

# MAHARASHTRA METRO RAIL CORPORATION LTD.

(NAGPUR METRO RAIL PROJECT)

## Volume II - Draft License Agreement

For

Maintenance of Landscaping & Horticulture along with Exclusive Outdoor Advertisement Rights between the Piers of Reach-2 and Reach-4 of Nagpur Metro Rail Project

Tender No: N1PD-62/2022

December - 2022



MAHARASHTRA METRO RAIL CORPORATION LTD.

Metro Bhavan, VIP Road, Near Dikshabhoomi,  
Ramdaspath, Nagpur – 440010.

Website: <http://www.metro railnagpur.com>

## Contents

<b>ARTICLE 1: DEFINITIONS AND INTERPRETATION .....</b>	<b>8</b>
1.1. Definitions .....	8
1.2. Interpretation.....	10
1.3. Measurements and arithmetic conventions.....	12
1.4. Priority of agreements, clauses, and schedules.....	12
<b>ARTICLE 2: OBJECTIVE AND SCOPE OF EXCLUSIVE ADVERTISEMENT RIGHTS INSIDE SELECTED METRO STATIONS .....</b>	<b>14</b>
2.1. Objectives of License Agreement.....	14
2.2. Route / Section Available For Exclusive Outdoor Advertisement Rights:.....	14
2.3. General Terms and Conditions.....	14
2.4. Operation & Maintenance .....	16
2.5. Operation and Maintenance of Horticulture .....	18
2.6. Plant materials specifications: .....	20
2.7. Other Conditions.....	21
<b>ARTICLE 3: TENURE OF LICENSE .....</b>	<b>22</b>
3.1. Tenure of License .....	22
3.2. Handing over of advertisement space(s) .....	23
3.3. Fitment period .....	23
<b>ARTICLE 4: LICENSE FEES, TAXES AND DUTIES.....</b>	<b>24</b>
4.1. License Fee .....	24
4.2. Non-payment of License fees and other dues.....	25
4.3. Taxes and Other Statutory Dues .....	26
4.4. Utility Charges .....	27
<b>ARTICLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS .....</b>	<b>29</b>
5.1. Factors Governing Selection of Permissible Advertisements .....	29
<b>ARTICLE 6: RULES &amp; REGULATION OF UTILIZATION OF ADVERTISEMENT SPACES.....</b>	<b>31</b>
6.1. Approval of Plan:.....	31
<b>ARTICLE 7: RULES &amp; REGULATION OF UTILIZATION OF ADVERTISEMENT SPACES.....</b>	<b>33</b>
7.1. Minimum Material Specifications:.....	33
7.2. Outdoor advertising structure criteria.....	33
<b>ARTICLE 8: ELECTRICAL SPECIFICATIONS AND PROCEDURE FOR RELEASE OF ELECTRIC POWER SUPPLY .....</b>	<b>35</b>
8.1. Electrical Specifications.....	35
<b>ARTICLE 9: OBLIGATIONS OF THE LICENSEE .....</b>	<b>36</b>
9.1. Obligations of the Licensee .....	36

9.2. Employment of trained personnel .....	36
9.3. Authorised Representative .....	36
9.4. Obligation with respect to Taxes, duties.....	37
<b>ARTICLE 10: OBLIGATIONS OF THE MAHA-METRO .....</b>	<b>38</b>
10.1. Obligations of the Maha-Metro .....	38
<b>ARTICLE 11: REPRESENTATIONS AND WARRANTIES .....</b>	<b>39</b>
11.1. Representations and warranties of the Licensee.....	39
11.2. Representations and warranties of the Maha-Metro.....	40
11.3. Disclosure .....	40
<b>ARTICLE 12: DISCLAIMER .....</b>	<b>41</b>
12.1. Disclaimer.....	41
<b>ARTICLE 13: SECURITY DEPOSIT .....</b>	<b>42</b>
13.1. Security Deposit .....	42
13.2. Appropriation of Security Deposit .....	42
13.3. Release of Security Deposit.....	43
<b>ARTICLE 14: MAINTENANCE OF ADVERTISEMENT SPACES .....</b>	<b>44</b>
14.1. Maintenance of Advertisement Spaces and Horticulture.....	44
<b>ARTICLE 15: OPERATION AND MAINTENANCE .....</b>	<b>45</b>
15.1. Operation and Maintenance .....	45
15.2. Reports of unusual occurrence .....	47
<b>ARTICLE 16: FORCE MAJEURE .....</b>	<b>48</b>
16.1. Force Majeure .....	48
<b>ARTICLE 17: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT .....</b>	<b>49</b>
17.1. Licensee Events of Default .....	49
17.2. Consequences of Material Breach and Licensee's event of Default .....	49
17.3. Handing over on Termination / Completion / Surrender - .....	50
17.4. Termination on the account of Operational Ground of Maha-Metro .....	50
17.5. Rights of Maha-Metro on Termination .....	50
17.6. Right to re-market the said Licensed Space(s) on Termination .....	51
<b>ARTICLE 18: DISPUTE RESOLUTION/ARBITRATION.....</b>	<b>52</b>
18.1. Dispute Resolution .....	52
18.2. Arbitration.....	54
<b>ARTICLE 19: MISCELLANEOUS .....</b>	<b>58</b>
<b>ANNEXURES.....</b>	<b>63</b>
<b>ANNEXURE – 1: .....</b>	<b>64</b>

**ANNEXURE – 2: TENTATIVE IMAGES SHOWING ADVERTISEMENT BOARDS ..... 65**

## LICENSE AGREEMENT

THIS AGREEMENT is entered into on this the ..... day of ....., 20.....

### BETWEEN

1. **Maharashtra Metro Rail Corporation Limited**, a company incorporated under the Companies Act, 1956/2013 bearing CIN Number - U60100MH2015SGC262054, PAN Number - AAECN8723A, having its Corporate office at "Metro Bhavan, VIP Road, Near Dikshabhoomi, Ramdaspath, Nagpur – 440010." (hereinafter referred to as "Maha-Metro", which expression shall, unless it be repugnant to the subject or context thereof, include its administrators, successors and assigns)) of the ONE PART;

### AND

2. .... a company/Partnership Firm/Proprietorship Firm/LLP incorporated / registered under the provisions of the ..... Act, ..... bearing registration Number ..... PAN Number. ...., having its registered office at ....., (hereinafter referred to as the "Licensee" which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of the Other Part.

### WHEREAS:

- (A) Maha-Metro, with a view to augment its revenues through non-operating measures/earnings, had invited bids (by its Request for Proposal No.\_\_\_\_ dated (the "Request for Proposal" or "RFP")) from the interested parties for granting the **'Maintenance of Landscaping & Horticulture along with Exclusive Outdoor Advertisement Rights between the Piers of Reach-2 and Reach-4 of Nagpur Metro Rail Project'** through open bidding process.
- (B) Based on fulfilment of eligibility criteria as laid down in RFP document, Maha-Metro has selected M/s. \_\_\_\_\_ as Successful Bidder (hereinafter referred to as "Licensee") has been selected for assigning the **'Maintenance of Landscaping & Horticulture along with Exclusive Outdoor Advertisement Rights between the Piers of Reach-2 and Reach-4 of Nagpur Metro Rail Project'**.
- (C) The Licensee shall perform the obligations and exercise the rights under the Letter of Acceptance (LOA), including the obligations to enter into the License Agreement, pursuant to the LOA for undertaking the License.
- (D) Maha-Metro has agreed to provide to the Licensee, Advertising Spaces at every alternate span positioned between every two piers of Reach - .... of Nagpur Metro Rail Project for installation of advertisement panels/ hoardings. Therein after referred to as Advertisement Spaces, on payment of License Fee to Maha-Metro on the terms and conditions hereunder contained in this License Agreement.

- (E) The Licensee shall design, procure, manufacture, fabricate, install, commission, manage, operate, maintain, market and sell advertising spaces / opportunities between Piers of Reach - .... (on median of Road) of Nagpur Metro Rail Project as specified in this Agreement at its own cost.

**NOW THEREFORE**, in consideration of the mutual promise and consideration set out herein Maha-Metro and the Licensee (hereinafter collectively called "Parties") witnessed and hereby agree as follows:

- A. The following documents shall be deemed to form part and be read and construed as part of this agreement, namely:
1. Letter of Acceptance no \_\_\_\_\_ dated \_\_\_\_\_.
  2. Request for Proposal (RFP), its Addendums & Corrigendum
  3. Any other document issued by / of Maha-Metro forming part of the Bidding Process
- B. The Licensee hereby covenants as follows: -
- i. Licensee hereby assumes responsibility for "*Maintenance of Landscaping & Horticulture along with Exclusive Outdoor Advertisement Rights between the Piers of Reach-2 and Reach-4 of Nagpur Metro Rail Project*". Licensee shall be responsible for design, procure, manufacture, fabricate, install, commission, manage, operate, maintain, market and sell advertising spaces / opportunities between Piers of Reach - .... (on median of Road) of Nagpur Metro Rail Project as specified in this Agreement at its own cost. The advertisement panels/ hoardings shall be displayed/installed at every alternate span positioned between every two piers of Reach - .... of Nagpur Metro Rail Project. All the advertising sites and formats proposed by the Licensee are subject to approval by Maha-Metro with regard to operational feasibility, aesthetics, safety and security concerns.
  - ii. The Licensee irrevocably agrees to make all payments including the applicable License Fees as per this Agreement as and when due, without delay or demur, without waiting for any formal advice from Maha-Metro in this regard.
  - iii. The Licensee confirms having examined the potential locations on the median of Reach - .... of Nagpur Metro Rail Project in detail and fully understands and comprehends the technical requirements of the advertisement insert/ media. The Licensee also confirms full satisfaction as to the business viability of licensing the advertisement spaces between the Piers of Reach- .... of Nagpur Metro Rail Project and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other

consideration, whatsoever on this account. Licensee also confirms having made independent assessment of present and future market potential and no future claim whatsoever regarding change in market circumstances shall be used by it as an alibi and/or excuse for non-payment of License Fee and other amounts due to Maha-Metro under this License Agreement.

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

## **ARTICLE 1: DEFINITIONS AND INTERPRETATION**

### **1.1. Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

**"Advertisements"** or **"Advertising"** means display of any advertisement material including pictures, printed material, electric / electronic media, smart posters, holographic images, visual display or any other innovative advertising media, etc which are not objectionable or prohibited under various statutes, codes, policies, etc as applicable from time to time.

**"Advertising Tax"** means any amount payable to local government authorities as a result of public display of commercial messages or any other Branding campaign.

**"Agreement"** means this License Agreement executed between Maha-Metro and Licensee.

**"Applicable Laws"** means all laws, brought into force and effect by Govt. of India, State Governments, local bodies and statutory agencies and rules / regulations / notifications issued by them from time to time and applicable to this License Agreement. It also includes judgments, decrees, injunctions, writs and orders of any court or judicial authority as may be in force and effected from time to time.

**"As is where is basis"** means the advertisement space provided on the median of road, below the viaduct portion of Reach- .... of Nagpur Metro Rail Project, including all horticulture, installations, fittings and fixtures, if any, to be handed over on 'as is where is basis'. The Licensee may carry out various installations including installations of advertisement panels/ boards/ hoardings, electric installations, and wiring, where it does not impact the interest of MAHA-METRO. The installation works will be executed with prior permission of Maha-Metro in writing and at its own cost. Licensee shall not be entitled for any compensation with regard to installations/additions or alterations carried out by them. Licensee shall be required to hand over the advertisement spaces allotted for advertisement purpose, reasonably undamaged, at the end of license period.

**"Arbitration Act"** means the Arbitration and Conciliation Act, 1996 / The Arbitration and Conciliation (Amendment) Act, 2019 and shall include modifications to or any re-enactment thereof, as in force from time to time;

**"Bank"** means any Nationalised/Scheduled Commercial Bank of Indian or Foreign origin having business office in India.

**"Commencement Date"** means the date of signing of this License Agreement.



**"Damages"** shall mean any claim of Maha-Metro against the Licensee for breach of this Agreement, including but not limited to, losses, dues, arrears etc. against which Maha-Metro shall be entitled to claim and adjust the Security Deposit.

**"Emergency"** means a condition or situation that is likely to endanger the security of the individuals on or about the Nagpur Metro Rail Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

**"Force Majeure" or "Force Majeure Event"** shall have the meaning ascribed to it in ARTICLE 16: FORCE MAJEURE;

**"GOI" or "Government"** means the Government of India;

**"Interest Free Security Deposit"** means interest free amount to be deposited by the Licensee with Maha-Metro as per terms and conditions of License Agreement as a security against the performance of the License agreement.

**"License"** means the Exclusive Outdoor Advertisement Rights between the Piers of Reach- .... (on median of Road) of Nagpur Metro Rail Project, granted by Maha-Metro to the Licensee, under terms and conditions of this Agreement. The advertisement panels/ hoardings shall be displayed/installed at every alternate span positioned between every two piers of Reach - .... of Nagpur Metro Rail Project.

