **Discharge of Bid Security of unsuccessful bidder(s):** The Bid Security of unsuccessful bidders will be discharged / returned as promptly as possible after the expiry of bid validity period and latest by the 30th (thirtieth) day from the signing of the Advertisement Agreement with the Successful Bidder.

20. **Forfeiture of Bid Security:** The Bid Security of a bidder shall be forfeited if a bidder withdraws the proposal during the period of bid validity, or in the case of a Successful Bidder, fails to sign the Advertisement Agreement or fails to furnish the required Performance Guarantee within stipulated time in accordance with the Advertisement Agreement.

21. **Award of Contract:** BCLL shall issue a letter of acceptance ("LoA") to the Successful Bidder. BCLL shall issue the LoA in duplicate to the Successful Bidder and the Successful Bidder would be required to sign and return the duplicate copy of the LoA as acknowledgement within 7 (seven) days of the receipt of the LoA by the Successful Bidder. In the event the duly signed duplicate copy of the LoA by the Successful Bidder is not received within the stipulated 7 (seven) days, BCLL shall have the option to either extend such time limit for the receipt of the duplicate copy or deduct from the Bid Security of such Successful Bidder an amount which at the sole discretion of BCLL is believed to be the loss and/ or damages suffered by BCLL as a result of the delay in providing the acknowledgement.

In the event the Successful Bidder fails to acknowledge the LoA, and the next eligible bidder may be considered by BCLL.

22. **Signing of Advertisement Agreement:** Bidders should note that in the event of acceptance of its bid, the Successful Bidder(s) would be required to execute the Advertisement Agreement in the form annexed hereto. It is clarified that the issuance of the LoA shall be followed by signing of the Advertisement Agreement (as aforesaid) and thereafter the Successful Bidder shall be given rights to advertise on the buses as per the Advertisement Agreement. The signing of the Advertisement Agreement shall be completed not later than 1(one) month of the issuance of the LoA

to the Successful Bidder or within such extended time frame as extended by BCLL in its sole discretion. In the event the Successful Bidder is unable to execute the Advertisement Agreement within the time period, BCLL will have the right to withdraw the offer immediately from the Successful Bidder and replace it with an appropriate subsequent bidder. Thereafter, the previously appointed Successful Bidder will have no rights and its Bid Security will be forfeited.

23. **Annulment of Award:** Failure of the Successful Bidder to comply with the requirements set forth in this RFP and /or the provisions of the Advertisement Agreement shall constitute sufficient grounds for the annulment of the award of the bid and forfeiture of the Bid Security. In such case, BCLL will have the right to replace the Successful Bidder with the next highest bidder. Thereafter, the previously appointed Successful Bidder will have no rights.

24. **Failure to abide by the Advertisement Agreement:** The conditions stipulated in the Advertisement Agreement shall be strictly adhered to by the Agency and any violation thereof by the Agency may result in termination of the Advertisement Agreement without prejudice to any rights available to BCLL upon such termination as set forth in this RFP and/or the provisions of the Advertisement Agreement.

25. **Performance Guarantee:**

The Successful Bidder shall be required to furnish an irrevocable and unconditional Performance Guarantee in the form of a bank guarantee from a scheduled bank for a sum equal to Rs.10 Lakhs (Rs. Ten Lakhs), on or before the date of signing the Advertisement Agreement. The Bid Security of a Successful Bidder shall be discharged only after the Successful Bidder furnishes the Performance Guarantee of the 225 Buses as per details shown in the FORM F1: FINANCIAL PROPOSAL FORMAT. The Successful Bidder's Bid Security shall not be adjusted against the Performance Guarantee. The Performance Guarantee shall remain valid for the entire Term of the Advertisement Agreement.

Miscellaneous:

- a. Failure to furnish all information required by the RFP or submission of a bid not responsive to the RFP in every respect will be at the bidder's risk and may result in rejection or disqualification of the bid
- b. All amounts are non-refundable (unless otherwise provided in the RFP) and BCLL will in no case be held responsible or be liable for the cost, regardless of the conduct or outcome of the bidding process
- c. Nothing in this section shall be taken to mean or read as compelling or requiring BCLL to respond to any questions or to provide any clarification to a query of a bidder. BCLL reserves the right to not respond to questions it perceives as non-relevant which may be raised by a bidder or not to provide clarifications, if BCLL in its sole discretion considers that no reply is necessary
- d. The terms and conditions of the RFP are frozen unless otherwise, BCLL specifically issues Addendum(s).
- e. BCLL shall have the right to seek any additional information or document from the bidder in the manner BCLL deems fit in its sole and absolute discretion.
- f. The bid prepared by the bidder, as well as all correspondence and documents relating to the bid exchanged by the bidder and BCLL shall be written in English language only. However, in case bidder chooses to enclose certain supporting document(s) in any language other than English, then bidder shall also enclose certified / authentic translated copies of the same in English language. Any document which is not translated into English will not be considered and the bid shall be considered incomplete and therefore, liable for disqualification. For the purpose of interpretation and evaluation of the bids, the English language translation shall prevail.
- g. All prices quoted in the bid shall be quoted in Indian National Rupee(s) (INR)
- h. Any interlineations, insertion, erasures or overwriting shall be valid only if the person or persons signing the bid have authenticated the same with their respective signature alongside such interlineations, insertion, erasures or overwriting.

- i. In the event of any discrepancy between the original and the copies, the bid shall be disqualified.
- j. BCLL shall not be responsible in any manner possible for the contents of the bids, including if the envelope is not sealed and marked in the manner indicated in the RFP or where bidder does not receive any notification or documentation from BCLL.
- k. BCLL will examine the bids to determine whether these are complete, whether these meet all the conditions of the RFP and whether the documents have been properly signed and the Bids are generally in order. If there is a discrepancy between words and figures, the amount in words shall prevail.
- l. Any and all expenses relating to the execution of the Advertisement Agreement shall be borne by the Successful Bidder, including taxes and duties, incidental expenses, payment of stamp duty and registration charges, as applicable.
- m. Unless specifically requested by BCLL for a clarification, no bidder shall contact BCLL on any matter relating to its bid, from the time of the prequalification bid opening to the time the Advertisement Agreement is executed with the Successful Bidder.
- n. The bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the bidding process and subsequent to the issue of the LOA and during the subsistence of the Advertisement Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Advertisement Agreement, BCLL shall reject a bid, withdraw the LOA, or terminate the Advertisement Agreement, as the case may be, without being liable in any manner whatsoever to the bidder or the Agency, if it determines that the bidder or Agency, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process. In such an event, BCLL shall forfeit and appropriate the Bid Security or Performance Guarantee, as the case may be, as mutually agreed genuine pre-estimated compensation and damages

payable to BCLL towards, inter alia, time, cost and effort of BCLL, without prejudice to any other right or remedy that may be available to BCLL hereunder or otherwise.

SECTION VI: BID FORM, ANNEXURES AND OTHER FORMATS
FORM T1: COVERING LETTER

Dated:

Managing Director,
Bhopal City Link Limited,
Harshwardhan Complex Phase-1, Mata Mandir,
Bhopal, 462003

Re: Advertisement on City Buses on Specified Routes in Bhopal

Dear Sir,

Attached to this letter is the authority regarding Power of Attorney appointing me/us as designated person(s) to make these representation for and on behalf of the bidder in respect of the proposal as per RFP bearing number_____ dated 5th October, 2011_____issued by BCLL_____.

For and on behalf of the bidder, I/we confirm:

1. Our offer is in accordance with the terms and conditions of the RFP issued by BCLL, and we agree to sign the Advertisement Agreement enclosed with the RFP, and we have initialled each page of it to convey our acceptance;
2. That the offer contained in the proposal attached to this letter is a firm offer which will remain open for the proposal validity period referred to in the RFP, including any extension of the proposal validity period as may be agreed by us;
3. That BCLL may by written notice extend the period of proposal validity period and the proposal attached to this letter and the Bid Security below will remain in full force and be valid for that extended period as per provisions of the RFP;
4. That the Bidder accepts the terms and conditions stipulated in RFP for the selection process and undertakes to perform its obligations accordingly; and
5. That attached to this letter is the Bid Security along with all other documents and information as required by the RFP.

