

(New)

**REQUEST FOR QUALIFICATION
CUM
REQUEST FOR PROPOSAL**

to

PROVIDE & OPERATE STAGE CARRIAGE BUSES

for

**PASSENGER ROAD TRANSPORT SYSTEM (PaRTS)
PROJECT**

in

THE STATE OF UTTAR PRADESH

Under

BUY, OWN, OPERATE AND MAINTAIN (BOOM) BASIS

Issued by

State Transport Authority, Uttar Pradesh

Parivahan Bhawan, Tehri Kothi, MG Marg, Lucknow-226001

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Chapter – A

DISCLAIMER

This Request for Qualification cum Request for Proposal (RFQ cum RFP) is being issued by the State Transport Authority, Uttar Pradesh to invite private operators for Induction of high-end buses for augmentation of mass public Passenger Road Transport System (PaRTS) Project on such terms and conditions set forth in this RFQ cum RFP document. Government of Uttar Pradesh (GoUP) plans to achieve the Aims & Objectives of the Project on Buy-Own-Operate and Maintain (BOOM) basis.

This RFQ cum RFP Document is not an agreement and is neither an offer nor an invitation by the GoUP to any other party. The purpose of this RFQ cum RFP Document is to provide the bidders with information to assist the formulation of their Proposals for this RFQ cum RFP Document. While the RFQ cum RFP has been prepared in good faith with due care and caution, GoUP, STA or any of its employees/Members/advisors/consultants do not accept any liability or responsibility for the accuracy, reasonableness or completeness of the information, or for any errors, omissions or misstatements, negligent or otherwise, relating to any feasibility / detailed project report or any other reference document mentioned, implied or referred herein or pertaining to the PaRTS Project. This RFQ cum RFP Document includes statements, which reflect various assumptions and assessments arrived at in relation to the Project. Such assumptions and statements, in this RFQ cum RFP Document do not purport to contain all the information that each Bidder may require. This RFQ cum RFP Document may not be appropriate for all persons, and it is not possible for STA or its Representatives to consider the investment objectives, financial situation and particular needs of each and every bidder who reads or uses this RFQ cum RFP Document. The assumptions, assessments, information and statements contained in this RFQ cum RFP Document may not be accurate, adequate and complete. The Bidder should carefully examine and analyze the RFQ cum RFP document and carry out its own investigation with respect to all matters related to the PaRTS project, seek professional advice on technical, financial, legal, regulatory and taxation matters and satisfy itself of the consequences of entering into any agreement and / or arrangement relating to the PaRTS project and bring to the notice of STA any error omission or inaccuracies therein that are apparent. STA may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFQ cum RFP as per its requirements.

GoUP, STA or its Members/ representatives/ employees/ advisors make no representation or warranty, express or implied, and shall incur no liability under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQ cum RFP Document or otherwise, including the accuracy, reliability or completeness of the RFQ cum RFP Document and any assessment, assumption or information contained therein or deemed to form part of this RFQ cum RFP Document or in any material on which this RFQ cum RFP is based or with respect to any written or verbal information made available to any Bidder or its representative(s) or the reasonableness of forecasts or the assumptions on which this RFQ cum RFP may be based. Liability therefore, if any, is hereby expressly disclaimed.

Chapter – B

AN OVERVIEW OF THE PaRTS PROJECTS

1. Brief Background of the PaRTS project

- (1) The State of Uttar Pradesh(UP), with a population of over 17 crores, spread over an area of 2.41 lakh square kilometers (kms), has a motorable road network of 1,33,000 kms. The road network is developed and maintained by National Highway Authority of India(NHAI), Public Works Department (PWD) of the GoUP besides a number of other Development Authorities and Agencies.
- (2) The existing road network in UP comprises national highways(NHs), state highways, major district roads and other district roads.

The State of UP has a large number of places of religious and historical importance, besides industrial townships spread across the State.