**"Licensee"** means the Licensee, who has executed the License Agreement with Maha-Metro pursuant to the conclusion of the bidding process.

**"License Fee"** means the amount payable by the Licensee to Maha-Metro for obtaining the Exclusive Outdoor Advertisement Rights between the Piers of Reach- .... (on median of Road) of Nagpur Metro Rail Project, as per terms and conditions of the License Agreement.

**"License Period"** 02 (Two) Years from the date of signing of License Agreement. The License Period shall be further extended by two (02) tenures of two (02) years each, however, the same shall be subject to extension/renewal of Permission/License by Nagpur Municipal Corporation.

**"Maha-Metro"** means Maharashtra Metro Rail Corporation Limited, A joint venture of Govt. of India and Govt. of Maharashtra incorporated under the Companies Act.

**"Maha-Metro Representative"** means such person or persons as may be authorised in writing by the Maha-Metro to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Maha-Metro under this Agreement;

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

**"Places available for advertisement" or "Advertising Spaces"** means the every alternate span positioned between every two piers of Reach - .... of Nagpur Metro, wherein advertisement panels/ hoardings shall be displayed/installed where advertisement is displayed by Licensee in pursuance with this Agreement.

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

**"Security Deposit "** means an interest free amount deposited by Licensee with Maha-Metro, as per terms and conditions of License Agreement as a security against the performance of the License agreement during the entire license tenure and as set forth in **Article 13** of this License Agreement.

**"Successful Bidder"** means the Bidder who has been selected by Maha-Metro, pursuant to the bidding process for award of License.

**"State"** means the State of Maharashtra and "State Government" means the government of that State;

**"Taxes"** means and includes all taxes, fee, cesses, levies that may be payable by the Licensee under the Applicable Law to the Government or any of its agencies;

**"Termination"** means the expiry of the License period or termination of this Agreement and the License hereunder, whichever is earlier;

**"Transfer Date"** means the date on which this Agreement and the License hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

## **1.2. Interpretation**

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a "**person**" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state

- or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words **"include"** and **"including"** are to be construed without limitation and shall be deemed to be followed by **"without limitation"** or **"but not limited to"** whether or not they are followed by such phrases;
- (f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) references to a **"business day"** shall be construed as a reference to a day (other than a Sunday) on which banks in Nagpur are generally open for business;
- (i) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (j) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- (k) any reference to any period commencing **"from"** a specified day or date and **"till"** or **"until"** a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (l) the words importing singular shall include plural and vice versa;
- (m) references to any gender shall include the other and the neutral gender;
- (n) **"lakh"** means a hundred thousand (100,000) and **"crore"** means ten million (10,000,000);
- (o) **"indebtedness"** shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (p) references to the **"winding-up"**, **"dissolution"**, **"insolvency"**, or **"reorganisation"** of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
- (q) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Maha-Metro hereunder or pursuant hereto in any manner whatsoever;
- (r) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party, in this behalf and not otherwise;

- (s) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (t) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;
- (u) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**"); and
- (v) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Licensee to the Maha-Metro shall be provided free of cost and in three copies, and if the Maha-Metro is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

### **1.3. Measurements and arithmetic conventions**

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

### **1.4. Priority of agreements, clauses, and schedules**

- i This Agreement, and all other agreements and documents forming part of or referred to in this agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

- (a) this Agreement; and

- (b) The Bid/Tender Document along with all the corrigendum issued.
- (c) all other agreements and documents forming part hereof or referred to herein;

i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) and (c), (b) above shall prevail over the agreements and documents at (c) above.

- ii Subject to the provisions of Clause i, in case of ambiguities or discrepancies within this Agreement, the following shall apply:
  - (a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
  - (b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
  - (c) between any two Schedules, the Schedule relevant to the issue shall prevail;
  - (d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
  - (e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
  - (f) between any value written in numerals and that in words, the latter shall prevail.

**ARTICLE 2: OBJECTIVE AND SCOPE OF EXCLUSIVE ADVERTISEMENT RIGHTS INSIDE SELECTED METRO STATIONS**

**2.1. Objectives of License Agreement**

2.1.1. Objectives of License Agreement are set herewith:

- a. To augment non-operational revenue of Maha-Metro through advertisements.
- b. Position Maha-Metro as a most sought-after location for advertising.
- c. Contribute to the aesthetical view of Maha-Metro through high quality advertising comparable to world class Airports, National Highways, Metro Railways, and other leading destinations.
- d. Provide value to the Corporate who advertises in Maha-Metro.

**2.2. Route / Section Available For Exclusive Outdoor Advertisement Rights:**

2.2.1. The Licensee shall be given Exclusive Outdoor Advertising Rights between the Piers of Reach- .... (on median of Road) of Nagpur Metro Rail Project.

2.2.2. For Outdoor advertisement work, advertisements will be permitted only on the road median under the elevated portion of the Nagpur Metro Rail. The advertisement works/ advertisement shall be erected between the piers of Nagpur Metro. Under no circumstances, the advertisement shall be permitted on the piers/portals/station walls/ exterior walls of any civil structure of Nagpur Metro. The advertisement panels/ hoardings shall be displayed/installed at every alternate span between every two piers of Reach - .... of Nagpur Metro Rail Project. The Outdoor Advertisement Rights shall be in single lot without any provision for partial surrender of the advertisement area/spaces during the currency of the contract.

Following section is offered under this License Agreement:

**The Brief Details of Advertisement Spaces is as follows –**

Sr. No.	Package Name	Number of Piers	Number of Spans considered for Advertisement purpose	Area
				(In Sq. Mts.)
1	<b>Package 'C'</b> Reach – 2 :(Orange line) Sitabuldi - Zeromile - Kasturchand Park - Gaddigodam - Kadbi Chowk - Indora Square - Nari Raod - Automotive Square) (including NHAI Fly over)	413	199	1,774.82
2	<b>Package 'D'</b> Reach – 4 :(Aqua line) Sitabuldi - Cotton Market - Nagpur Railway station - Dosar Vaisya Chowk - Agarsen Chowk - Chitar oli - Telephone Exchange - Ambedkar Chowk - Vaishnao Devi Chowk - Prajapati)	219	102	909.71

**2.3. General Terms and Conditions**

2.3.1. The Licensee shall have Exclusive Outdoor Advertisement Rights between the Piers of Reach- ....

(on median of Road) of Nagpur Metro Rail Project. The offered space/s as referred above will be provided on "as is where is basis".

The advertisement sites shall be identified and then are to be procured/manufactured/fabricated, installed and commissioned by the Licensee with the prior approval of Maha-Metro and the Outdoor Advertising Policy of Nagpur Municipal Corporation /EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India.

2.3.2. Licensee shall be responsible for the following activities: -

- a) The selected Bidder shall have the exclusive rights to design, procure/manufacture/fabricate, install, manage, operate, maintain, market and sell outdoor advertising opportunities available on the median of Reach - .... of Nagpur Metro Rail Project.
- b) The Selected Bidder shall propose their advertisement plans along with the design calculations regarding safety/integrity of the advertisement panels for prior approval of Maha-Metro before the installation of advertisement panels or before putting up any advertisement on any of the advertisement panels. The advertising plan for each advertisement site must clearly earmark exact locations and type of advertisement planned for each advertising site and other relevant details. Maha-Metro shall consider the plan with respect to aesthetics, operational feasibility, safety and security concerns as well as provisions of Outdoor Advertisement Policy of NMC. If the part of plan is not approved by Maha-Metro, Licensee is required to submit revised plan for approval. All further modification/revision in plans requires Maha-Metro's approval.
- c) The Licensee shall submit High-Definition Video Graphic evidence/report of the existing condition of the median of road, below the metro rail viaduct on Reach-2 (Package 'C') and Reach-4 (Package 'D') of Nagpur Metro. The Video Graphic evidence/report shall include the existing condition of the median, details of various installations on the median of road, details of landscape developed by Maha-Metro (i.e. type of horticulture, its density, vertical / horizontal, etc.). The evidence/report shall be submitted to Maha-Metro within 15 days of signing of License Agreement.
- d) Designing of all advertising units/structures to complement station architecture for advertising sites.
- e) Procurement, fabrication, installation & erection of advertising units.
- f) Appoint a representative to interact with nodal Officer In-charge of Maha-Metro to bring clarity in understanding of spaces, to coordinate and implement decisions taken.
- g) Operate, manage and maintain the entire advertisement plans.
- h) Management of sales & marketing of the advertising including providing adequate professionally trained manpower.
- i) Obtain all approvals, permits, etc. from all competent authorities including different tiers of government, statutory, local, Civic Authorities, etc. if needed at their own cost.

- j) Comply with all statutory requirements in connection with License Agreement.
- k) Ensure regular and timely payments of all amounts due to Maha-Metro and discharge all obligations as per License Agreement.
- l) All applicable taxes including Municipal Advertisement Taxes / NMC Administrative Charges, GST and all other statutory dues where applicable shall be borne solely by the licensee without any contest.
- m) At present, MAHA-METRO is not liable to share its revenue generated from advertisements outside Metro stations with local bodies. Maha-Metro shall deposit the due share to local bodies out of its own funds. Licensee shall not be liable to part with any additional amount on this account.
- n) The licensee has to comply with rules and regulations of safety and health management policy/guidelines of Maha-Metro.
- o) If the licensee is not able to utilize the installed advertisement panels/ prefabricated panels, licensee shall display Maha-Metro Logo and message(s), if any, on vacant panels. The advertiser shall be permitted to mention their contact details on the same. If the licensee fails to update unutilized inventory within 15 days of providing MAHA-METRO messages, MAHA-METRO may provide the same and recover the cost from the licensee. A suitable penalty may also be applicable in case any panel is left blank.
- p) The licensee shall not be allowed to display any other format of advertisement other than the backlit panels.
- q) To start with the horticulture / landscaping will be provided by Maha-Metro and the agency will have to maintain the same for entire tenure Maintenance of Horticulture installed by Maha-Metro on the median of the Road of the respective Reach/ Package entirely irrespective of Advertisement span. The trees damaged and dead should be replaced with same variety and size at the cost of agency / licensee.

#### **2.4. Operation & Maintenance**

- 2.4.1. The Licensee shall be allowed to install/erect only one advertisement panel (both side display) on every alternate span on median of Road between Piers of Reach- ..... The Maximum number of span as per calculations of Maha-Metro is 199 nos. for Package-C and 102 nos. for Package-D. The size of the advertisement panel will be (6 ft. x 8 ft.) (Width X Height).
- 2.4.2. The Maximum number of span as per calculations of Maha-Metro is 199 nos. for Package-C and 102 nos. for Package-D as indicated in Clause ..... above, are approximate. Actual spans shall be measured at the time of handing over of advertisement space(s). If there is any variation in number of spans the License Fees shall be charged on pro-rata/ actual area basis. Interest free security deposit will not be readjusted if the variation in area handed over is up to 10% else while security deposit will be readjusted according to actual area of the shop.
- 2.4.3. Subsequently, if the selected bidder applies for additional area up-to 10% variation, the same shall be provided on pro-rata basis, if found feasible, at the sole discretion of Maha-Metro. For area beyond this time frame and/or above 10% variation range of tendered area, the same shall be provided on negotiated



- / market rate, if found feasible, on the sole discretion of Maha-Metro. Maha-Metro is free to market, area beyond this time frame and/or above 10% variation on open/limited/single tender basis. The license fee for such additional space shall commence after the expiry of 60 days from the date of handing over of space.
- 2.4.4. The advertisement panels shall be in accordance with the various advertisement policies/ guidelines framed by various local authorities in Nagpur city (i.e. Nagpur Municipal Corporation, Nagpur Improvement Trust etc.). The branding/display plan prepared by licensee shall also be in compliance with technical parameters of ***Nagpur Municipal Corporation's Advt. policy/EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India.***
- 2.4.5. Licensee confirms that he/they fully understand and confirm that the panels/advertisements spaces shall, at all-time belong to Maha-Metro, and no interest in the same shall be created by the licensee. The Licensee also agrees not to sub license, lease, sub lease or part with, partially or fully in any form, the panels/advertisement spaces.
- 2.4.6. The advertising rights for panels will vest with the licensee only. Any persons wishing to advertise in the above-mentioned panels will have to deal directly with the licensee and Maha-Metro will have no dealing in this regard. At no time subletting of rights for advertisement to other advertising agencies/outdoor agencies, Out of Home advertising agencies, etc. would be permissible under this agreement. The licensee agrees voluntarily and unequivocally to place Maha-Metro messages at their own cost in the panels which lie vacant and not commercialized at any time after the fitment period of 60 days from date of handover.
- 2.4.7. All the advertising panels shall belong exclusively to Maharashtra Metro Rail Corporation Ltd. at all times. No permanent interests or lien of whatever nature is allowed to be created on the advertising spaces and/or the advertising panels fabricated installed and commissioned.
- 2.4.8. The Licensee will not ask for any claim or seek any compensation from Maha-Metro if advertisements are not permitted due to court order/local laws/civil authorities. The maintenance of all advertisement inserts, and the panels handed over will be borne solely by the licensee.
- 2.4.9. The licensee agrees to pay and will continue to pay the license fees and all dues, even if any or all the panels are not functional or has/have been dismantled for repair or upkeep etc. The Licensee agrees that in the event of such dysfunction of the panels, Maha-Metro will not be liable to pay any compensation to the licensee.
- 2.4.10. The licensee will have to maintain all the advertisement inserts in proper clean condition for the currency of the contract. The advertising media should be of fire-retardant low smoke/zero halogen material and of international standards. The Licensee must submit the media sample for Maha-Metro's approval to the office of the Additional General Manager/Property Development before using the same. Maha-Metro reserves the right not to give such permission.
- 2.4.11. The Licensee fully understands and comprehend that all panels constructed / fabricated, installed and commissioned by him/her/them will become the sole property of Maha-Metro at the end of the license period.
- 2.4.12. Licensee shall keep and maintain the advertisement media/panel, etc, in safe and sound manner during all the time of contract period. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency/Maha-Metro to ensure safety of Maha-Metro commuters.
- 2.4.13. The cost of installation of required Maha-Metro wiring shall be borne solely by the Licensee. The Licensee shall ensure that all Maha-Metro wiring, power outlets and gadgets used are maintained properly,

guarded against short circuits / fires. The instructions of Maha-Metro's electrical inspectors/ authorized representative shall be complied by the licensee at its own cost.