Name:

Title:

Date:

**FORM T2: POWER OF ATTORNEY BY THE BIDDER IN FAVOUR OF DESIGNATED
PERSON (S) IN CASE THE BIDDER IS NOT A SOLE PROPRIETOR**

Dated -----

POWER OF ATTORNEY

TO WHOMSOEVER IT MAY CONCERN

Shri -----(Name of the Person, domiciled at -----(Address)),
acting as -----(Designation and name of the firm/company), and whose
signature is attested below, is hereby authorized on behalf of -----(Name of bidder)
to negotiate and settle terms and conditions, finalize, approve, sign and execute agreements,
documents, endorsements, writings, etc. as may be required by BCLL for “Engagement of
Agency for Advertisement on City Buses in Bhopal in the State of Madhya Pradesh” and is
hereby further authorized to sign and file relevant documents in respect of the above.

(Attested signature of Shri-----)

IN WITNESS WHEREOF, we have hereunto set our respective hands this -----day of -----
2010 in the presence of the following witnesses

Witness 1

Witness 2

Signature -----

Signature -----

Name -----

Name -----

Address -----

Address -----

We hereby ratify and confirm that all acts done by our attorney ----- (name of
designated person) shall be binding on us as if same had been done by us personally

Signature ----- [signature of authorised signing officer]

Name ----- [Name of authorised signing officer]

Title ----- [Title of authorised signing officer]

----- [Name and Signature of the firm/Company]

Note: (1) The bidding firm needs to submit separate Power(s) of Attorneys for each designated person

(2) Any change in the designated person(s) should be informed to _____ along with a similar Power of Attorney in favour of such person(s)

FORM T3: INFORMATION ABOUT BIDDER

Names and roles of all the members of the bidder should be given below:

1. Information about Member(s)
(a) Nature of the Bidding Firm
6. A Sole Proprietorship
7. A Partnership firm
8. A Limited Company or Corporation
9. Limited Liability Partnership
(b) Brief Introduction
Registered Name of Bidder
Address
Telephone Fax E-mail
(c) Main Businesses
In India, In Own Country, Internationally
Date of Incorporation
Under Present Management Since (Year)
(d) Management
Chairman of Board
Chief Executive Officer
Chief Operating Officer
Role in Consortium

(e) List of Shareholders
Name of Shareholders Percentage of Share
2. (a) Information about Designated Person(s)
Name
Position
Telephone Fax E-mail

Note:

10. Particulars should be furnished separately for each member/partner
11. Organisation Chart showing the structure of the organization, including the names of the directors and position of officers shall be attached / submitted.

FORM T4: PERSONNEL CAPABILITIES

Sl. No.	Name & Address of the Employee	Technical Qualifications	Post held	Date of Employment
1.				
2.				
3.				
4.				
5.				

FORM T5: FINANCIAL CAPABILITY STATEMENT

S.N.	Parameters	FINANCIAL YEAR (Rs. Lakhs)		
		2010-11	2009-10	2008-09
1	Turnover			
2	Total Assets			
3	Current Assets			
4	Total Liabilities			
5	Current Liabilities			
6	Profit before Tax			
7	Profit after Tax			
8	Net Worth*			

*** Net Worth = Equity Capital + Reserve and Surplus - Revaluation Reserve - Accumulated losses - Intangible assets**

- a. The bidder shall provide self attested copies along with affidavit of its audited financial statements/ income Tax returns and other financial data for the immediately preceding three years. The statement shall include, but not limited to, for immediately preceding three years:
 - i. Audited financial accounts including balance sheet, profit and loss accounts statements
 - ii. Additional information supporting evaluation of the company's financial and legal status, if required.
- b. The information provided shall be detailed enough to demonstrate, and allow evaluation of the bidder's financial capability to fulfil its obligations, if selected as Successful Bidder, if required.
- c. List of bankers along with name and addresses from whom references can be obtained. Listing of bankers shall be deemed as authorization by the bidders for **BCLL** to request such references and for bankers to release them to **BCLL**.

FORM F1: FINANCIAL PROPOSAL FORMAT

(On the Letter Head of the Bidder)

Managing Director, Bhopal City Link Limited,
O/o Commissioner, Bhopal Municipal Corporation,
Harshwardhan Complex Phase-1, Mata Mandir,
Bhopal, 462003
Phone No. 0755 2701222, Fax: 2701223

Sub: Engagement of Agency for Advertisement on City Buses in Bhopal in the State of Madhya Pradesh

Being duly authorized to represent and act on behalf ----- and having reviewed and fully understood all requirements of bid submission provided in the RFP document and subsequent clarifications provided in relation to project, I/ we hereby provide our financial proposal.

I have read the entire RFP including all the general conditions, Advertisement Agreement etc. in detail and on the basis of my full study of the above mentioned document/s and the conditions, I undertake to advertise on the city buses on various routes in Bhopal City in accordance with the terms and conditions as provided in the above mentioned document/s and undertake to pay BCLL a monthly advertisement fee per bus as below:

Cluster No	Number of Buses	Monthly Advertisement Fee per bus per month to BCLL* (in Rs)				
		1 st Year of Operation	2 nd Year of Operation	3 rd Year of Operation	4 th Year of Operation	5 th Year of Operation
Low Floor- AC buses(400mm)	20	Rs. (In Figures)				
	Twenty	Rupees (In Words)				
Semi Low Floor- non AC (650mm)	20	Rs. (In Figures)				
	Twenty	Rupees (In Words)				
Semi Low Floor- non AC (900mm)	185	Rs. (In Figures)				
	One Hundred and Eighty Five	Rupees (In Words)				

*Rates to be quoted for Per Bus Per Month Starting from the end of Concession Period.

Name of Bidder:

signature of the Authorised Person

Seal:

Address and contact number:

Annexure 1
BUS SERVICE AREA

Trunk Corridors

Three trunk corridors have been identified which would connect Halalpur ISBT, Railway Station, BHEL and Mandideep. The proposed routes are shown in **Figure 1**

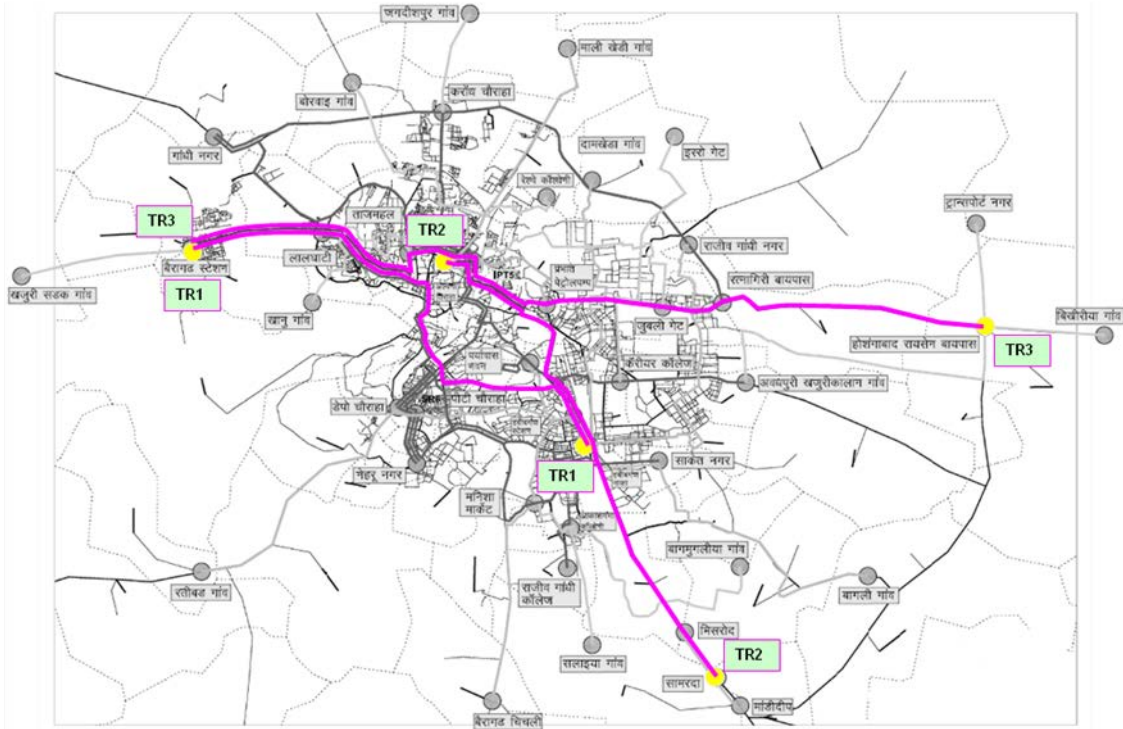


Figure 1: Proposed Trunk Corridors

SECTION VII: ADVERTISEMENT AGREEMENT

This agreement is made and executed at ____ on this [_____] of [_____] ,
in the year Two Thousand and ____ by and

Between

Bhopal City Link Limited, a **Company** created under Company's Act, 1956 acting through its Managing Director having its registered office at Harshwardhan Complex Phase-1, Mata Mandir, Bhopal, 462003 (hereinafter referred to as "**BCLL**", which expression shall, unless it is excluded by or repugnant to the context, include its successors and permitted assigns), OF THE ONE PART

AND

[_____] , a [_____] incorporated under the [_____] Act, 19*** [_____] acting through [_____] having its registered office at [_____] (hereinafter referred to as "**the Agency**", which expression shall, unless it is excluded by or repugnant to the context, include its successors and permitted assigns), OF THE OTHER PART;

WHEREAS

- A. BCLL is entrusted with the function of ensuring public bus transport in the city of Bhopal.
- B. The provision of advertisement on buses shall entail the following: (i) provide the advertisement through an agency(s) selected through a competitive bidding process with the agency(s) being given advertisement rights of the new buses procured by BCLL on the identified trunk and standard routes and being responsible for display of advertisement on buses (iii) the agency would be responsible for marketing and procuring advertisement on buses and collection of revenue from advertisement.
- C. BCLL decided to undertake a competitive bidding process for selecting an advertising agency that would take the advertising rights on 225 city buses in Bhopal.

- D. Pursuant to the competitive bidding process, BCLL selected [_____], as the “Agency” to enter into and implement this operations agreement with BCLL.
- E. BCLL and [_____] are hereby entering into this agreement for appointing [_____] as the Agency for the Project and vest it with the rights and duties as the Agency for the Project.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

1. **“Agency”** means _____, selected through competitive bidding process for advertisement on Buses under in accordance with the terms and conditions of the Advertisement Agreement.
2. **“Advertisement Agreement”** means this agreement including, without limitation, any and all Schedules hereto which will be entered into between BCLL and the Successful Bidder through which rights will be granted to the Successful Bidder to provide advertisement on city buses in Bhopal.
3. **“Advertisement Fee”** means the fee to be paid by the Agency to BCLL per bus per month for the right to advertise on city buses in Bhopal.
4. **“Applicable Law”** means all the laws, acts, ordinances, rules, regulations, notifications, guidelines or bye-laws, in force and effect, as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project.
5. **“Applicable Clearances”** means all clearances, permits, no-objection certifications, exemptions, authorisations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the Project during the subsistence of the Advertisement Agreement.
6. **“Appointed Date”** means the date of the Advertisement Agreement.
7. **“BCLL”** shall mean Bhopal City Link Limited.
8. **“Buses”** means specified number of new buses that are operated by BCLL or its selected Agency on the 11 identified routes in Bhopal

9. **“Commercial Operations Date”** means the date on which the commercial operations of the advertisement on buses are commenced by the Agency which shall be 15 days from the signing of the Advertisement Agreement.
10. **“Concession Period”** means the first one month from the Commercial Operations Date, during which the fee for only those buses shall be payable by the Advertisement agency to BCLL on which the advertisement is displayed.
11. **“Event of Default”** shall have the same meaning as provided in Clause 9 of this Agreement
12. **“Force Majeure” or “Force Majeure Event”** means circumstances or situations that are unusual occurrences which tend to disrupt normal activities and which are beyond the control of the Party affected by them (“Affected Party”) which is not attributable to the other Party and include, but not be limited to the following:
- a. earthquake, flood, inundation and landslide;
 - b. storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmosphere disturbances;
 - c. fire caused by reasons not attributable to the Affected Party or any of the employees, representatives or agents appointed by the Affected Party
 - d. acts of terrorism;
 - e. strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Affected Party;
 - f. national emergency or declaration of police emergency; and
 - g. war, hostilities (whether declared or not) invasion act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionising radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions.
13. **“Material Adverse Effect”** means a material adverse effect on (a) the ability of the either Party to perform/discharge any of its duties/obligations under and in accordance with the provisions of the Advertisement Agreement for no reason attributable to the other Party and/or (b) the legality, validity, binding nature or enforceability of the Advertisement Agreement.

14. **“Material Breach”** means a breach by either Party of any of its obligations under the Advertisement Agreement which has or is likely to have a Material Adverse Effect on the continued advertisement on the Buses or implementation of the Project, and which such Party has failed to cure.
15. **“Parties”** means the parties to the Advertisement Agreement and **“Party”** means either of them, as the context may admit or require.
16. **“Performance Guarantee”** shall have the same meaning as provided in Clause 7 of this Agreement
17. **“Person”** means any individual, corporation, partnership, joint venture, trust, unincorporated organization, government or governmental authority or agency or any other legal entity.
18. **“Project”** means the project of providing advertisement on the buses in accordance with the terms and conditions of the Advertisement Agreement.
19. **“RFP”** means the Request for Proposal document issued by BCLL, on 05.10.2011 for the purposes of selecting an Agency for Advertisement on buses on a competitive bidding basis.
20. **“Routes”** means the routes, as determined by BCLL, from time to time, on which the Buses would operate as part of the Bus Service.
21. **“Successful Bidder”** means Person who has been selected by BCLL pursuant to competitive bidding process pursuant to the RFP.
22. **“Taxes and Duties”** means all taxes (including road tax, property taxes), duties, fees etc. payable under the Applicable Laws in connection with the project.
23. **“Term”** shall have the same meaning as provided in Clause 3 of this Agreement.
24. **“Termination”** means the early termination of the Advertisement Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of the Advertisement Agreement but shall not, unless the context otherwise requires, include expiry of the Advertisement Agreement from the Appointed Date due to efflux of time in the normal course.
25. **“Termination Date”** means the date specified in the Termination Notice as the date on which Termination occurs.

26. "Termination Notice" means the notice of Termination by either Party to the other Party, in accordance with the Advertisement Agreement.

27. "Third Party" means any Person other than BCLL and the Agency.

1.2. Interpretation

In this Agreement, unless the context otherwise requires:

1. Words in the singular include the plural and vice-versa.
2. Words importing the masculine gender shall be taken to include the feminine gender and words importing persons shall include any company or association or body of individuals, whether incorporated or not.
3. The heading of these conditions shall not affect the interpretation or construction thereof of the Clause.
4. Wherever date and period are specified in the Agreement for completing some formalities/ tasks/ documentations etc, the commencement of the period prescribed for the said completion shall be reckoned from the date of dispatch of the communication by BCLL, even if mentioned otherwise anywhere else.
5. Reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date of this Agreement, from time to time be amended, supplemented or re-enacted.
6. References to the word "include" or "including" shall be construed without limitation.
7. References to this Agreement or to any other agreement or deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as the same may from time to time be amended, varied, supplemented or novated.
8. The Schedules to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement

2. APPOINTMENT OF THE AGENCY

2.1. Subject to the Agency undertaking to provide advertisement on buses in accordance with the terms and conditions of this Agreement, BCLL hereby appoints (on non-exclusive and non transferable basis) the Agency and the Agency hereby accepts (on non-exclusive and non transferable basis) its appointment, to advertise on the buses in accordance with the terms of this Agreement and subject to Applicable Laws.

2.2. The Agency shall also pay to BCLL the Advertisement Fee for all the buses on monthly basis after the expiry of the Concession Period. During the Concession Period the fee for only those buses shall be paid on which the advertisement is displayed. The Agency shall pay the Advertisement Fee per bus on the following rates:

Cluster No	Number of Buses	Monthly Advertisement Fee per bus per month to BCLL* (in Rs)				
		1 st Year of Operation	2 nd Year of Operation	3 rd Year of Operation	4 th Year of Operation	5 th Year of Operation
Low Floor- AC buses (400mm)	20	Rs. (In Figures)				
	Twenty	Rupees (In Words)				
Semi Low Floor- non AC (650mm)	20	Rs. (In Figures)				
	Twenty	Rupees (In Words)				
Semi Low Floor- non AC (900mm)	185	Rs. (In Figures)				
	One Hundred and Eighty five	Rupees (In Words)				

* Rates to be quoted for Per Bus Per Month Starting from the end of Concession Period.

2.3. The Agency shall pay to BCLL, no later than 7th day of running month 25% of the total monthly amount due payable to BCLL and the balance 75% amount by 5th of every succeeding month.

2.4. It is agreed and understood by the Parties that in the event the Agency delays in payment of the amounts due to BCLL under this Agreement, then without prejudice to other rights of BCLL, BCLL will be entitled to claim interest on the overdue amounts

and in the event such amounts have not been fully paid (with interest) within 30 (thirty) days, then BCLL shall have the right to encash Performance Guarantee at the Agencies risk and costs.