- 2.4.14. In case of accident caused due to negligence of the Licensee resulting into injury/ death to Maha-Metro employees/ other users/ any person or loss to Maha-Metro property, Licensee shall compensate the loss (es), without prejudice to other actions under this Agreement at the sole discretion of Maha-Metro, including termination of Agreement.
- 2.4.15. The Licensee voluntarily and unequivocally agrees not to seek any claims, damages, compensation, or any other consideration whatsoever because of implementing the instruction issued by Maha-Metro fire officer, Maha-Metro inspector, Security officer or their authorized representatives from time to time.
- 2.4.16. The cost of preparation of the advertisements/media/inserts shall be borne solely by the licensee. The licensee shall also maintain all the media/ inserts and advertisements as per standards indicated by Maha-Metro.
- 2.4.17. Licensee and its employees or other persons involved in the execution of the work shall not, in any way, impinge on the safety and security of metro operations, road traffic movement, passenger safety, safety of metro properties and its assets.
- 2.4.18. The Licensee shall comply with the laws of land including Court judgments/ court orders/Maharashtra Pollution Control Board and Nagpur Fire Service guidelines and/or other government regulatory bodies, regulating the advertisements/ displays and Maha-Metro can't be held liable for any change/modification in these laws which adversely affects this tender and the licensee voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration whatsoever on this account.

## **2.5. Development, Operation and Maintenance of Horticulture**

### **2.5.1. Development of Horticulture –**

- a. The Successful Bidder shall have to develop greenery/horticulture/landscaping on the median of road below the metro stations on Reach-2 and Reach-4. Minimum 25 number of plants shall be planted on each median in two rows, with Centre-to-Centre distance of 2.5 ft. to 3 ft.
- b. The Successful Bidder shall have to develop greenery/horticulture/landscaping on area admeasuring approx. 15,000 sq.ft. at Reach-2 and 4,000 Sqft at Reach-4 on the locations as suggested by Maha-Metro. The Plantation shall be done in two rows with Centre-to-Centre distance of 2.5ft. to 3 ft.
- c. The Successful Bidder shall have to develop vertical garden on area admeasuring approx. 5,000 Sq. ft. at Reach-2 and 5,000 Sq. ft at Reach -4 on the location as suggested by Maha-Metro.
- d. The maintenance of the horticulture / landscaping will start immediately from the date of handing over of site.
- e. In case if any span in road median, either partly or fully, is found having no plants/ vacant / dead plants, in that case the Successful Bidder shall have plant the greenery/horticulture/landscaping on road median on Reach-2 and Reach-4. The plantation shall be similar trees, shrubs and vegetation as planted in adjoining median spans.
- f. The greenery/horticulture/landscaping shall be developed in as per the directives and

supervision of Maha-Metro.

- g. The greenery/horticulture/landscaping shall include but not be limited to following –
- Raphis Palm
  - Sheflera Green
  - Euphorbia
  - Sinnevaria
  - Draccena Victoria
  - Instant Lawn
  - Landscaping etc.
- 2.5.2. The Licensee shall be responsible to maintain the Horticulture / Landscaping developed by Maha Metro on the median of road along the entire Reach - .... of Nagpur Metro.
- 2.5.3. The Licensee shall have to re-instate the road median/ horticulture works if there is any damages caused due to installation of advertisement panels.
- 2.5.4. The Licensee shall maintain all existing trees, plants, shrubs and other suitable vegetation in the median and right of way strictly according to the desired density and ensure the conservation of all trees, shrubs and similar vegetation, in the median and within the right of way by promptly replacing the casualties. The Licensee shall also take adequate and appropriate measures, during the various seasons, to ensure the survival of the vegetation.
- 2.5.5. The Licensee shall have to make his own arrangement of all tools and equipment's required for the work at his own cost.
- 2.5.6. The Licensee shall have to engage sufficient labours for maintenance of the Horticulture present on median of roads. If it is found that the maintenance is not satisfactory because of Licensee's failure to employ adequate manpower, the Licensee shall be penalized, @ Rs. 5,000/- per instance.
- 2.5.7. The water supply and requirement of electricity is any for maintenance of Horticulture shall have to be arranged by Licensee at his own cost.
- 2.5.8. In case if the plants wilt or die the Licensee shall have to replace the dead plants of same variety at his own cost.
- 2.5.9. Hedges, Shrubbery, Rosary and all other plants at median should be pruned regularly and should be observed in proper shape. For topiary work, Licensee shall have to engage extra trained personals (Gardner/Malis).
- 2.5.10. The Licensee shall be responsible for earthing up and spraying insecticides, fungicides as and when required at his own cost.
- 2.5.11. If felt necessary the Licensee/ Licensee shall have to undertake new plantation of Hedges, Shrubbery, Rosary etc. for casualty replacement. The Officer In-charge Maha-Metro or his subordinates will suggest the species to be planted.

2.5.12. The median should be kept neat and clean, for the same, the Licensee shall have to sweep the same at least twice every week.

2.5.13. The waste materials like polyethylene bags, garbage's on the median should be lifted immediately and the same should be dumped at appropriate place already notified by NMC or suggested by the Officer In-charge of Maha-Metro.

2.5.14. Maintenance Intervention:

Sr. No	Defects	Criteria / Extent (% of sub section length)	Treatment / Action	Type of Maintenance
1	Median			
1.1	Vegetation growth on median	Any Kind	Vegetation growth be removed	Routine
1.2	Trees / Landscape	All kind	Trim and remove dead / diseased branches	Routine
		Fallen trees on carriageway	Remove immediately	Urgent

**2.6. Plant materials specifications:**

2.6.1. Plants, Trees and shrubs shall be substantially free from pests and diseases and shall be materially undamaged. All plant materials shall be healthy, sound, and vigorous, free from the plant disease, insect pests, or their eggs, and shall have healthy, well developed root system.

2.6.2. Topsoil: (Good earth) PH range 6.5 to 7.5

2.6.3. Fertilizers shall be free from extraneous matter, harmful bacteria insects, or chemicals.

2.6.4. The root system shall be conducive to successful transplantation. Where necessary; the root-ball shall be preserved by suitable material.

2.6.5. Care shall be taken that the plant sapling when planted is not buried deeper than in the nursery, or in the pot.

2.6.6. Planting should not be carried out in waterlogged soil.

2.6.7. Plant trees at the original soil depth.

2.6.8. All plastic and other imperishable containers shall be removed before planting. Any broken or damaged roots should be cut back to sound growth.

2.6.9. Fertilizing shall be carried out by application in rotation of the following Fertilizers, every 15 days from the beginning of the monsoon till the end of winter.

a) Sludge of organic well-rotted vermin compost or approved organic manure as per directions of Architect.

b) Urea or Ammonium Sulphate - as and if required. Opined accordingly.

**2.7. Other Conditions**

- 2.7.1. The applicable Advertisement Taxes/ Fees and charges as levied by local bodies/civic agency (i.e. Nagpur Municipal Corporation, Nagpur Improvement Trust and Nagpur Metro Region Development Authority etc.) shall be borne by the Licensee separately.
- 2.7.2. The Licensee shall take into account all the aspects as mentioned in ARTICLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS.
- 2.7.3. The Licensee shall have to earmark 5% of total advertisement spaces for carrying out social marketing activities or social messages by Maha-Metro in consonance with its CSR policy. The spaces shall be finalised in consultation with Maha-Metro.
- 2.7.4. If during the License period, any loss of property and/or life takes place, the loss and account of the same shall be borne entirely by the Licensee and Maha-Metro shall not be liable for any such claims. The Licensee would be responsible for all the payments arising out of any third-party claims. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.
- 2.7.5. Maha-Metro shall not be made party in any litigation arising between the Licensee and any third party during and/or associated with the refurbishing/finishing and operations/maintenance of the advertisement space. All civil and criminal liability shall be the responsibility of the Licensee.
- 2.7.6. The Licensee shall not employ any person who is under the age of 18 years.

### **ARTICLE 3: TENURE OF LICENSE**

#### **3.1. Tenure of License**

- 3.1.1. The License Tenure shall be initially for 02 (Two) Years from the date of signing of License Agreement. The License Period shall be further extended by two (02) tenures of two (02) years each, however, the same shall be subject to extension/renewal of Permission/License by Nagpur Municipal Corporation. The extension/renewal and shall be subject to revision in terms and conditions then and increase in fees/charges (related to Corporation only) as applicable at the time of license renewal.
- 3.1.2. The license period for additional advertisement space so handed over/allotted during the currency of the contract will be co-terminus with original license period.
- 3.1.3. There shall be a Lock-in period of initial two years from the date of commencement of license agreement.
- 3.1.4. If the Licensee is desirous of terminating the license hereby created before expiry of the lock-in period of 02 years, the License Agreement shall deemed to be terminated on the date mentioned in termination/ surrender notice, subject to confirmation by Maha-Metro. In such a case, the balance Interest Free Security Deposit shall be forfeited in favour of Maha-Metro after adjustment of outstanding dues, if any payable to MAHA-METRO. No grace period shall be provided to licensee in such a case.
- 3.1.5. The Licensee shall have option to exit from the License Agreement immediately after completion of lock-in period of 02 year. For this, the licensee shall give 90 days prior intimation to MAHA-METRO before completion of lock-in period. (In this case, prior intimation can be given after 21 months) but option to exit shall be available only after 02 years. In such a case, Interest Free Security Deposit of the Licensee shall be refunded after adjusting the outstanding dues, if any payable on part of licensee.
- 3.1.6. If the Licensee is desirous of terminating the license after expiry of lock-in period of 02 years without serving any prior intimation or shorter intimation than 90 days, the agreement shall deemed to be terminated on completion of such short/improper intimation period. In such cases, the Interest Free Security Deposit shall be refunded to the Licensee after adjustment of license fee for period shorter than 90 days (notice period) and outstanding dues, if any.
- 3.1.7. In case of successful completion of the full term of the License period, Interest Free Security Deposit of the Licensee shall be refunded after adjusting the outstanding dues, if any.
- 3.1.8. MAHA-METRO may also recover the balance outstanding dues, if are more than Interest Free Security Deposit, from the other contracts of licensee in MAHA-METRO. Balance outstanding dues, if are more than Interest Free Security Deposit shall also be recoverable from the licensee before licensee is permitted to remove their media or else MAHA-METRO will seize their property treating at "0"/NIL value. MAHA-METRO shall be free to dispose-off the seized property/goods in whatsoever manner as it deems fit. Licensee shall have no claim for compensation or consideration / damages on this account.
- 3.1.9. The Licensee shall have "First Right of Refusal" at the end of license tenure, provided no default

is made in the payments of License fees to Maha-Metro and the Licensee participates in the tender invited then and agrees to match the highest bid received.

### **3.2. Handing over of advertisement space(s)**

- 3.2.1. The advertisement space(s) shall be handed over for its operations and on the date of signing of License Agreement.
- 3.2.2. At the time of termination/natural completion of license, all the advertisement panels become the property of Maha-Metro and the same shall be handed back to Maha-Metro in good and working condition.

### **3.3. Fitment period**

- 3.3.1. For carrying out the fit-outs, finishing works etc., Selected Bidder would be permitted a rent-free fitment period of 60 days from the date of signing of License. The Selected Bidder shall have to complete in all respects the development of the tendered / advertisement space(s), within the period of 60 days from the date of 'signing of License Agreement', as license fee would be applicable after expiry of 60 days rent free fitment period.

**ARTICLE 4: LICENSE FEES, TAXES AND DUTIES**

**4.1. License Fee**

4.1.1. The License fee shall be charged as per the financial proposal submitted by the bidder. At any given period, the license fee shall be charged for a total advertisement space/area as provided under this agreement.