- 2.5. In the event of mechanical failure or for any other reason if any buses are not operational / piles or if there is a damage on the portion where advertisements are displayed and the same is not rectified within a period of 10 days of that particular month then the Agency shall not be liable to pay the fixed monthly charges on that particular bus for that month.
- 2.6. In case there is damage on the portion where advertisements are displayed or discoloration, alteration of the colour scheme, logo, peeling of paints etc, due to the removal of advertisement or any other event on account of the advertisement agency, then the Agency shall be liable to pay the fixed monthly charges on that particular bus for that month. Also if the same is not rectified within a period of 10 days, the agency would be liable to pay a penalty as specified in **Schedule 3**.
- 2.7. On introduction of any new bus by BMC/BCLL, in addition to 225 Buses, the first right of Refusal shall be given to the advertisement agency for advertisement on these buses. For the advertisement on new buses, one month of gestation period will be given and the contract for the bus will start from the 01st day of the subsequent month after the lapsation of minimum, gestation period or the day on which advertisement is displayed whichever is earlier.

3. Term

- 3.1. The Term of the Advertisement Agreement will be for a time period commencing from the Appointed Date and extending till the expiry of 5 (Five) years from Appointed Date or in the event the Advertisement Agreement is terminated earlier in accordance with the provisions of the Advertisement Agreement, the Term shall come to an end on the Termination Date.
- 3.2. There shall be no automatic renewal of the Agreement after expiration of the Term. However, both Parties may mutually decide to renew the Agreement for another Term of 1 (One) years on such terms and conditions as the Parties may agree at such time.

4. COMMENCEMENT OF ADVERTISEMNT ON BUSES

4.1. The Buses shall be procured by BCLL and whose advertisement rights will be given by BCLL to the Agency pursuant to and in accordance with the terms of this Agreement. The advertisement on the Buses shall meet the specifications stipulated in **Schedule 1**.

4.2. All Buses that are procured shall be registered in the name of BCLL or its nominee and at no time shall any right, title, or interest over these Buses. The Agency shall merely get the right to use such Buses for the sole purpose of implementation of this Project and the Agency will have no other right whatsoever, unless otherwise agreed in writing in advance by BCLL.

5. ROLE, RESPONSIBILITIES AND OBLIGATIONS OF THE AGENCY & BCLL

5.1. The Agency' shall role, responsibilities and obligations relating to the Project are provided herein below:

- i. The Agency shall get the advertisement rights of the Buses, for the purposes of advertisement on buses as per Schedule 1 and adhere to requirements for the implementation of the Project as provided in this Agreement.
- ii. The Agency agrees and confirms to cooperate with the third party contractors appointed by BCLL for the purposes of establishing or operating any equipment, instruments or systems in the Buses, LEDs on Bus Stops or other Project Facilities.
- iii. The Agency undertakes to comply with Applicable Laws in relation to the implementation of the Project and rendering of Bus Service, at all times during the Term of the Advertisement Agreement.
- iv. The Agency shall not tamper or interfere with any equipment, instrument or system including the GPS tracking facilities and CCTV surveillance and any other IT and Bus monitoring devices provided in the Buses, LEDs on Bus Stops and the Project Facilities to enable provision of safer Bus Services to the Passengers.
- v. The Agency shall ensure that all Taxes and Duties are paid in a timely manner and there are no arrears with regard to the Project.
- vi. The Agency shall appoint one or more officers of suitable seniority in rank and tenure to act as the point of contact for BCLL within the Agency's organization and who would assist in the implementation of the Project and for enabling the

resolution of any issues that may arise in the implementation of the Project. It is clarified that information of such officer(s) shall be communicated in writing by the Agency to BCLL within 15 (fifteen) working days from the Appointed Date.

- vii. The Agency shall provide full assistance and cooperation at its own cost to BCLL to get all the necessary Applicable Clearances during the Term of this Agreement or any even after the Termination or expiration of the Term of this Agreement. Additionally:
- a) during the term of this Agreement, the Project shall at all times, subject to and in accordance with the terms hereof, be known and designated, as 'JnNURM BCLL' or by such other name, as from time to time may be determined by BCLL in its sole discretion (hereinafter referred to as the "Brand") and the Agency shall ensure that the Buses always use and display the Brand in the manner prescribed by BCLL;
 - b) the Agency hereby warrants, covenants and undertakes that at no time, during the term of the Agreement, or post the expiry / termination of this Agreement, for whatever reason, the Agency shall make or be entitled to make any claim to the trade name or the Brand and alike or any part of the name or names under which BCLL is carrying on the business nor shall the Agency use a part of the style of its business any name(s), the Brand or logo(s), designs, manuals, technical know-how, or sign(s), which is or which are deceptively or confusingly similar to the Brand;
 - c) nothing in this Agreement will ever be construed as giving the Agency any right, title or interest in whatsoever in or to the Brand or giving the Agency or others permission to use the same or any colorable imitation thereof in any manner, except in accordance with and during the subsistence of this Agreement or with the prior written approval of BCLL. The Agency will not use the Brand, as part of its corporate or other formal business name, except as may result as a consequence of the Agency advertising on the buses under the Brand as per this Agreement. The Agency will not register or attempt to register the Brand in any state, nation or political subdivision thereof. The use by the Agency of the Brand outside the scope of this Agreement, without BCLL's prior written consent, will be an infringement and/or passing off of BCLL's right, title

and interest in and to the Brand, and the Agency expressly covenants that during the term of this Agreement, and after the expiration or termination thereof, the Agency will not, directly or indirectly, commit an act of infringement or passing off or contest or aid in contesting the validity or ownership of the Brand, or take any other action in derogation thereof; and

- d) The Agency shall be responsible for the advertising, promotion and marketing of the Project including publicity material, poster, brochure, leaflet, press release, hoarding and any other promotional material. The Agency shall also be solely responsible for all cost, monetary or other, related to any advertisement, publicity material, poster, brochure, leaflet, press release and stationery item, including production, designing and releasing costs. All advertising and promotion and any other marketing activity conducted by the Agency in any manner or medium shall conform to such standards and requirements as are specified and approved in writing in advance by BCLL.
- viii. The Agency undertakes to provide at its own cost any and all equipment, consumable, machine or material that is required for providing advertisement on buses.
- ix. The Agency shall be solely and exclusively responsible for all such employees, workmen, personnel and staff employed for the purposes of implementing the Project. It is clarified, that the Agency shall only be able to appoint sub-contractor provided the Agency has obtained prior written approval of BCLL, in this regard.
- x. The Agency undertakes that no such workmen, personnel and staff shall be involved in the Project unless such workmen, personnel and staff is certified by BCLL.
- xi. The Agency shall provide a summary of all the complaints and the written responses received on a monthly basis to BCLL. BCLL shall review the complaints received and the written responses with the course of action taken by the Agency. In the event that course of action that has been taken by the Agency is not appropriate, BCLL shall direct the Agency to take a suitable action.

- 5.2. BCLL agrees to observe, comply and perform the following:
- i. BCLL shall procure Buses for the purposes of the implementation of the Bus Services and give the rights of advertisement to the Agency as per this Agreement;
 - ii. BCLL shall appoint one or more officers of suitable seniority in rank and tenure to act as the point of contact for the Agency within BCLL 's organization and who would assist in the implementation of the Project and for enabling the resolution of any issues that may arise in the implementation of the Project;
 - iii. BCLL shall conduct regular inspections at any time during the Term of the Agreement for Advertisement on Buses; and
 - iv. BCLL shall obtain all Applicable Clearances that may be required, from time to time, for enabling the Agency to provide advertisement on buses. All the Applicable Clearances so obtained shall be kept in full force and effect for the relevant period during which the Agency is implementing the Project. Provided, however, all such Applicable Clearances shall be procured in the name of BCLL, its nominee and not transferred or assigned to the Agency at any stage during the subsistence of this Agreement. BCLL will be entitled to immediately recover the costs incurred for securing Applicable Clearances (and keeping such Applicable Clearances valid during the Term), from the Agency.

6. Penalties

- 6.1. BCLL shall verify compliance of all parameters, requirements, obligations and responsibilities enforceable against the Agency by virtue of the provisions of the Advertisement Agreement. The Agency shall allow BCLL representatives, personnel and contractors of BCLL, complete access to the Agency's facilities (including equipment, material, personnel) to enable BCLL to inspect, audit and monitor the performance of the Agency. If the Agency is in default of the provisions of **Schedule 1**, then BCLL shall impose the applicable penalties as stipulated in **Schedule 3** till such time as the default has been cured to the satisfaction of BCLL. If the Agency does not rectify the default within the stipulated cure period or if the default is of a nature that is not capable of rectification, it shall be treated as a Material Breach and BCLL shall have the right to terminate the Advertisement Agreement in accordance with the terms hereof.

- 6.2. The procedure for payment and collection of penalties shall be as follows:
- (i) BCLL will prepare and will send to the Agency a written notice imposing the penalties, as and when the circumstances so arise, together with an explanation of the facts identified that have led to the imposition of the penalties.
 - (ii) BCLL shall immediately recover all penalties imposed from the Agency and shall issue a receipt to the Agency in this regard, in the manner provided in this Agreement.
 - (iii) In the event that the Agency has any objection, it will report directly to mechanisms of dispute resolution of the Advertisement Agreement. Provided, however, that the Agency agrees that the recourse of dispute resolution mechanism or any other grievance mechanism will not prevent, BCLL from immediately recovering the penalty from the Agency by BCLL , but it will be understood that if the imposition of penalty by BCLL is defeated, it will refund to the Agency, the principal amount plus the amount of interest at the rate of SBI PLR on the same, which will be accrued from the moment that the fact or circumstance that caused the penalty has occurred until the date of effective payment.
 - (iv) In any event, the imposition and adjustment of such penalties from amounts payable to the Agency will not relieve the Agency of its obligation of full compliance with the responsibilities and liabilities that arise from the Advertisement Agreement.

7. Performance Guarantee

- 7.1. For due and complete performance of its obligations, the Agency shall deliver to BCLL, simultaneously with the execution of this Agreement, an irrevocable and unconditional bank guarantee from a scheduled bank acceptable to BCLL for a sum equal to Rs.10 Lakhs (Rs. Ten Lakhs), (hereinafter referred to as the “**Performance Guarantee**”), in the form set forth in **Schedule 2** of this Agreement.
- 7.2. The Performance Guarantee shall be kept valid for the entire Term of this Agreement. The Performance Guarantee shall be appropriated and encashed by BCLL in the event of any loss, damage or claim suffered by BCLL due to breach of terms and conditions

of this Agreement by the Agency, including Material Breach of this Agreement being committed by the Agency.

- 7.3. The Performance Guarantee shall be returned to the Agency after a maximum of 6 (six) months following the expiration of the Term, pursuant to adjustment of any damages, losses or claims suffered by BCLL, if any.

8. FORCE MAJEURE AND CHANGE IN LAW

8.1. Notice of Force Majeure Event

(a) As soon as practicable and in any case within seven (7) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party of the same setting out, inter alia, the following in reasonable detail:

- (i) the nature and extent of the Force Majeure Event;
- (ii) the estimated duration of the Force Majeure Event;
- (iii) the nature of and the extent to which, performance or any of its obligations under the Advertisement Agreement is affected by the Force Majeure Event;
- (iv) the measures which the Affected Party has taken or proposes to take to alleviate / mitigate the impact of the Force Majeure Event and to resume performances of such of its obligations affected thereby; and
- (v) any other relevant information concerning the Force Majeure Event, and / or the rights and obligations of the Parties under the Advertisement Agreement.

(b) As soon as practicable and in any case within five (5) days of notification by the Affected Party in accordance with the preceding Sub-Clause (a), the Parties shall meet, hold discussions in good faith and where necessary conduct physical inspection / survey of the Project Facilities and Buses in order to:

- (i) assess the impact of the underlying Force Majeure Event;
- (ii) to determine the likely duration of Force Majeure period; and

- (iii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations the performance of which shall have been affected by the underlying Force Majeure Event.
- (c) The Affected Party shall during the Force Majeure period provide to the other Party regular (not less than weekly) reports concerning the matters set out in the preceding Sub-Clause (b) as also any information, details or document, which the other Party may reasonably require.

8.2. Performance of Obligations

If the Affected Party is wholly or partially unable to perform any of its obligations under the Advertisement Agreement because of a Force Majeure Event, it shall be excused from performance of such obligation to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

- (a) due notice of the Force Majeure Event has been given as required by the preceding **Clause 8.1**;
- (b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- (c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Buses as a result of the Force Majeure Event and to restore the Buses to their original state (normal wear and tear excepted);
- (d) when the Affected Party is able to resume performance of its obligations under the Advertisement Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder the non-issue of such notice being no excuse for any delay for resuming such performance;
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with the Agreement;
- (f) Any insurance proceeds received shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure.

8.3. Termination due to Force Majeure Event

- (a) If a Force Majeure Event continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 consecutive days, the Parties may mutually decide to terminate the Advertisement Agreement or continue the Advertisement Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, either Party shall after the expiry of the said period of 120 consecutive days, be entitled to terminate the Advertisement Agreement by giving written notice to the other Party.
- (b) If the Party having the right to do so decides to terminate the Advertisement Agreement pursuant to the preceding sub-clause 12.3(a), it shall issue Termination Notice setting out:
 - (i) in sufficient detail the underlying Force Majeure Event;
 - (ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
 - (iii) the estimated termination payment including the details of computation thereof; and
 - (iv) Any other relevant information.
- (c) Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that:
 - (i) the termination payment, if any, payable by BCLL in accordance with the following Clause (d) is paid to Agency on the Termination Date; and
 - (ii) the Agency shall hand over to BCLL possession of all the Project Facilities and Buses on the Termination Date free from all Encumbrances.
- (d) Upon Termination of the Advertisement Agreement due to a Force Majeure Event, BCLL shall pay to Agency Termination payment to the Agency in the following manner:

- (e) Upon Termination of this Agreement due to the Force Majeure Event BCLL shall pay to Agency Termination Payment equivalent to 100% of the Performance Guarantee actually deposited by the Agency.

8.4. **Liability for other losses, damages etc.**

Save and except as expressly provided in this **Clause 8**, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event.

9. **EVENTS OF DEFAULT**

- 9.1. Event of Default means an Agency Event of Default and/or BCLL Event of Default, as the context may admit or require.
- 9.2. The Agency Event of Default means any of the following events unless such an event has occurred as a consequence of a Force Majeure Event (“Agency Event of Default”):
 - (i) The Agency is in/commits a Material Breach of the Advertisement Agreement,
 - (ii) the Agency, any of its creditors or any other eligible party files for the Agency’s liquidation, winding up, receivership, reorganization, compulsory composition or dissolution in case of such a proceeding by a creditor or any other eligible party and such filing is not revoked or discharged within 90 (ninety) days from such filing,
 - (iii) levy of an execution or restraint on the Agency’s assets which has or is likely to have Material Adverse Effect and such execution or restraint remaining in force for a period exceeding 60 (sixty) days,
 - (iv) amalgamation of the Agency with any other company or reconstruction/restructuring or transfer of the whole or part of the Agency’s undertaking (other than transfer of assets in the ordinary course of business) without BCLL ’s prior written approval; provided, if the amalgamated entity, reconstructed/restructured entity or the transferee, as the case may be, has the financial and technical ability demonstrated to the satisfaction of BCLL , to undertake, perform/discharge the obligations of the Agency under the

Advertisement Agreement, BCLL shall not unreasonably withhold the necessary approval,

- (vi) the Agency repudiates the Advertisement Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Advertisement Agreement,
- (vii) the Agency has delayed payments that has fallen due under the Advertisement Agreement beyond the specified time period or if not so specified beyond 30 (Thirty) days of the due date,
- (viii) The Agency is adjudged bankrupt or insolvent,
- (ix) The Agency does not attend to or abandons the Project for a consecutive period of 30 (Thirty) Business Days other than in a Force Majeure Event; or
- (i) The Agency is in breach of the terms and conditions of the Agreement.

9.3. BCLL Event of Default means any of the following events unless such an event has occurred as a consequence of a Force Majeure Event (“BCLL Event of Default”):

- (i) BCLL is in Material Breach of its obligations under the Advertisement Agreement, or
- (ii) Any representation made by BCLL under the Advertisement Agreement is found to be false or misleading.

9.4. Rights of Parties

- i. Upon the occurrence of the Agency Event of Default which is not remedied after following the procedure set out in **Clause 9.6 and/or 9.8** (as the case may be), BCLL shall without prejudice to any other rights and remedies available to it under the Advertisement Agreement or law be entitled to terminate the Advertisement Agreement pursuant to **Clause 10**.
- ii. Upon the occurrence of BCLL Event of Default which is not remedied after following the procedure set out in **Clause 9.6 and/or 9.8** (as the case may be) to the extent applicable, the Agency shall without prejudice to any other rights and remedies available to it under the Advertisement Agreement be entitled to terminate the Advertisement Agreement pursuant to **Clause 10**.