4.1.2. The Annual License fee as applicable for the base year shall be computed as follows:

$$\begin{array}{ccccccc}
 \text{Annual License Fees} & = & \text{License Fee per Sqm. as quoted by Licensee for the respective span (Rate per Sq.mt. per month)} & \times & \text{Higher of Minimum Advertisement Area or the Actual Advertisement Space utilized by the Licensee.} & \times & \text{12 months}
 \end{array}$$

4.1.3. The License fee shall be charged from the 61<sup>st</sup> day from the date of signing of License Agreement and shall be charged until the termination/completion of agreement/Contract.

4.1.4. The Annual License Fees shall be computed for twelve calendar months from 1<sup>st</sup> day of April to 31<sup>st</sup> day of March for payment of License Fees. The aforesaid Annual License Fees shall be paid in two instalments and shall be due on 1<sup>st</sup> April and 1<sup>st</sup> October of each calendar year.

4.1.5. The license fee shall be paid in advance within 15 days of the commencement of that half year. This has also been illustrated below for better understanding of licensee:

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

4.1.6. The first payment of License Fees applicable for initial 06 months from the date of signing of License Agreement has been paid on ..... in the form of ..... through ..... Bank (Reference Number ..... )

4.1.7. The adjustment of License Fees duly considering fitment period and pro-rata adjustment to fit the billing period as mentioned in clause 4.1.5 shall be taken into consideration while charging of License Fees applicable for second half of first year tenure (i.e. 06 months to 12 months of the License Tenure.)

4.1.8. The License Fees shall be paid for complete 06 months tenure from the 3rd payment due to Licensee.

4.1.9. In the event if the license tenure at the end of the agreement is lesser than the period of six months, then the license fees shall be paid on pro-rata basis.

4.1.10. The Annual License Fee shall be escalated by 5% every year, on compounding basis.



- 4.1.11. The Bidder voluntarily agrees not to seek any claim, compensation, damages, or any other consideration whatsoever on any pretext whatsoever on account of his inability to fabricate, install and commission the advertisement spaces/panels.
- 4.1.12. Along with License Fee, Licensee shall also pay other dues i.e. Goods and Service Tax, Statutory dues / liabilities, electricity charges, damage/ penal charges, pending arrears, etc. as applicable time to time.
- 4.1.13. The licensee shall preferably make the payment of the license fee to Maha-metro, as mentioned above, by electronic mode i.e. RTGS/NEFT/IMPS/Online Transfer after taking prior approval of Maha-Metro & complying with the laid down procedure.
- 4.1.14. The utility charges including consumption of electricity, etc. shall also be payable by licensee to Maha-Metro in addition to above in accordance with terms & conditions of the agreement. These utility charges shall be payable by Licensee during the whole tenure of Licensee agreement as and when the demand raised by Maha-Metro.
- 4.1.15. The Licensee agrees voluntarily and unequivocally to make all payments as may be due before the due date, without waiting for any formal advice / invoice from Maha-Metro.

#### **4.2. Non-payment of License fees and other dues.**

- 4.2.1. In case of default in payment of license fees, the Licensee have to pay the license fees along with interest within 90 days of due date failing which the Security Deposit shall be forfeited and the license shall be liable for termination.
- 4.2.2. Any delay in payments of Licensee Fees shall attract interest **@ SBI base rate plus 3% or 15% per annum**, whichever is higher, on the amount outstanding (calculated on a per day basis for a maximum period of 90 days), till the time the respective payments have been received by Maha-Metro..
- 4.2.3. Interest shall continue to accrue on compounding basis until the License Fee and other dues are finally paid. Such interest shall be charged for the delayed days only.
- 4.2.4. Non-payment of License Fee and other dues within the prescribed date will constitute Material Breach of Contract and Licensee Event of Default under this Agreement and shall entitle Maha-Metro to terminate the License Agreement as per provisions stipulated in **ARTICLE 17: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT, of the .**
- 4.2.5. Licensee shall periodically advise the details of payment deposited with Maha-Metro. In the case of non-submission of such details, initially third-party dues i.e. statutory dues / liabilities shall be settled (mandatory liabilities of Maha-Metro), then others dues / liabilities like electricity, OMC etc, and lastly the License fee shall be accounted for.
- 4.2.6. In case payment is not made by due date, a 90 days' notice to cure the Licensee's Event of Default shall be issued. In the event of Licensee failing to cure the Default, Maha-Metro shall be entitled to terminate the License with 30 days' notice and shall be free to forfeit Interest Free Security Deposit and take such other action available to it under this Agreement and as per Law.

- 4.2.7. Any representation or any request by the Licensee in this regard shall only be entertained if the Licensee deposits 100% dues as per issue / demand within 15 days of issue of Licensee Event of Default Notice, along with a written request in the matter.
- 4.2.8. The Licensee shall vacate the premises and shall forgo its exclusive advertisement rights within 07 days of termination of the License Agreement. A certificate from concerned Officer In-charge of Maha-Metro or its authorized representative in proof of Licensee having vacated the site will be required to be submitted by the Licensee. Any claim of vacation / non-vacation without the endorsement of Officer In-charge of Maha-Metro or its authorized representative shall not be entertained.
- 4.2.9. Interest Free Security deposit shall be forfeited in case of termination of contract or surrender by licensee before the lock in period of 01 year.
- 4.2.10. In no case, payments shall be allowed to remain outstanding for a period of more than 90 days. If any stage, the dues remain outstanding for the period of more than 90 days, the License agreement may stand terminated without giving any notice to the Licensee and Interest Free Security Deposit shall stand forfeited.

### **4.3. Taxes and Other Statutory Dues**

- 4.3.1. The applicable Goods and Service Tax (GST), Advertisement Tax, Entertainment Tax etc. or any other taxes as applicable shall also be payable extra as made applicable from time to time. Additionally, the Licensee shall also bear the License Fees/ Advertisement Tax, if applicable and charged by NMC. The Licensee Fees/ Advertisement tax shall be paid separately to NMC and the proof of payment shall be submitted to Maha-Metro for its records.
- 4.3.2. All other statutory taxes, statutory dues, local levies, third party dues (i.e. electricity, water consumption charges etc.) as applicable shall be charged extra and shall have to be remitted along with the license fees. The Licensee shall indemnify Maha-Metro from any claims that may arise from the statutory authorities in connection with this tender document / license agreement. Any change in Tax structure will also be applicable.
- 4.3.3. At present, Maha-Metro is not liable to share its revenue generated from advertisements with local bodies including Nagpur Municipal Corporation, Nagpur Improvement Trust and Nagpur Metro Region Development Authority etc. However, if Maha-Metro becomes liable to share revenue with local bodies from advertisements in future, then such revenue sharing/advertisement taxes with NMC/civic agency, if applicable/demanded will be borne by the Licensee separately.
- 4.3.4. Payment of stamp duty on execution & registration of license agreement, if any, to be executed in pursuance of this bid shall be solely borne by the Licensee.

The registration of License Agreements should be done within 90 days of signing of agreement, the Licensee (registration fees, stamp duty etc. to be fully borne by the Licensee) and the duly registered documents to be submitted to Maha-Metro for records. Any amendment in the contract agreement, if required to be registered, shall also be registered within 30 days from the date of amendment and duly registered documents shall be submitted to Maha-Metro for

record.

- 4.3.5. If the Licensee fails to pay any Taxes, charges, outgoings payments etc., which expenses he is required to bear, and the same are instead paid by the Maha-Metro, then Maha-Metro shall be entitled, to be reimbursed for such amounts by the Licensee along with interest at a rate of 18% (Eighteen percent) per annum. In addition, the Licensee shall pay as damages to the Maha-Metro 25% (Twenty Five Percent) of the sum total of amount paid by Maha-Metro and interest payable to Maha-Metro.

**4.4. Utility Charges**

**4.4.1. Electrical connection**

- a. The electrical connections and components in all advertising panels / boards shall be with accordance with relevant Indian Standards and designed to ensure there is no safety or traffic risk. A copy of the electrical contractor's test certificate shall be provided to Maha-Metro.
- b. The Licensee shall take the necessary electricity connection from MSEB/ Authorised Power distribution Company/Maha-Metro.
- c. If taken from Maha-Metro grid, the power charges shall be as per Maha-Metro electric policy. The Power charges shall be as follows –

Sr. No	Establishments	Year wise Total Charges (Rs. / kW / month)					
		2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
1	Outdoor Advertisement	5810	5640	5740	5780	4770	4580

The licensee will have to pay fixed rental charges as per approved rate as per Maha-Metro’s policy. The bidder/licensee will have to declare the load required for the property business space at the time of possession of business space as per (Annexure-A). Depending on the load the fixed rental charges will be levied by Maha-Metro, which will be revised yearly during license period. Licensee shall have to maintain its power demand within the declared load. However, the licensee if request for additional power load the Maha-Metro will provide the same with the fixed charges applicable for increased load. Licensee will have to apply the same one month in advance

The responsible persons, one each from O&M team, Accounts / finance team and third-party user representative will check the connected load initially and at surprise visits and will sign the report as per Annexure-A.

- d. Use of generator running on diesel/ petrol/kerosene or any biofuel shall not be permitted for providing power for illumination of any outdoor advertising panels / boards.

**4.4.2. Water**

The Licensee shall be responsible for arrangement of water for maintenance of Horticulture/ Landscape. The water shall be arranged at the cost of Licensee.

- 4.4.3. In the event of default of Licensee in making payments of License fees, electric supply, Water Charges, taxes or any other dues towards MAHA-METRO/ any other Authority in prescribed time, MAHA-METRO shall be entitled to discontinue / disconnect the service of electricity and may ask respective authority for disruption of electric supply to the Licensee). Apart from the said rights as stated, MAHA-METRO shall also have the rights including but not limited to restrict the access of Licensee in licensed premises and recover all dues along with interest.

## **ARTICLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS**

### **5.1. Factors Governing Selection of Permissible Advertisements**

5.1.1. The Licensee shall take into account the following aspects while selecting advertisements on the panels and abide by all the instruction of the authorized Maha-Metro representative on the same:

- a) The advertisement is prohibited from carrying information or graphic or other items relating to alcohol and tobacco products.
- b) The advertisement will have no objectionable and indecent portrays of people, products, or any terms.
- c) The use of Maha-Metro name, logo or title without prior written permission is strictly prohibited. No co-branding with the Licensor is allowed, without prior permission.
- d) No Surrogate advertisements are permitted unless application for placement of the same is accompanied by "no objection certificate" from the Ministry of Information and Broadcasting.
- e) Advertisements pertaining to achievements by different Governments, their Departments, Ministries, Government Undertakings, and other Authorities shall be permitted. However, no advertisement of any political party, person shall be permitted. No advertisement of any political party, person violating "Model Code of Conduct" shall be allowed during the period whereby "Model Code of Conduct" has been enforced by Election Commission. Further, no advertisement which violates "Model Code of Conduct" shall be permitted during the period whereby "Model Code of Conduct" have been enforced by Election Commission.
- f) Any type of audio / video advertisement shall not be allowed.

**g) Negative list of Advertisements:**

The licensee shall take into account that the following types of advertisements are strictly prohibited:

- Nudity
- Racial advertisements or advertisements propagating caste, community or ethnic differences.
- Advertisements of drugs, alcohol, cigarette, or tobacco items.
- Advertisement propagating exploitation of women or child.
- Advertisements having sexual overtone.
- Advertisements depicting cruelty to animals.
- Advertisements depicting any nation or institution in poor light.
- Advertisements banned by the Advertising Council of India or by Law.
- Advertisements glorifying violence.
- Advertisements of destructive devices and explosives depicting items.

- Advertisements of Weapons and related items (such as firearms, firearm parts and magazines, ammunitions, etc.)
- Lottery tickets, sweepstakes entries and slot machines related Advertisements.
- Advertisement which may be defamatory, trade libellous, unlawfully threatening or unlawfully harassing.
- Advertisements which may be obscene or contain pornography or contain an "indecent representation of women".
- Advertisements which may be obscene or contain pornography or contain an "indecent representation of women" within the meaning of the Indecent Representation of Women (Prohibition) Act, 1986
- Advertisement linked directly or indirectly to or include description of items, goods or services that are prohibited under any applicable law for the time being in force, including but not limited to the Drugs and Cosmetics Act, 1940, the Drugs And Magic Remedies (Objectionable Advertisements) Act, 1954, the Indian Penal Code, 1860; or
- Any other items considered inappropriate by the Maha-Metro.