- iii. Provided that before proceeding to terminate the Advertisement Agreement, the Party entitled to do so shall give due consideration and shall have due regard to the nature of the underlying Event of Default, its implication on the performance of the respective obligations of Parties under the Advertisement Agreement and the circumstances in which the same has occurred.

9.5. Consultation Notice

Either Party exercising its right under Clause 10.4 shall first issue to the other Party a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties to consider possible measures of curing or otherwise dealing with the underlying Event of Default ("**Consultation Notice**"). The Party committing the Event of Default that gives rise to the Consultation Notice can cure the relevant Event of Default within 30 days of receiving Consultation Notice.

9.6. Remedial Process

Following the issue of Consultation Notice by either Party, within a period not exceeding 30 days or such extended period as they may agree the Parties shall endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default ("**Remedial Period**"). Without prejudice to this, if the underlying event is a Agency Event of Default, the Parties shall endeavour to arrive at an agreement as to one or more of the following measures and/or such other measures as may be considered appropriate by them in the attendant circumstances:

- (a) The change of management or control/ownership of the Agency.
- (b) The replacement of the Agency by a new Agency ("**Substitute Entity**") under this **Clause 9.6(b)** on terms no less favourable than those contained in the Advertisement Agreement. The specific terms and conditions on which the Substitute Entity would be appointed shall include:
 - (i) the criteria for selection of the Successful Bidder as provided in RFP,
 - (ii) the transfer of rights and obligations of the Agency surviving under the Advertisement Agreement to the Substitute Entity,
 - (iii) assumption by the Substitute Entity of the outstanding obligations of the Agency,

- (iv) assumption by Substitute Entity of any amounts due to BCLL from the Agency under the Advertisement Agreement, and
- (v) substitute Entity providing fresh Performance Guarantee.

9.7. Obligations during Remedial Period

During the Remedial Period, the Parties shall continue to perform their respective obligations under the Advertisement Agreement which can be performed, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

9.8. Revocation of Consultation Notice

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties agree upon any of the measures set out in **Clause 9.6**, the Consultation Notice shall be withdrawn by the Party who has issued the same and the Event of Default shall not lead to Termination of the Advertisement Agreement, unless otherwise agreed by BCLL in its sole and absolute discretion.

9.9. Termination Due to Events of Default

If before the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the Parties have not agreed upon any of the measures in accordance with **Clause 9.6** the Party who has issued the Consultation Notice shall have the right to terminate the Advertisement Agreement, in which event, the provisions of **Clause 10** shall, to the extent expressly made applicable, apply.

9.10. Time period available to Agency for Remediation and Replacement

The total time period available for the Agency for remediation under **Clause 9.6** shall not exceed 365 days from the date of remediation notice unless agreed otherwise by BCLL.

10. TERMINATION AND EXPIRY OF AGREEMENT

10.1. Termination Procedure

The Party entitled to terminate the Advertisement Agreement (which would occur only after following the process stipulated above) either on account of a Force Majeure Event or on account of an Event of Default shall do so by issue of a notice in writing ("**Termination Notice**") to the other Party. The Termination Notice shall be of

not less than 30 (Thirty) days (“**Termination Period**”) and at the expiry of the Termination Period, the Advertisement Agreement shall stand terminated.

10.2. Obligations during Termination Period

During Termination Period, the Parties shall continue to perform such of their respective obligations under the Advertisement Agreement which are capable of being performed.

10.3. Requisition for Information

Upon issue or receipt, as the case may be, of the Termination Notice either as a consequence of a Force Majeure Event or as a consequence of an Event of Default, BCLL shall by a notice in writing (“**Requisition**”) call upon the Agency to furnish the following information to BCLL to enable BCLL to estimate the outstanding liabilities/assets of the Agency:

- (a) The particulars of all the major contracts in relation to the various aspects of the implementation of the Project;
- (c) The particulars of the entire loan and other financing documents entered into with respect to the Project
- (d) Data or records (to be specified by BCLL) regarding the execution of the Project;
- (e) Any other information or records (to be specified by BCLL) regarding Agency and/or the transferees and its/their business, assets and liabilities.

The Agency shall within a period of 30 (Thirty) days of receipt of Requisition furnish the particulars called for by BCLL.

10.4. Consequences of Termination

(a) Transfer of Assets

- (i) On the Termination Date, the Agency shall subject to the provisions of the Advertisement Agreement:

- (a) In the event of termination of the Advertisement Agreement, in the event that BCLL so desires, in the interest of keeping the Bus Services provided by Agency running during their transition to BCLL, the Agency and BCLL will meet no later than once every fortnight to

evolve and activate a transition plan to continue advertisement on the buses. This arrangement will continue for a period of no longer than 180 days after the termination by BCLL.

(b) Transfer all its rights, titles and interest related to the Project to BCLL or its nominated agency and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.

(ii) It is clarified that the liabilities of the Agency, including without limitation liabilities relating to labour and personnel related obligations of the Agency and the Persons claiming through or under the Agency shall not be taken over by BCLL or its nominated agency. All such labour and employees shall continue to be the responsibility of the Agency/such Persons even after the expiry of the Term and they shall have no claim to any type of employment or compensation from BCLL or BCLL's nominated agency.

(b) Project Agreements

The Agency shall at the cost of agency transfer/assign such of the Project agreements which (i) are valid and subsisting, (ii) capable of being transferred/assigned, (iii) BCLL or its nominated agency has chosen to take over in its favour. The Agency shall entirely, at its cost, terminate all such Project agreements which are not transferred/assigned to BCLL or its nominated agency.

(c) Transfer Costs

(i) The advertisement rights shall be transferred to BCLL or its nominated agency.

(ii) Agency shall be responsible for the costs and expenses, including stamp duties, taxes, legal fees and expenses incurred in connection with the transfer of the rights in relation to the Project by the Agency to BCLL or its nominated agency.

10.5. Termination Payments

Upon Termination of the Agreement (in accordance with the provisions of Clause 13 and 14 of the Agreement) on account of Agency Event of Default, BCLL shall have the right to enforce/encash the Performance Guarantee.

10.6. Accrued Rights of Parties

Notwithstanding anything to the contrary contained in the Advertisement Agreement, any termination of the Advertisement Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under the Advertisement Agreement, including without limitation those relating to the termination payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

11. INDEMNITY

11.1. Indemnity by the Agency

Without prejudice to the generality of **Clause 11.4**, the Agency shall indemnify and hold BCLL harmless, from any and all claims, liabilities, costs, damages and expenses of every kind and nature in respect of the sickness, injury or death of any person employed directly or indirectly by the Agency or any subcontractor and their respective employees and damage to or destruction of any property or equipment of the Agency or its subcontractors and their respective employees arising during or as a result of the performances or non-performance of the Advertisement Agreement from any cause whatsoever provided that this clause shall not apply to injury, death, damage or destruction to the extent caused by the negligence, default or omission of BCLL or its employees.

11.2. Indemnity - Third Party

Without prejudice to the generality of **Clause 11.4**, the Agency shall indemnify and hold BCLL harmless from any and all claims, liabilities, costs, damages, and expenses of every kind and nature in respect of the sickness, injury or death of any third party/Person and the damage to or destruction of any property of any third Person arising directly or indirectly as a result of any negligence, default or omission of the Agency or its employees or/and agents.

11.3. Non-Compliance with Laws

Without prejudice to the generality of **Clause 11.4**, the Agency shall indemnify and hold BCLL harmless from any fines, penalties and similar charges which may be attributed to or imposed or assessed against BCLL by reason of the failure of the

Agency to comply fully with all clearances save to the extent such failure was caused by the negligence, default or omission of BCLL or its employees and/or agents.

11.4. General Indemnity

Subject to the exclusions and limitations of liability in this clause, the Agency shall indemnify and hold BCLL harmless for and against any and all claims, liabilities, costs, damages and expenses of whatsoever nature howsoever incurred by BCLL arising whether directly or indirectly as a result of the breach by the Agency of any of the Agency's obligations under the Advertisement Agreement save to the extent such claims, liabilities, costs, damages and expenses were caused by the negligence, default or omission of BCLL or its employees and/or agents.

Notwithstanding the occurrence of the Termination Date, the Agency shall indemnify and hold BCLL harmless for and against any and all claims, liabilities, costs, damages and expenses of whatsoever nature incurred by BCLL under **Clause 11.4** of the Agreement

12. DISPUTE RESOLUTION PROCEDURE

If any dispute or difference or claims of any kind arises between the Parties in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of the Advertisement Agreement, or the rights, duties or liabilities of any Party under the Advertisement Agreement, whether before or after the termination of the Advertisement Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

In the event the dispute or difference or claim, as the case may be, is not resolved, as evidenced by the signing of the written terms of settlement by the Parties, within 30 (thirty) days of reference for amicable settlement, the same shall be brought to the notice of **Commissioner, Urban Administration and Development Department, Government of Madhya Pradesh**, whose decision in this regard shall be final and binding on both the Parties.

13. GOVERNING LAW & JURISDICTION

The Advertisement Agreement shall be construed and interpreted in accordance with and governed by the laws of India, only the courts in Bhopal shall have jurisdiction to try all disputes and matters arising out of an under the Advertisement Agreement.

14. SCHEDULES

All schedules and other explanatory details attached to this Agreement shall be deemed to be a part of this Agreement.

15. NOTICES

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

To BCLL :

Bhopal City Link Limited,
O/o Commissioner, Bhopal Municipal Corporation,
Harshwardhan Complex Phase-1,
Mata Mandir, Bhopal, 462003
Phone No. 0755 2701222, Fax: 2701223
Email Id: bmc_jnnurm@yahoo.co.in

To the Agency:

or at such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time.

All notices under this Agreement shall be in English.

16. COUNTERPARTS

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

17. ASSIGNMENT

- (a) Subject to Sub-Clause (b) below, no assignment of this Agreement or any rights or duties hereunder shall be made in whole or in part by any Party without the written consent of the other Party and in the event of any assignment the assignee shall assume the duties and liabilities of the assignor.
- (b) The Parties hereby agrees that Agency does not have any right, title or interest over the Buses the advertisement rights for which have been given by BCLL or procured for and on behalf of BCLL.
- (c) The Agency cannot create any form of Encumbrance in favour of any third party on the following:
 - (i) On any Buses provided by BCLL;
 - (ii) On any asset in relation to the Project that has been procured for and on behalf of BCLL; and

18. NO PARTNERSHIP

Nothing herein contained shall be construed to constitute a partnership between BCLL and Agency, or to constitute either party as the agent of the other and neither party shall hold itself out as such.

19. SEVERABILITY

- (a) If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect.
- (b) The Parties will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted, as nearly as is practicable, to such invalid, illegal and unenforceable provision.

Provided failure to agree upon any such provisions shall not be subject to the dispute resolution procedure under this Agreement or otherwise.

20. REPRESENTATION AND WARRANTIES

20.1. Representation and Warranties of BCLL

BCLL hereby represents, assures, confirms and undertakes to the Agency as follows:

- (a) That it is duly incorporated under the laws of India and has the power to conduct its business as presently conducted and to enter into this Agreement;
- (b) That it has full power, capacity to execute, deliver and perform this Agreement and has taken all necessary Applicable Clearances and followed all the procedure required to authorise the execution, delivery and performance of this Agreement;
- (c) Nothing in this Agreement conflicts with its constitutional mandate, or any law or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and
- (d) All approvals and permissions as are necessary for the execution of this Agreement have been obtained and all the required procedure for the due execution of this Agreement have been adhered to and further that this Agreement will be valid, legal and binding against it under the Indian Law.

20.2. **Representation and Warranties of Agency**

Agency hereby represents, assures, confirms and undertakes to BCLL as follows:

- (a) That it is duly incorporated under the laws of India and has the power to conduct its business as presently conducted and to enter into this Agreement;
- (f) That it has full power, capacity to execute, deliver and perform this Agreement and has taken all necessary Applicable Clearances (corporate, statutory or otherwise) to authorise the execution, delivery and performance of this Agreement;
- (g) The each of its employees, workmen, personnel and staff (including sub-contractor) assigned to perform services as enshrined in this Agreement shall have proper skill, training and background for his/her level of competence so as to be able to perform and fulfill his/her responsibilities in a competent and professional manner. Further, all remuneration, salary, costs and expenses of such employees, workmen, personnel and staff shall be borne solely by the Agency;
- (h) Nothing in this Agreement conflicts with its memorandum and articles of association or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and
- (i) This Agreement will be valid, legal and binding against it under the Indian Law.

21. **MISCELLANEOUS**

21.1. **Amendments**

No amendment or modification or waiver of any provision of this Agreement, nor consent to any departure by any of the Parties there from, shall in any event be valid and effective unless the same is in writing and signed by the Parties or their duly authorised representative especially empowered in this behalf and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

21.2. **Language**

The language of this Agreement is English. All notices, correspondence, Project Agreements, documentation, Specifications and Standards, data, test reports, certificates and information in respect of this Agreement shall be in the English language. All other written and printed matter, communications, documentation, proceedings and notices etc. pursuant or relevant to this Agreement shall be in the English language.

21.3. **Exclusion of Implied Warranties etc.**

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

21.4. **Further Assurances**

At all times after the date hereof the Parties shall execute all such documents and do such acts, deeds and things as may reasonably be required for the purpose of giving full effect to this Agreement.

21.5. **Interest and Right of Set Off and Lien**

Any sum which is due and payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same is not paid within the time allowed for payment thereof, be deemed to be a debt owed by the Party responsible for such payment to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at the rate specified herein, and if not specified at the rate of **SBI** PLR plus 2% (two percent) per annum, from the due date and until the date of payment or otherwise realisation thereof by the Party entitled to receive the same. Without prejudice to any other right or remedy available under this Agreement or under law, the Party entitled to receive such amount shall also have the right of set off.

Provided this provision for payment of interest for delayed payment shall not be deemed or construed to (i) authorise any delay in payment of any amount due by a party or (ii) be a waiver of the underlying breach of the payment obligations.

Provided further, in the event any sums whatsoever are due and owing to BCLL from the Agency/transferees under this Agreement, BCLL shall have the sole and absolute right to recover the same by appropriating such dues from the Performance Guarantee.

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement by their duly authorised representative on the date first above written:

SIGNED ON BEHALF OF BCLL

_____(Signature)

_____(Name)

_____(Designation)

SIGNED ON BEHALF OF

Agency by the hand of its

authorized representative

_____(Signature)

_____(Name)

_____(Designation)

SCHEDULES

SCHEDULE-1

PLACES OF ADVERTISING

A. On Body of the Buses

Advertisements shall be affixed, applied on the outer surfaces of the buses as per the surface area on each side except the entire front portion and rear window of vehicle for advertisement space as specified below.

- Driver Side: 792 cm X 43 cm
- Conductor Side: 223 cm X 43 cm
447 cm X 43 cm
- Back Side: 193 cm X 91 cm

The Drawing of the advertisement space is attached herewith for reference.

The advertisement material shall be flex printed and pasted by SR998 Adhesive/ Self Adhesive Vinyl (SAV)/ Solvent 720 dp. on the base of polycarbonate sheet of 1.8 mm thick, which is to be fixed on the body of the buses through screws. Radium, Inkjet, Media or Direct painting are completely banned.

Advertisement of political, Alcoholic drinks, tobacco, and other vulgar in vision or other restricted items are completely banned. Any advertisement displayed on buses, if found contrary to the law of the land, Agency have to remove / alter the display immediately.

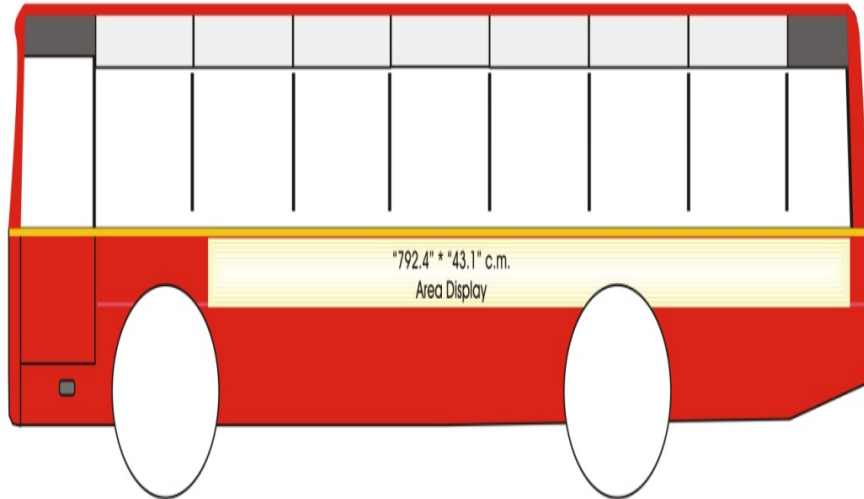
Advertising devices shall not interfere in any way with the mandatory vehicle signs such as purpose of the bus service, number plate etc.