## **ARTICLE 6: RULES & REGULATION OF UTILIZATION OF ADVERTISEMENT SPACES**

### **6.1. Approval of Plan:**

- 6.1.1. The Licensee shall indicate the locations for advertising panel/s, design of media including their structural plans, electrical and cable routing plans, the advertising panels/type of advertisements for these locations and submit all the plans of proposed panels, including its fixing arrangements for Maha-Metro's approval within 15 days after payment of all dues as per LoA for utilization of space, giving full compliance to Technical Parameters or any other prevailing applicable advertising policy.
- 6.1.2. The Licensee shall submit High-Definition Video Graphic evidence/report of the existing condition of the median of road, below the metro rail viaduct on Reach-2 (Package 'C') and Reach-4 (Package 'D') of Nagpur Metro. The Video Graphic evidence/report shall include the existing condition of the median, details of various installations on the median of road, details of landscape developed by Maha-Metro (i.e. type of horticulture, its density, vertical / horizontal, etc.). The evidence/report shall be submitted to Maha-Metro within 10 days of signing of License Agreement.
- 6.1.3. Maha-Metro reserves the right to reject any or all of the said submissions without assigning any reasons whatsoever. Maha-Metro has the right to indicate alternate locations. Maha-Metro also has the right to ask the licensee to re submit location plan, wiring & routing plans etc, for those locations, which are not approved by Maha-Metro.
- 6.1.4. The Selected Bidder hereby agrees to comply with the directives of Maha-Metro regarding alternative sites/ locations and designs as may be specified by Maha-Metro. The Selected Bidder hereby agrees voluntarily and unequivocally not to seek any claim, compensation, damages or any other consideration whatsoever on this account.
- 6.1.5. Selected Bidder shall submit the certificate regarding structural stability and safety from agency/firm approved by Maha-Metro along with detailed drawings for obtaining approval of installing panels at all locations.
- a. Approval for installing panels at all locations (including Gantry (ies), Portals and Pillars) shall be granted by Maha-Metro within 15 days after ascertaining safety and stability of the structures, aesthetics and media proposed.
- Specimen drawings for structure is enclosed for guidance. It may be noted that in case of non-granting of approval by Maha-Metro, Selected Bidder shall submit fresh proposal along with drawings for approval by Maha-Metro.
- b. However, if the Selected Bidder wants to install additional advertisement area beyond minimum area, he may be permitted to do so after submission of drawings and approval thereto by Maha-Metro.
- c. At any given period, license fee shall be charged for the total advertisement area or the actual advertisement area, whichever is higher.
- 6.1.6. The Licensee shall take into account all the aspects as mentioned in the mentioned in

**ARTICLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS.**

- 6.1.7. The Licensee shall fix advertisement panels/boards/inventory, operate, manage and maintain the entire advertisement spaces with adequately trained and experienced team for responsibilities as defined in this tender document.
- 6.1.8. Under no circumstances, shall the advertisement spaces or facilities constructed or installed at the advertisement space be mortgaged, charged or otherwise put under any lien (including negative lien), charge or encumbrance be created or agreed to be created in favour of any person, including the Lenders/ Financial Institution (s)/ Banks etc.
- 6.1.9. The Licensee shall be responsible to keep the advertisement spaces and surrounding area clean. The Licensee shall maintain the horticulture with adequately trained and experienced team for responsibilities as defined in this License Agreement.
- 6.1.10. If any approval is required to be taken from any local authority for display of the advertisement, the same is the sole responsibility of the Licensee. Maha-Metro may assist in submission of application on written request from the Licensee.
- 6.1.11. The Licensee shall submit details along with contact Nos. of his authorized representative(s) which shall be available at the site, at a short notice, for inspection of advertisement spaces including measurement of area, failing which inspection done by Maha-Metro official(s) shall be final and binding to the Licensee. If during inspection, the advertisement space is found to be at unapproved location or more than the approved area, it shall be treated as unauthorized occupancy. The license fee of such unauthorized occupancy shall be charged at double the rate of that rate structure from the first day of that quarter or from the date of previous inspection in which the space was found as per approved plan, whichever is later and shall be charged till a vacation certificate of that unauthorized occupancy from the concerned Station Manager or his authorized representative is submitted to Maha-Metro or the unauthorized space is got approved from the Maha-Metro, whichever is later.
- 6.1.12. Licensee shall submit the monthly statement to Property Development Department for approved area as well as actual area utilized for advertisement, after due certification from authorized representative. If the actual area utilized for advertisement at any station is found to be more than the approved area, the license fee shall be charged for actual area utilized for that rate structure at double the normal rate for whole month.



## **ARTICLE 7: RULES & REGULATION OF UTILIZATION OF ADVERTISEMENT SPACES**

### **7.1. Minimum Material Specifications:**

7.1.1. The Licensee shall provide advertisement media / panels / fixtures conforming to international standards of high-quality advertising comparable to Airports and Metro of leading nations. Advertisement panels shall be provided by Licensee conforming to the following minimum specifications or its equivalent:

- a. Steel used in making frames has to be arranged from primary sources, SAIL, TATA etc with proper treatment, Exterior Framework – SS 304 or equivalent. Frame finishes of Aluminium is also permissible
- b. Backing sheet of G.I.
- c. Internal cables of Fire-Retardant Low Smoke type (FRLS) for Elevated as specified in Electrical Procedure Order.
- d. TL tubes for back lighting/illumination with electronic ballast wherever applicable as per outdoor advertisement policy.
- e. Polycarbonate sheet as cover of GE make or equivalent
- f. Advertising media to be made from Fire Retardant, Low Smoke & Zero Halogen material.
- g. **In order to have energy conservation, LED or any other energy saving devices confirming to BEE standards should be used at the advertisement sites. For existing sites, the conservation of energy saving devices may also be carried out.**

7.1.2. The advertising media should be of fire retardant and low smoke material and comply with all Indian and International Standards.

7.1.3. Notwithstanding anything mentioned above, the Licensee is required to adhere to the provisions of the prevailing National Building Code/ IRC/ MORTH / MOST/ NHAI / PWD / NMC/ NIT etc. over the advertisement spaces for the various works to be undertaken.

7.1.4. Licensee shall ensure that all the installed advertisement panels are fully engaged by proper advertisement media or any other proper creative to improve the ambience of the metro viaduct. If advertisement is not available for any panel, the same should be utilized to display a message of Licensee or Maha-Metro. At no stage, any installed advertisement panels shall be left unattended.

### **7.2. Outdoor advertising structure criteria**

7.2.1. Advertising panels / boards structures including the foundations, shall be designed and checked for extreme wind conditions, earthquakes, soil bearing capacity etc. and shall comply with relevant Indian structural design standards, codes of practice and the policy guidelines. The designs shall be certified by an experienced and practicing structural engineer and shall be submitted to the Maha-Metro before start of work at the site.

- a. The supporting structure shall have a non-reflective finish to prevent glare.
- b. The panels / boards' structure shall be well maintained at all times. It shall be painted in colours that are consistent with, and enhance the surrounding area.
- c. Official road furniture such as official signs and delineator guide-posts shall not be used as the supporting structure of an advertising device.
- d. The name of the licensee should be placed in a conspicuous position on the advertising panels / boards.
- e. Notwithstanding anything mentioned above, the Licensee is required to adhere to the provisions of the prevailing National Building Code/ IRC/ MORTH / MOST/ NHAI / PWD / NMC/ NIT etc. over the advertisement spaces for the various works to be undertaken.
- f. The Licensee shall take utmost care while installing the Advertisement panels / boards on the road median. Under no circumstances, the Advertisement panels / boards should project out of the available road median as it may cause threat to the vehicle commuters. In the event if any Advertisement Panels / Boards is found projecting outside the road median, it shall be considered as major default and in such case Maha-Metro shall impose a penalty of Rs. 10,000/- per instance per day.

**ARTICLE 8: ELECTRICAL SPECIFICATIONS AND PROCEDURE FOR RELEASE OF ELECTRIC POWER SUPPLY**

**8.1. Electrical Specifications**

- 8.1.1. The Licensee shall have option to take power connection from MSEDCL/respective power distribution company directly. The Licensee shall be responsible to pay its respective electricity bills directly to the concerned power distribution company. All necessary charges for procuring such connection/ electric meter shall be borne by the Licensee.
- 8.1.2. If the power is taken from Maha-Metro grid, Maha-Metro will supply electric power, at one point near each Metro Station located on Reach - .... of Nagpur Metro Rail. Further, transformation and distribution will be the responsibility of the Licensee. Licensee shall have to maintain its power demand within the power allocated.
- 8.1.3. Electricity supply, if provided from Maha-Metro grid, will be provided as per terms and conditions of the Electrical Policy of Maha-Metro. Licensee shall use energy efficient equipment. Advertiser shall follow the I.E. Rules, Acts for safety of equipment, public & Staff.
- 8.1.4. If power is taken from Maha-Metro grid, the power charges shall be as per Maha-Metro electric policy. The charges shall be as follows –

Sr. No	Establishments	Year wise Total Charges (Rs. / kW / month)					
		2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
1	Outdoor Advertisement	5810	5640	5740	5780	4770	4580

The licensee will have to pay fixed rental charges as per approved rate as per Maha-Metro's policy. The bidder/licensee will have to declare the load required for the property business space at the time of possession of business space as per (Annexure-A). Depending on the load the fixed rental charges will be levied by Maha-Metro, which will be revised yearly during license period. Licensee shall have to maintain its power demand within the declared load. However, the licensee if request for additional power load the Maha-Metro will provide the same with the fixed charges applicable for increased load. Licensee will have to apply the same one month in advance

The responsible persons, one each from O&M team, Accounts / finance team and third-party user representative will check the connected load initially and at surprise visits and will sign the report as per Annexure-A.

- 8.1.5. DG power available in Maha-Metro network will not be made available to Licensee.
- 8.1.6. Licensee has to carry out all works for functioning of advertisement spaces on their own with all cost including installation & commissioning of MCB/MCCB/ELCB, ongoing feeders form panel, cable laying, cable trays, hangers in cable route, earthing, internal wiring, lighting, power distribution etc.

## **ARTICLE 9: OBLIGATIONS OF THE Licensee**

### **9.1. Obligations of the Licensee**

- 9.1.1. The Licensee's Responsibilities and Duties shall include the following, in addition to and without prejudice to other obligations under this Agreement:
- a. to ensure that no structural damage is caused to the existing buildings and other permanent structures of Nagpur Metro as a result of his activities or any of its agents, contractors etc.;
  - b. to take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from installation of branding names, within guidelines specified as per Applicable Laws and Applicable Permits;
  - c. to duly supervise, monitor and control the activities of contractors, agents, etc., if any, under their respective License Agreements as may be necessary;
  - d. to take all responsible precautions for the prevention of accidents on or about the site and provide all reasonable assistance and emergency medical aid to accident victims;
  - e. use non-combustible material for advertisement media at various locations. Use of combustible material shall not be permitted under any circumstances.
  - f. to maintain the horticulture / landscaping at the median of the Road of the respective Package completely, irrespective of Advertisement span. The trees damaged and dead should be replaced with same variety and size at the cost of agency / licensee.
- 9.1.2. **Sub- Licensing:** The Licensee shall not be entitled to sub-license the advertisement rights allotted to him. At no time subletting of rights for advertisement to other advertising agencies/outdoor agencies, Out of Home advertising agencies, etc. would be permissible under this agreement.
- 9.1.3. Licensee shall at all times adhere to all provisions of the Metro Railway (Operation and Maintenance) Act, 2002 and amendments thereto and shall also comply with all notices and circulars issued by Maha-Metro in this regard.

### **9.2. Employment of trained personnel**

- 9.2.1. The Licensee shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.
- 9.2.2. The Licensee shall also ensure that the persons employed for work are above 18 years of age, and no child labour is being engaged for the work.

### **9.3. Authorised Representative**

- 9.3.1. The Licensee shall, within 30 (thirty) days from the Effective Date, nominate its Authorised Representative and shall authorise him for all correspondence, communication, signing of documents, participation in meetings etc. with Maha-Metro in respect of the said agreement and issues relating to or arising out of the Agreement.

9.3.2. The Licensee shall at all times, take all reasonable precautions to prevent any unlawful, riotous, or disorderly conduct, by or amongst, his staff and labour, and to preserve peace and protection of persons and property in the neighbourhood of the advertisement spaces and horticulture installed on median of road, against such conduct. The Licensee along with his Sub-Contractors (if any) shall disclose a list of all their employees and workmen, who are involved in the operation and maintenance of the advertisement spaces and horticulture installed on median of road. The Licensee shall ensure that under no circumstances, the employees and workmen of the Licensee or any Sub-Contractor, are otherwise deemed to be employees of Maha-Metro.

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

- 9.4.1. The Licensee shall be solely responsible to pay all other statutory taxes (except Property tax), statutory dues, local levies along with third party dues, if any, as applicable on the agreement. The Licensee shall indemnify Maha-Metro from any claims that may arise from the statutory authorities in connection with this tender document / license agreement. Any change in Tax structure as per Govt. guidelines will also be applicable.
- 9.4.2. Any new levies, taxes, cess etc. if any, imposed by Government Authorities on Maha-Metro for awarding the contract shall be recovered from the Bidder separately by Maha-Metro. However, it is to be noted that Income tax if any which is imposed on Maha-Metro shall be borne by Maha-Metro only.
- 9.4.3. All applicable taxes including Municipal Advertisement Taxes / NMC Administrative Charges, GST and all other statutory dues where applicable shall be borne solely by the licensee without any contest.
- 9.4.4. Payment of stamp duty on execution & registration of license agreement, if any, to be executed in pursuance of this bid shall be solely borne by the Licensee.
- 9.4.5. If the Licensee fails to pay any Taxes, charges, outgoings payments etc., which expenses he is required to bear, and the same are instead paid by the Maha-Metro, then Maha-Metro shall be entitled, to be reimbursed for such amounts by the Licensee along with interest at a rate of 18% (Eighteen percent) per annum. In addition the Licensee shall pay as damages to the Maha-Metro 25% (Twenty Five Percent) of the sum total of amount paid by Maha-Metro and interest payable to Maha-Metro.