In addition to the advertisements, the buses would have logo of BCLL, BMC and JnNURM on non openable surface & the Specification of the logos will be as follows:

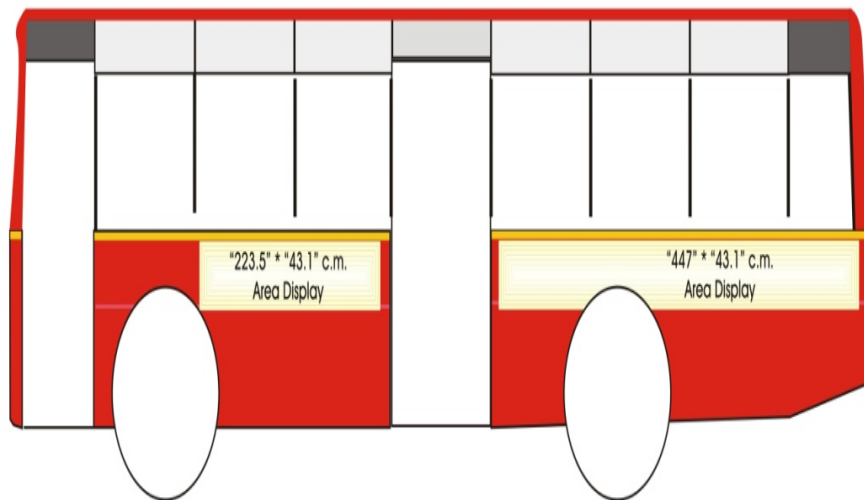
BCLL & BMC: located horizontally on non openable space, at strategic places on either side of the bus. Logo size would be minimum 750mm x 250mm (length x height), with the size of the letters as 200mm in English/ Hindi language. The size of the monogram would be 450mm x 250mm. The **BCLL and BMC** logo should be a permanent sticker type of reflective material (radium). The material needs to be UV resistant and water proof.

JnNURM: located horizontally on non openable space, at strategic places on either side of the bus. Logo size should be minimum 1000mm x 250mm (length x height), in English language on both side. The logo would be a permanent sticker type of reflective material (radium). The material would to be UV resistant and water proof.

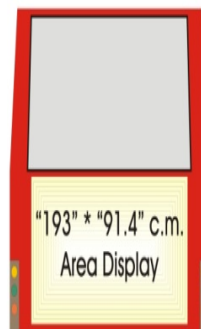
DRIVER SIDE



CONDUCTOR SIDE



BACK SIDE



SCHEDULE 2

FORMAT FOR PERFORMANCE GUARANTEE

(To be issued by a Scheduled Bank's Branch in _____)

(On a Non-Judicial Stamp Paper as per value applicable in _____)

THIS DEED OF GUARANTEE executed on this the ----- day of --- at ----by -----
----- (Name of the Bank) having its Head/Registered office at -----
----- hereinafter referred to as "the Guarantor" which
expression shall unless it be repugnant to the subject or context thereof include its
successors and assigns;

In favour of Managing Director, Bhopal City Link Limited, having its registered office at
_Bhopal, having its registered office at _____ **Bhopal**, hereinafter referred to as
BCLL, which expression shall unless it be repugnant to the subject or context thereof
include successors and assigns.

- A. By the Advertisement Agreement dated ----- ("the Advertisement Agreement") entered into between BCLL and M/s. _____, having its registered office at -----, hereinafter called "**the Company**", the Company has been allotted advertisement rights on 225 buses _____ (description of buses), the provision of advertisement on 225 number of city buses, under the City Bus Services project.
- B. In terms of Clause [] of the Request for Proposal (RFP) Document, the Company is required to furnish to BCLL, an unconditional and irrevocable bank guarantee for an amount equal to Rs.10 Lakhs (Rs. Ten Lakhs), for the city of **Bhopal** as security for performance/ discharge of its obligation under the Advertisement Agreement ("Performance Security").
- C. At the request of the Company, the Guarantor has agreed to provide the Guarantee, being these presents guaranteeing the due and punctual performance/ discharge by the Company of its obligations under the Advertisement Agreement.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

- (1) The capitalized terms used herein but not defined shall have the meaning assigned to them respectively in the Advertisement Agreement.
- (2) The Guarantor hereby guarantees the due and punctual performance by the Company of all its obligations under the Advertisement Agreement and accepts that the decision of BCLL, in this behalf shall be final, conclusive and binding on the Guarantor.
- (3) The Guarantor shall, without any protest or demur and merely on a demand by BCLL, pay to BCLL sums not exceeding in aggregate Rs. _____ (Rupees _____ only), within five (5) days of receipt of a written demand therefore from BCLL stating that the Company has failed to meet its performance obligations under the Advertisement Agreement. The Guarantor shall have no obligation to go into the veracity of any demand made by BCLL and shall pay the amounts specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Company or any other Person.
- (4) In order to give effect to this Guarantee, BCLL shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Advertisement Agreement or other documents or by the extension of time for performance granted to the Company or postponement/non exercise/ delayed exercise of any of its rights by BCLL or any indulgence shown by BCLL to the Company and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by BCLL or any indulgence shown by BCLL provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
- (5) This Guarantee shall be absolute, unconditional and irrevocable and shall remain in full force and effect until discharged by the Guarantor of all its obligations hereunder.
- (6) This Guarantee shall not be affected by any change in the constitution or winding up of the Company/the Guarantor or any absorption, merger or amalgamation of the Company/the Guarantor with any other Person.
- (7) The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.

- (8) The jurisdiction in relation to this Guarantee shall be the Courts at Bhopal and Indian law shall be applicable.
- (9) This Guarantee shall be released or discharged only by an express release letter issued by BCLL.
- (10) The Guarantor hereby agrees that without the concurrence of the Guarantor, the Parties to the Advertisement Agreement shall be at liberty to vary, alter or modify the terms and conditions of the Advertisement Agreement and further agrees that its liability under this Guarantee shall in no manner be affected by such variation etc.
- (11) The Guarantor agrees that time is the essence of this Guarantee.
- (12) To give effect to this Guarantee, BCLL may act as though the Guarantor were the principal debtor to BCLL. BCLL shall be entitled to proceed to institute proceedings against the Guarantor notwithstanding that no legal proceedings or recovery action is commenced simultaneously or even during the course of recovery proceedings against the Company. The postponement of action against the Company shall be a matter of the sole discretion of BCLL and the Guarantor expressly agrees to such course of action and waives any objection thereto. The Guarantor accepts that the present guarantee is the prime security to BCLL and the realizations from the Company's assets can be postponed by BCLL till after the recovery of the amounts claimed or demanded from the Guarantor.
- (13) A certificate in writing signed by a duly authorized official of BCLL shall be conclusive evidence against the Guarantor of the amount for the time being due to BCLL from the Company in any action or proceeding brought on this Guarantee against the Guarantor.
- (14) This Guarantee shall not be wholly or partially satisfied or exhausted by any payments made to or settled with BCLL by the Company and shall be valid and binding on the Guarantor and operative until repayment in full of all moneys due to BCLL under the Advertisement Agreement.
- (15) The Guarantor represents and warrants that it has the full authority to make and execute this Guarantee. The Guarantor further represents that all regulatory approvals, permits and authorisations as are necessary for the issuance of this Guarantee have been received and are in full force and effect.

- (16) The Guarantor represents that there is no litigation or arbitration or other proceedings pending against the Guarantor, which could reasonably be expected to have a material adverse effect or change in the Guarantor's ability to perform its obligations under this Guarantee
- (17) Any demand for payment or notice under this Guarantee shall be deemed to be sufficiently given if sent by post to or left at the last known address of the Guarantor or its successors or assigns, as the case may be.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREIN ABOVE WRITTEN.

Signed and delivered by the above named _____ Bank by its Authorised Signatory as authorised by Resolution/Regulation/Decision of its Regional Board/Central Board in accordance with the decision/resolution passed on _____

Authorised Signatory

In the presence of:

- 1.
- 2.

NOTE: The word Company may be replaced with word/ phrase which purports and reflects the entity

SCHEDULE-3

PENALTIES

Sr. No.	Description	Fine Rs. per violation per bus per day
1	Bus related defaults / deficiencies	
a)	Discoloration, alteration of the bus colour scheme, logo, peeling off of paint	500
b)	Damage to the Logo of BCLL or JnNURM due to Advertisement	500
c)	Display of prohibited advertisement	2000
d)	Non confirmation of the SCHEDULE-1	2000

During the Term, the Agency will provide advertisement on Buses as per Schedule 1 provided by BCLL.

- The above penalty shall increase @ 30 percent from each day of default from the next day on compounding basis.