**ARTICLE 10: OBLIGATIONS OF THE Maha-Metro**

**10.1. Obligations of the Maha-Metro**

- 10.1.1. The Maha-Metro shall, at its own cost and expenses undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 10.1.2. The Maha-Metro agrees to provide the support to the Licensee and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- (a) grant the Licensee the exclusive outdoor advertisement rights for display of advertisement between the Piers of Reach- ...., below the metro rail viaduct of Nagpur Metro Rail Project (on median of Road), in accordance with the terms and conditions of this License Agreement and the RFP Document.
  - (b) Permit the licensee to install advertisement panels/ hoardings at every alternate span positioned between every two piers of Reach - .... of Nagpur Metro Rail Project.
  - (c) ensure that no barriers are erected or placed on or about the advertisement areas by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security, law and order or collection of inter-state taxes;
  - (d) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
  - (e) support, cooperate with and facilitate the Licensee in the operation and maintenance of the advertisement spaces allotted to him in accordance with the provisions of this Agreement;

## **ARTICLE 11: REPRESENTATIONS AND WARRANTIES**

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

11.1.1. The Licensee represents and warrants to the Maha-Metro that:

- (a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to undertake the exclusive outdoor advertisement rights along the Reach - .... of Nagpur Metro in accordance with the terms of this Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the exclusive outdoor advertisement rights in and the advertisement rights shall pass to and vest in the Maha-Metro on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Maha-Metro, and that none of the Assets shall be acquired by it, subject to any

agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;

- (k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the License or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Maha-Metro in connection therewith; and
- (l) all information provided by the Licensee in response to the Request for Proposal or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

## **11.2. Representations and warranties of the Maha-Metro**

11.2.1. The Maha-Metro represents and warrants to the Licensee that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- (c) it has the financial standing and capacity to perform its obligations under this Agreement;
- (d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Maha-Metro's ability to perform its obligations under this Agreement;
- (f) it has complied with Applicable Laws in all material respects;
- (g) it has the right, power and authority to manage and operate the Nagpur Metro Rail Project.
- (h) it has good and valid power and authority to grant a licence in respect thereto to the Licensee.

## **11.3. Disclosure**

In the event that any occurrence or circumstances comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.



**ARTICLE 12: DISCLAIMER**

**12.1. Disclaimer**

- 12.1.1. The Licensee acknowledges that prior to execution of this Agreement, it has extensively studied and analysed and satisfied itself about all the requirement of this License Agreement including but not limited to market and market conditions.
- 12.1.2. The Licensee acknowledges that prior to execution of this Agreement, it has carefully assessed business prospects from exclusive outdoor advertisements rights between the Piers of Reach- .... of Nagpur Metro Rail Project and that it will be fully responsible for all its assessment in this regard.
- 12.1.3. The Licensee confirms having seen / visited / assessed the potential outdoor advertisement locations along the Reach-2 and Reach-4 Line of Nagpur Metro and fully understands and comprehends the technical, financial, commercial and investment requirements.
- 12.1.4. The Licensee also confirms that it has fully analysed to its fullest satisfaction, business viability of the License and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration, whatsoever on this account.
- 12.1.5. This Agreement shall not in any way be construed as a lease and/or license of the station / metro viaduct/ road / median of road or any part thereof, and only represents a contractual obligation of Maha-Metro to provide the exclusive outdoor advertisement rights between the Piers of Reach- .... of Nagpur Metro Rail Project only.

## **ARTICLE 13: SECURITY DEPOSIT**

### **13.1. Security Deposit**

- 13.1.1. The Licensee shall, for the performance of its obligations hereunder during the entire License Period, has provided to the Maha-Metro, the Security Deposit (the "Security Deposit") amounting to Rs. ....(License Fees applicable for 12 months period in the base year)...
- 13.1.2. The Security Deposit has been paid in the form of ..... Cash/Demand Draft/Account Payee Cheque/NEFT/RTGS and shall be retained by Maha-Metro for the entire license period.
- 13.1.3. It is to be noted that the Bid Security shall be adjusted in the Security Deposit only when the other conditions precedents for signing of License Agreement are fulfilled by the Licensee.
- 13.1.4. The interest free security deposit is proposed to be recovered in manner as follows -
- a. Up to Rs. 10 Lakhs in the form of DD/PO/ Online Account transfer.
  - b. For amount more than Rs. 10 Lakhs, first Rs. 10 Lakhs in the form of DD/PO/ Online Account transfer; amount exceeding Rs. 10 Lakhs, minimum 50% in the form of DD/PO/ Online Account transfer (subject to maximum of Rs. 50.00 Lakhs) & balance amount in the form of Bank Guarantee.
- 13.1.5. The Security Deposit shall be retained for the entire License period plus six months and shall be considered as interest free deposits.
- 13.1.6. The interest free security deposit shall be escalated by 5% every year on compounding basis during the entire of license period.
- 13.1.7. Maha-Metro reserves the right for deduction dues from Licensee's Interest Free Security Deposit for: -
- a. Any penalty imposed by Maha-Metro for violation of any terms and conditions of agreement committed by the Licensee.
  - b. Any amount which Maha-Metro becomes liable to the Government/Third party due to any default of the Licensee or any of his director/ employees/ representatives/ servant/ agent, etc.
  - c. Any payment/ fine made under the order/judgment of any court/consumer forum or law enforcing agency or any person duly empowered in his behalf.
  - d. Any outstanding payment/ claims of Maha-Metro remained due after completion of relevant actions as per agreement.

### **13.2. Appropriation of Security Deposit**

- 13.2.1. Upon occurrence of a Licensee's Default, the Maha-Metro shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Security Deposit as Damages for such Licensee Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Security Deposit, the Licensee shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Security Deposit, and in case of appropriation of the

entire Security Deposit provide a fresh Security Deposit, as the case may be, and the Licensee shall, within the time so granted, replenish or furnish fresh Security Deposit as aforesaid failing which the Maha-Metro shall be entitled to terminate this Agreement. Upon replenishment or furnishing of a fresh Security Deposit, as the case may be, as aforesaid, the Licensee shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Licensee Default, and in the event of the Licensee not curing its default within such Cure Period, the Maha-Metro shall be entitled to encash and appropriate such Security Deposit as Damages, and to terminate this Agreement in accordance with **"ARTICLE 17: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT"**.

**13.3. Release of Security Deposit**

- 13.3.1. The Security Deposit shall remain in force and effect for the entire License period. This Security Deposit shall be released upon Completion of entire License period plus six months and/or the termination (payable only in the event of non-Licensee default) date whichever is earlier. The Security Deposit shall be released subject to Maha-Metro's right to receive or recover amounts if any due from Licensee under this Agreement. No interest shall be paid on the Security Deposit.

## **ARTICLE 14: MAINTENANCE OF ADVERTISEMENT SPACES**

### **14.1. Maintenance of Advertisement Spaces and Horticulture**

- 14.1.1. Licensee shall keep and maintain the advertisement media/panel in neat, clean condition and in safe & sound manner during all the time of License tenure. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency. In case of any incident / injury caused by advertisement media due to error / omission attributable on the part of Licensee, the Licensee shall be responsible for all compensation.
- 14.1.2. Licensee shall ensure that Licensee and its employees or other persons involved in the execution of the work does not in any way impinge on the safety and security of metro operations, safety & convenience of metro and road commuter, safety of metro/public properties and its assets. In case of serious accident caused due to negligence of the Licensee, resulting in injury, death to metro/road commuters or Maha-Metro employees or loss to Maha-Metro property or Road Median, it shall constitute Material Breach of Contract and considered Licensees Event of Default that shall entitle Maha-Metro to terminate the License Agreement with 30 days written notice.
- 14.1.3. Regular joint inspection will be conducted by Maha-Metro officials and Licensee, at least fortnightly. Discrepancy noticed or instructions issued by Maha-Metro shall be rectified / complied by the Licensee within a period of 7 days, failing which Maha-Metro reserves the right to impose fine up to Rs.5,000/- per instance of violation per week per section. Deliberate or wilful non-compliance of Maha-Metro's written instructions for a period of 90 days shall constitute Material breach and Licensee Event of Default, which shall entitle Maha-Metro to encash Security Deposit in part or full and or terminate the License Agreement after giving 90 days' notice to the Licensee.
- 14.1.4. Such termination of the License Agreement and forfeiture of the Interest Free Security Deposit by Maha-Metro shall be without prejudice to any other damages, rights or remedies applicable under law in its favour.
- 14.1.5. The amount of penalty shall become double the specified amount after three years from the date of commencement of License Agreement.

## **ARTICLE 15: OPERATION AND MAINTENANCE**

### **15.1. Operation and Maintenance**

- 15.1.1. Licensee confirms that he/they fully understand and confirm that the panels/advertisements spaces shall, at all-time belong to Maha-Metro, and no interest in the same shall be created by the licensee. The Licensee also agrees not to sub-license, lease, sub lease or part with, partially or fully in any form, the panels/advertisement spaces.
- 15.1.2. The advertising rights for panels will vest with the licensee only. Any persons wishing to advertise in the above-mentioned panels will have to deal directly with the licensee and Maha-Metro will have no dealing in this regard. At no time subletting of rights for outdoor advertisement to other advertising agencies/outdoor agencies, Out of Home advertising agencies, etc. would be permissible under this agreement.
- 15.1.3. All the advertising panels shall belong exclusively to Maha-Metro Ltd at all times. No permanent interests or lien of whatever nature is allowed to be created on the advertising spaces and the advertising panels fabricated installed and commissioned.
- 15.1.4. The Licensee will not ask for any claim or seek any compensation from Maha-Metro if advertisements are not permitted due to court order/local laws/civil authorities. The maintenance of all advertisement inserts and the panels handed over will be borne solely by the licensee. The replacement of bulbs, electrical chokes, other electrical parts and also other components of all advertisement panels will be done as per directions and standards specified by the authorized representative of Maha-Metro Ltd.
- 15.1.5. The licensee agrees to pay and will continue to pay the license fees and all dues, even if any or all the panels are not functional or has/have been dismantled for repair or upkeep etc. The Licensee agrees that in the event of such dysfunction of the panels, the licensor will not be liable to pay any compensation to the licensee.
- 15.1.6. The licensee will have to maintain all the advertisement inserts in proper clean condition for the currency of the contract. The advertising media should be of fire-retardant low smoke/zero halogen material and of international standards. The Licensee must submit the media sample for Maha-Metro's approval to the office of the Additional General Manager/Property Development before using the same. Maha-Metro reserves the right not to give such permission.
- 15.1.7. The Licensee fully understands and comprehend that all panels constructed / fabricated, installed and commissioned by him/her/them will become the sole property of Maha-Metro at the end of the license period.
- 15.1.8. The licensee should at all times indicate the date till which their license is valid on each of their advertisements displayed.
- 15.1.9. All terms and conditions indicated in this agreement will also be applicable for the additional panels/spaces offered and accepted by the licensee.
- 15.1.10. Licensee shall keep and maintain the advertisement media/panel, etc, in safe and sound manner during all the time of contract period. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed

agency/Maha-Metro to ensure safety of Maha-Metro commuters.

- 15.1.11. Licensee shall ensure that all electrical wiring, power outlets and gadgets used are maintained properly, guarded against short circuits / fires. The instructions of Maha-Metro's electrical inspectors/ authorized representative shall be complied by the licensee at its own cost. The Licensee shall make provision for TOD Energy Meter.
- 15.1.12. In case of accident caused due to negligence of the Licensee resulting into injury/ death to Maha-Metro employees/ other users/ any person or loss to Maha-Metro property, Licensee shall compensate the loss (es), without prejudice to other actions under this Agreement at the sole discretion of Maha-Metro, including termination of Agreement.
- 15.1.13. The Licensee voluntarily and unequivocally agrees not to seek any claims, damages, compensation or any other consideration whatsoever because of implementing the instruction issued by Maha-Metro fire officer, electrical inspector, Security officer or their authorized representatives from time to time.
- 15.1.14. Licensee and its employees or other persons involved in the execution of the work shall not, in any way, impinge on the safety and security of metro operations, passenger safety, safety of metro properties and its assets.
- 15.1.15. The Licensee shall comply with the laws of land including Court judgments/ court orders/Maharashtra Pollution Control Board and Nagpur Fire Service guidelines and/or other government regulatory bodies, regulating the advertisements/ displays and Maha-Metro can't be held liable for any change/modification in these laws which adversely affects this tender and the licensee voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration whatsoever on this account.
- 15.1.16. **Penalty Clauses** - Maha-Metro can impose the fine on Licensee up to Rs.5,000/- per offence on the following offenses: -
- a. Any staff of Licensee found in drunken condition/indulging in bad conduct.
  - b. Any staff of the Licensee found creating nuisance.
  - c. Improper maintenance & defacement of the Metro Property.
  - d. Dishonour of Cheques and Drafts submitted by Licensee to Maha-Metro. Cheques will be accepted only in emergent conditions & with the approval of Maha-Metro by official not below the rank of General Manager.
  - e. Misbehaviour with staff and commuters of Maha-Metro.
  - f. Not following safety and security norms as may be indicated by authorized representative of Maha-Metro.
  - g. Utilizing advertisements at locations other than that approved by Maha-Metro.
  - h. Non-submission of monthly statement of approved plan and actual utilized area of advertisement.
  - i. Vacant panels i.e. without mounted display/advertisement/filler/display of Maha-Metro at any time after completion of fitment period.

- j. infringe into the Maha-Metro premises
- k. Non-maintenance of Horticulture / Landscaping developed on the median of road

15.1.17. The option to impose fine, penalty, etc. under this License Agreement shall be exercised by Maha-Metro official not below the rank of AGM (Additional General Manager).

## **15.2. Reports of unusual occurrence**

The Licensee shall, prior to the close of each day, send to the Maha-Metro, by facsimile or e-mail, a report stating accidents and unusual occurrences on the premises relating to the safety and security of the users/commuters and the Nagpur Metro Rail Project. For the purposes of this Clause, accidents and unusual occurrences on the Project shall include:

- (a) death or injury to any person;
- (b) damaged or dislodged of equipment;
- (c) any obstruction on the premises, which results in slow down of the services being provided by the Licensee or which may result in slowdown of the services provided by the Maha-Metro;
- (d) communication failure affecting the operation of premises;
- (e) smoke or fire;
- (f) flooding of Project; and
- (g) such other relevant information as may be required by the Maha-Metro.

**ARTICLE 16: FORCE MAJEURE**

**16.1. Force Majeure**

- 16.1.1. Neither Maha-Metro nor Licensee shall be liable for any inability to fulfil their commitments and obligations hereunder occasioned in whole or in part by Force Majeure, any of the following events resulting in material adverse effect, shall constitute force majeure events:
- a. Earthquake, Flood, Inundation, Landslide.
  - b. Storm, Tempest, Hurricane, Cyclone, Lighting, Thunder or other extreme atmospheric disturbances.
  - c. Fire caused by reasons not attributable to the Licensor.
  - d. Acts of terrorism
  - e. War, hostilities (Whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war.
  - f. Strikes or boycotts, other than those involving the Licensor/ Licensee, its contractors, or their employees, agents etc.
- 16.1.2. The License fee for the portion affected due to Force Majeure shall be exempted for the affected period if the force majeure condition persists for more than 7 days.
- 16.1.3. Occurrence of any Force Majeure shall be notified to the other party within 48 hrs of Occurrence. If any Force Majeure continues for a period of three months, the party notifying the Force Majeure condition may be entitled to, though not being obliged, to terminate this agreement by giving a notice of 7 (seven) days to the other party and interest free Security Deposit shall be refunded by Maha-Metro to the Licensee after adjusting outstanding dues, if any.



**ARTICLE 17: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT**

**17.1. Licensee Events of Default**

Following shall be considered Material Breach of the Contract by Licensee resulting in Licensee's Events of Default:-

- 17.1.1. If the Licensee is found guilty of persistently breaching negative list of advertising and "Factors Governing Advertising Selection as stipulated in this Agreement.
- 17.1.2. If at any time during the subsistence of the License Agreement, there is non-conformity to the License Agreement or any time during the License Agreement, the Licensee indicates its unwillingness to abide by any clause of this License Agreement or repudiates the Agreement.
- 17.1.3. If the Licensee fails to pay License Fee or other amounts due to Maha-Metro and continues to be in default for more than 90 days. Even non-payment of one-month License Fee will be considered an Event of Default.
- 17.1.4. If the Licensee is in persistent non-compliance of the written instructions of a Maha-Metro officials.
- 17.1.5. If the Licensee or any of its representatives cause an incident or accident that results in injury or death to Maha-Metro employees/ commuters or loss to Maha-Metro property.
- 17.1.6. If Licensee is in violation of any of the clauses of this Agreement and after three written notice from Maha-Metro fails to cure the Default to the satisfaction of Maha-Metro.
- 17.1.7. If any of the above Material Breach and Licensee Events of Default happens, then:
- 17.1.8. If the Licensee during pendency of the License Agreement becomes insolvent or is put under receivership by a competent court.
- 17.1.9. If the licensee submitted false undertaking regarding not blacklisting / ban on Licensee by Central/ State Government Department/ Public Sector Undertaking/ Other Government Entities or Local Body or termination of contract due to their non-performance after award of contract during last five (5) years.

**17.2. Consequences of Material Breach and Licensee's event of Default**

- 17.2.1. If any of the above Material Breach and Licensee Events of Default happens, then
  - a. Maha-Metro, after giving due notice to the Licensee to Cure the Default, shall be entitled to terminate the License Agreement. For the avoidance of Doubt, it is clarified that the Cure Period available to the Licensee shall be as provided in various Clauses and sub-clauses of this Agreement.
  - b. Maha-Metro shall issue a note to the licensee to cure the defaults. If the Licensee fails to cure the Default within stipulated time, Maha-Metro after giving a final 15 days' termination notice shall be entitled to terminate the License Agreement.
- 17.2.2. In all other cases of Licensee's Event of Default where specific notice period is not provided, Maha-Metro shall issue a Notice to Licensee to cure the Default within 45 days. If the Licensee

fails to cure the Default within 45 days, Maha-Metro after giving a final 15 days' termination notice shall be entitled to terminate the License Agreement.

**17.3. Handing over on Termination / Completion / Surrender -**

17.3.1. In case of Termination / Completion / Surrender of the License Agreement, the Licensee shall hand over to Officer In-charge of Maha-Metro or its authorized representative peaceful vacant possession of all Advertising Sites/Panels/ Hoardings along with median of road below metro Viaduct of Reach-2 and Reach-4 of Nagpur Metro Rail Project. Licensee shall remove all the advertisement media from Maha-Metro premises within 30 days of issue of termination letter / completion. The structures, fixtures, panels, electric cables etc. shall become property of Maha-Metro, thereafter.

**17.4. Termination on the account of Operational Ground of Maha-Metro**

17.4.1. Maha-Metro reserve the rights to terminate the License Agreement by giving ninety (90) days advance notice on operational ground. The License agreement will stand terminated on expiry of 90 day's notice. The advance license fees deposited by the Licensee for the balance period on pro-rata basis shall be refunded, without consideration of interest. Further, the Security deposit will be refunded after adjusting outstanding dues, if any.

17.4.2. The Licensee voluntarily agrees not to seek any claim, compensation, damages or any other consideration whatsoever on any ground in this regard.

17.4.3. The Licensee shall remove all the media from Maha-Metro premises within 30 days of issue of termination letter and the structures, fixtures, panels, etc. shall become property of Maha-Metro..

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

17.5.1. Notwithstanding anything contained in this Agreement, Maha-Metro shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Licensee in connection with exclusive advertisement rights allotted to him.

17.5.2. In cases of termination of License agreement due to default of Licensee, if the electricity is taken from Maha-Metro Grid, Maha-Metro shall have the exclusive rights to cut electricity connection to the Licensee and also start process for eviction of Licensee.

**17.6. Right to re-market the said Licensed Space(s) on Termination**

- 17.6.1. Notwithstanding anything contained in this Agreement, Maha-Metro shall have right to remarket the exclusive outdoor advertisement rights on median of Road below metro Viaduct on Reach - .... of Nagpur Metro Rail Project, on Termination of this Agreement for any reasons whatsoever.

## **ARTICLE 18: DISPUTE RESOLUTION/ARBITRATION**

### **18.1. Dispute Resolution**

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

Any and all Disputes shall be settled in accordance with the provisions of Article 18. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Article 18 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.

#### **18.1.2. Notice of Dispute**

For the purpose of Sub-Clause 18.1.2, a Dispute shall be deemed to arise when one party serves on the other party a notice in writing (hereinafter called a "Notice of Dispute") stating the nature of the Dispute provided that no such notice shall be served later than 30 days after the date of takeover of the License Space by Maha-Metro.

#### **18.1.3. Two Stages for Dispute Resolution**

Disputes shall be settled through two stages:

- a. Conciliation procedures as established by "The Arbitration and Conciliation Act- 1996" & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof and in accordance with this Clause. In the event this procedure fails to resolve the Dispute then;
- b. Arbitration procedures undertaken as provided by "The Arbitration and Conciliation Act - 1996" & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof. and in accordance with this Clause.

#### **18.1.4. Conciliation**

Within 60 days of receipt of Notice of Dispute, either party shall refer the matter in dispute to conciliation.

Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted, then Conciliation shall not take place. If the party initiating conciliation does not receive a reply within 30 days from the date on which he sends the invitation he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly.

The Conciliation shall be undertaken by one Conciliator selected from a panel of Conciliators

maintained by the Licensor. The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner.

**18.1.5. Conciliation Procedure**

Maha-Metro shall maintain a panel of Conciliators, who shall be from serving or retired engineers of Government Departments, or of Public Sector Undertakings. Out of this panel, a list of three Conciliators shall be sent to the Licensee who shall choose one of them to act as Conciliator and conduct conciliation proceedings in accordance with "The Arbitration and Conciliation Act, 1996" of India & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof. There will be no objection if conciliator so nominated is a serving employee of Maha-Metro who would be AGM level officer and above. The Licensor and the Licensee shall in good faith co-operate with the Conciliator and, in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings. Each party may, on his own initiative or at the invitation of the Conciliator, submit to the Conciliator suggestions for the settlement of the dispute. When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations.

If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Conciliator may draw up, or assist the parties in drawing up, the settlement agreement. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively. The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties. As far as possible, the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.

**18.1.6. Termination of Conciliation Proceedings**

The conciliation proceedings shall be terminated:

- a) by the signing of the settlement agreement by the parties on the date of agreement; or
- b) by written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of such declaration; or
- c) by a written declaration of the parties to the conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or

- d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. The costs shall be borne equally by the parties unless settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

## **18.2. Arbitration**

If the efforts to resolve all or any of the disputes through conciliation fails, then such disputes or differences, whatsoever arising between the parties, arising out of touching or relating to construction/ manufacture, measuring operation or effect of the License Agreement or the breach thereof shall be referred to Arbitration in accordance with the following provisions:

- a. Only such dispute(s) or difference(s) in respect of which notice has been made but could not be settled through Conciliation, together with counter claims or set off, given by the Licensor, shall be referred to arbitration. Other matters shall not be included in the reference.
- b. The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by Managing Director, Maharashtra Metro Rail Corporation Limited, Nagpur (MD/Maha-Metro).
- c. The disputes so referred to arbitration shall be settled in accordance with the Indian Arbitration & Conciliation Act, 1996 & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof.

Further, it is agreed between the parties as under:

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

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

### **18.2.2. Procedure for Appointment of Arbitrators: The arbitrators shall be appointed as per following procedure:**

- i) In case of Sole Arbitrator: Within 60 days from the day when a written and valid demand for arbitration is received by MD/Maha-Metro, the Licensor will forward a panel of 03 names to the Contractor. The Licensee shall have to choose one Arbitrator from the panel of three, to be appointed as Sole Arbitrator within 30 days of dispatch of the request by the Licensor. In case the Licensee fails to choose one Arbitrator within 30 days of dispatch

of panel of arbitrators by Maha-Metro then MD/Maha-Metro shall appoint anyone Arbitrator from the panel of 03 Arbitrator as sole Arbitrator.

ii) In case of 3 Arbitrators:

- a) Within 60 days from the day when a written and valid demand for Arbitration is received by MD/Maha-Metro, the Licensor will forward a panel of 5 names to the Licensee. The Licensee will then give his consent for any one name out of the panel to be appointed as one of the Arbitrators within 30 days of dispatch of the request by the Licensor.
- b) Licensor will decide the second Arbitrator. MD/Maha-Metro shall appoint the two Arbitrators, including the name of one Arbitrator for whom consent was given by the Licensee, within 30 days from the receipt of the consent for one name of the Arbitrator from the Licensee. In case the Licensee fails to give his consent within 30 days of dispatch of the request of the Licensor then MD/Maha-Metro shall nominate both the Arbitrators from the panel.
- c) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of 05 Arbitrators provided to Licensee or from the larger panel of Arbitrators to be provided to them by Licensor at the request of two appointed Arbitrators ( if so desired by them ) and who shall act as Presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus within a period of 30 days from their appointment, then, upon the request of either or both parties, the Presiding Arbitrator shall be appointed by the Managing Director / Maha-Metro, Nagpur.
- d) If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as Arbitrator for any reason whatsoever or dies or in the opinion of the MD/Maha-Metro fails to act without undue delay, the MD/Maha-Metro shall appoint new Arbitrator /Arbitrators to act in his/their place except in case of new Presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (ii)(c) above. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).
- e) The Licensor at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Licensee.

18.2.3. Qualification and Experience of Arbitrators (to be appointed as per sub-clause 18.2.2 above)  
: The Arbitrators to be appointed shall have minimum qualification and experience as under:

**Arbitrator shall be;**

a Working / Retired Officer (not below E-8 grade in a PSU with which Maha-Metro has no business relationship) of any discipline of Engineering or Accounts / Finance department, having experience in Contract Management;

or

a Retired Officer (retired not below the SAG level in Railways) of any Engineering Services of Indian Railways or Indian Railway Accounts Service, having experience in Contract Management; or a Retired Officer who should have retired more than 3 years previously from the date of appointment as Arbitrator (retired not below E-8 grade in Maha-Metro or a PSU with which Maha-Metro has a business relationship) of any Engineering discipline or Accounts / Finance department, having experience in Contract Management or retired judge of any High Court or Supreme Court of India or reputed Chartered Accountant & should be member of ICAI, New Delhi. No person other than the persons appointed as per above procedure and having above qualification and experience shall act as Arbitrator.

- 18.2.4. No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
- 18.2.5. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before the Conciliator for the purpose of obtaining his decision. No decision given by the Conciliator in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. Neither party shall be limited in the proceedings before such arbitrators to the evidence.
- 18.2.6. It is agreed by both the Parties that in the cases where Arbitral Tribunal is consist of sole Arbitrator, their disputes shall be resolved by fast track procedure specified in sub-section (3) of 29B of the Arbitration and Conciliation (Amendment) Act, 2015 or as amended up to date.
- 18.2.7. If the Licensee(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Licensor/ Conciliator that the final demand is ready, he/they will be deemed to have waived his/their claim(s) and the Licensor shall be discharged and released of all liabilities under the License Agreement in respect of these claims.
- 18.2.8. Arbitration proceedings shall be held at Nagpur, India and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.



- 18.2.9. The Arbitral Tribunal should record day to day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements. All arbitration awards shall be in writing and shall state item wise, the sum and detailed reasons upon which it is based. A model Time Schedule for conduct of Arbitration proceedings in a period of 180 days / 365 days will be made available to Arbitral tribunal for their guidance. Both the Parties should endeavour to adhere to time schedule for early finalization of Award.
- 18.2.10. The award of the sole Arbitrator or the award by majority of three Arbitrators as the case may be shall be binding on all parties. Any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 18.2.11. A party may apply for correction of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a tribunal and interpretation of specific point of award to tribunal within 60 days of the receipt of award. party may apply to tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.
- 18.2.12. **Interest on Arbitration Award**
- Where the arbitral award is for the payment of money, interest @ 15% per annum shall be payable on whole or any part of the money for the period it is accrued, till the date on which the award is made.
- 18.2.13. **Cost of Conciliation / Arbitration**
- The fees and other charges of the Conciliator / Arbitrators shall be as per the scales fixed by the Licensor from time to time irrespective of the fact whether the Arbitrator(s) is / are appointed by the Licensor or by the Court of law unless specifically directed by Hon'ble Court otherwise on the matter, and shall be shared equally by the Licensor and the Licensee. However, the expenses incurred by each party in connection with the preparation, presentation will be borne by itself. The latest scale of fee & other charges fixed by Maha-Metro are as per Schedule-D enclosed.
- 18.2.14. **Jurisdiction of Courts**
- Where recourse to a Court is to be made in respect of any matter, the court at Nagpur shall have the exclusive jurisdiction to try all disputes between the parties.

**ARTICLE 19: MISCELLANEOUS**

- 19.1. Insurance and Waiver of Liability** - The Licensee will bear the cost, throughout the term of the License, for a comprehensive general liability insurance covering injury to or death of any person(s) while working in Maha-Metro premises, including death or injury caused by the sole negligence of the Licensee or the Licensee's failure to perform its obligations under the agreement. The Licensee shall submit to Maha-Metro, suitable evidence that the foregoing policy or policies are in effect. In the event of the default i.e. avoiding the insurance cover, the Licensee agrees and undertakes to indemnify and hold Maha-Metro harmless against any liability, losses, damages, claims, expenses suffered by Maha-Metro because of such default by the Licensee.
- 19.2.** The Licensee shall comply with all the provisions of Labour Laws & regulation in force including but not limited to the Contract Labour (Regulation & Abolition) Act-1976 including any subsequent amendment thereof and the rules made there under. Licensee will indemnify Maha-Metro Administration for any loss and damages suffered due to violation of its provision.
- 19.3.** The Licensee shall comply with the laws/guidelines/policies including **Nagpur Municipal Corporation's Advt. policy/EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India**, regarding advertisement/display. Maha-Metro will not be held liable for any change/modification in the laws that adversely affect this Agreement. Licensee shall have no right / claim in this regard, whatsoever the reason may be.
- 19.4.** The Licensee will not ask for any claim or seek any compensation from Maha-Metro if advertisement at any advertisement spaces/location is not permitted due to court order/local laws/civil authorities.
- 19.5.** The Licensee hereby indemnifies Maha-Metro against any loss, damage or liabilities arising as a result of any act of omission or commission on part of Licensee or on part of its personnel or in respect of non-observance of any statutory requirements or legal dues of any nature.
- 19.6.** The Licensee hereby agrees that Maha-Metro shall have no responsibility as regards Licensee employees and the employees shall be the employees of Licensee only and shall not be construed under any circumstances as employees of Maha-Metro. Licensee hereby indemnifies Maha-Metro against the claims made by Licensee's employees against Maha-Metro.
- 19.7.** The Licensee hereby undertakes to discharge all statutory obligations and liabilities in connection with employment of its personnel in the said premises. The Licensee hereby indemnifies Maha-Metro against any liability arising in connection with the employment of its personnel in the said premises by Licensee. Licensee hereby undertakes to carry out police

verification of its employees and submit the copy of same to Property Business Wing of Maha-Metro in accordance with Maha-Metro's policies regulations prevalent at that time.

**19.8.** The Licensee shall bear all salaries, wages, bonuses, payroll taxes or accruals including gratuity, superannuating, pension and provident fund contributions, contributions to worker's compensations funds and employees state insurance and other taxes and charges and all fringe and employee benefits including statutory contributions in respect of such personnel employed/deployed by the Licensee. These personnel shall at no point of time be construed to be employees of Maha-Metro and the Licensee shall be solely responsible for compliance with all labour laws which shall include all liabilities of the Provident Fund Act, ESI Act, Workmen's compensation Act, Minimum Wages Act and other Labour Welfare Act in respect of its personnel. The Licensee shall indemnify Maha-Metro from any claims that may arise in connection with above.

**19.9.** Employees conduct:

The Licensee shall ensure that all persons employed behave in an orderly and disciplined manner and that the said employees are prohibited from carrying on any unlawful, unfair activities or demonstrations. The personnel deployed shall be decent, courteous and without any adverse or criminal background.

**19.10.** That no tenancy/sub-tenancy is being created by Maha-Metro in favour of Licensee under or in pursuance of this Agreement and it is distinctly & clearly understood, agreed & declared by and between the parties hereto that: -

- a. That the Licensee shall not have or claim any interest in/on the median of road as a tenant/sub-tenant or otherwise:
- b. That no right as a tenant/sub-tenant or otherwise is purported or intended to be created or transferred by Maha-Metro in favour of Licensee in or in respect of the advertisement spaces and metro premises, except to carry out their activities as granted under this License Agreement; and
- c. That the rights, which Licensee shall have in relation to the said premises, are only those set out in this Agreement.

**19.11.** The relationship between Maha-Metro and Licensee under and/or in pursuance of this Agreement is as between Principal and Principal. Consequently, neither party shall be entitled to represent the other and/or make any commitment on behalf of and /or with traders or any other party. Furthermore, no relationship in the nature of Partnership or Association of persons is hereby being created or intended to be created between Maha-Metro on the one hand and

Licensee on the other hand in connection with and/or relating to advertisements being displayed by the Licensee at the said premises.

- 19.12.** In case of non-payment of License fees and other dues or any other reasons whatsoever, the Licensee voluntarily agrees to and permits the licensor "Maha-Metro" to dismantle/remove hoardings and material installed by the Licensee on the median of Road. The Licensee agrees voluntarily and also undertakes not to seek any claim, compensation, damages or any other consideration whatsoever, which may arise due to such disconnection by the Licensor.
- 19.13.** That the Licensee shall be responsible to obtain any or all permission and/or clearances from any/all authorities, governmental or otherwise and Maha-Metro shall not be liable or responsible for any of the act or omissions committed on the part of the licensee.
- 19.14.** The Licensee agrees voluntarily and unequivocally to make all payments as may be due on the due date, without waiting for any formal invoice from Maha-Metro. The Licensee also voluntarily agrees to collect the invoices from the office of the Authorized representative of the Maha-Metro before the due date. Non receipt of invoice will not be a consideration for delayed or non-payment of dues.
- 19.15.** In case of restricted availability of power supply / breakdown, the station power requirements would get first priority and this may result in restriction / rostering of power supply to the advertisements hoardings and associated lightings. In such situations or any supply disruptions due to strikes of employees, breakdowns of machinery and plant, lockout, failures of incoming supply of Maha-Metro or such causes where the supply of Maha-Metro is affected by a cause or causes over which Maha-Metro has no control, Maha-Metro shall not be liable for any claims for loss, damage or compensation whatsoever, arising out of failure of supply due to any of the afore mentioned causes.
- 19.16.** Notices:
- a. Maha-Metro and Licensee voluntarily and unequivocally agrees that any notices to be served with reference to the said agreement shall be sufficiently served and given if delivered to-

**If to Maha-Metro:**

Address : **Maharashtra Metrorail Corporation Limited**  
"Metro Bhavan, VIP Road, Near Dikshabhoomi, Ramdaspath,  
Nagpur – 440010."

Telephone : 0712 – .....

Fax : .....

Email :  
**Kind Attention : Managing Director**  
**Cc : Maha-Metro Representative**

**If to the Licensee**

Name : M/s .....

Address : "....."

Telephone : 0712 – .....

Fax : .....

Mobile : .....

**Attention** : .....

- b. That any notice or correspondence under the terms of this License shall be in writing by registered post/ Speed Post/ Courier or delivered personally. All activities including day to day management, billing, cancellation/termination/surrender etc. shall be carried out from the office of the General Manager/Property Development or by his duly authorized representative. All Notice shall be addressed as mentioned in (a.) above:
  
- c. No instruction/ notice of any party if not communicated in writing, shall be entertained by the other party.

**Draft License Agreement for "Maintenance of Landscaping & Horticulture along with Exclusive Outdoor Advertisement Rights between the Piers of Reach-2 and Reach-4 of Nagpur Metro Rail Project"**

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

For and on behalf of  
THE MAHA-METRO by:

(Signature)  
(Name)  
(Designation)

THE COMMON SEAL OF Licensee has been affixed pursuant to the resolution passed by the Board of Directors of the Licensee at its meeting held on the ..... day of 20..... hereunto affixed in the presence of ....., Director, who has signed these presents in token thereof and ....., company Secretary / Authorised Officer who has countersigned the same in token thereof

§:

2.

.....

---

§ To be affixed in accordance with the articles of association of the Licensee.

## **Annexures**

**Annexure – 1:**

Details of Package for which the Bid is submitted will be added here..

**Note :**

1. Advertisements will be permitted only on the road median under the elevated portion of the Nagpur Metro Rail. The advertisement panels/ hoardings shall be displayed/installed at every alternate span positioned between every two piers of Reach - .... of Nagpur Metro Rail Project.
2. Under no circumstances, the advertisement shall be permitted on the piers/portals/station walls/ exterior walls of any civil structure of Nagpur Metro.
3. The advertisement sites shall be identified and then are to be fabricated, installed and commissioned by the Licensee with the prior approval and as per laid down standards/guidelines of Maha-Metro for Outdoor Advertisements on Civil Structures and the Outdoor Advertising Policy of Nagpur Municipal Corporation /EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India.



**Annexure – 2: Tentative Images showing Advertisement Boards**



**Tentative Location**

**Joint Load Measurement Report for electricity**

<b>Date of visit</b>	
<b>Station / Premise Name</b>	
<b>Name of the Shop / Shop Number</b>	

<b>Sr. No.</b>	<b>Name of the Device / equipment in the PD /PB area</b>	<b>No. of Units of the device / equipment (a)</b>	<b>Load in kW/unit (b)</b>	<b>Total Load in kW (a*b)</b>
			<b>Total Load in kW</b>	
<b>Note: If required please attach separate pages.</b>				
<b>Remark:</b>				
<b>Signature</b>				
<b>Name of the Representative</b>				
<b>Department</b>	<b>O&amp;M</b>	<b>Finance / Account</b>	<b>Third Party User</b>	
<b>Approved By</b>				
<b>Sign</b>				
<b>Manager (O&amp;M)</b>				