Transport plays a vital role in the economic and social development of the state. Road and rail transport are the two predominant modes with a network spread over the entire state. Road transport is the most important mode for inter-city and inter-regional movement and forms the backbone of the passenger mobility system. It is also the most economic and convenient mode for short and medium haul traffic. The passenger transport systems that are available for the general public in Uttar Pradesh are buses operated by Uttar Pradesh State Road Transport Corporation (UPSRTC) & by private operators (POs), who along with standard buses also operate omni buses, Jugads, jeeps and 3 wheelers. UPSRTC & POs collectively provide inter-state, intra-state, urban and rural transport services in the state, using various types and categories of buses.

- (3) Currently, buses constitute the main mode of transport for nearly one hundred and fifty crore passengers annually. In addition, a large number of passengers travel by other modes of road transport. With the completion of the proposed Ganga Expressway and Yamuna Expressway and other road projects of GoUP, the travel demand for mass public road transport system is expected to register substantial further increase.
- (4) In Uttar Pradesh, during the period 1993-94 to 2003-04, while the growth rates of personalised vehicles almost followed the national trend, the growth in buses lagged behind the national average. Consequently, the bus fleet (excluding omni buses) per lakh population in the state of Uttar Pradesh is only about 15 as against 55 at the national level .
- (5) For obtaining a "bus to population ratio" at least at par with that prevailing at the national level, the number of buses required for the state of Uttar Pradesh should be 96000, as against present availability of about 25500 buses (Financial year 2007) indicating a very wide gap between demand and supply of buses.

- (6) Out of the available bus fleet in the State, UPSRTC operates nearly 7500 buses on notified routes, while Private Operators operate over 18000 buses on non-notified routes along with UPSRTC buses.
- (7) Most of the schemes of route nationalization were notified in 1950s, 1960s and 1970s mainly with a view to create monopoly in favour of UPSRTC. Of late the GoUP assesses that the services of UPSRTC need to be supplemented by private bus operations with a view to meet increasing mass passenger road transport demand. The Government of Uttar Pradesh, after due consideration, has concluded that all routes of Uttar Pradesh shall be opened for private bus operation so as to augment the fleet of stage carriage buses for better mass public Passenger Road Transport System in the state.

2 Future plan and Aims & Objectives

As a result of the wide gap between demand and supply of buses as above and the ever increasing need in the state for access to an efficient, adequate, economical, properly coordinated and affordable mass passenger road transport system, the GoUP plans to induct large numbers of high-end buses on public private partnership (PPP) basis, on all routes in the State on area permit basis. Besides augmenting better mass passenger transport services, the proposed plan should also create good investment / business / employment opportunities in the state for its overall progress and prosperity.

3 Project Overview

In view of the above to achieve the aims and objectives of the Project, STA proposes to invite proposals/bids from suitable private operators/**investors** and other interested parties for operation of buses on all routes of the State, for which an Area permit will be granted, by selecting suitable private business entities through an open, transparent and competitive bidding process.

(1) Role of Private Sector

The GoUP proposes to achieve the aims and objectives of the Project in participation with the private sector. Suitable private operators will be inducted into the mass public transport system for providing efficient, adequate, economical, properly coordinated and affordable bus services to the commuters. The Operator shall be required to arrange and manage activities as hereunder:

i. Investment and Management

The bus providers are expected to mobilize finances, procure buses, develop necessary infrastructure and operate the Stage Carriage Services in entire State of Uttar Pradesh in accordance with the specifications set out in this RFQ cum RFP document and under other applicable laws / bylaws governing such operations and manage the system efficiently keeping in view the interest of mass road transport users in the state.

ii. Bus Procurement on BOOM basis

- (a) The Project inter alia requires the selected private operators to Buy, Own, Operate and Maintain (BOOM) the buses at their cost for operation on routes in the entire State of Uttar Pradesh.
- (b) Bus providers are required to induct a fleet of minimum 100 buses within 4 months from the date of signing the agreement. Thereafter fleet expansion is required to be made as per following time frame:

| No. of buses in fleet | Time frame (months from start date) | | No. of buses in fleet | Time frame (months from start date) |
|-----------------------|-------------------------------------|--|-----------------------|-------------------------------------|
| 100 | 4 | | 1800 | 36 |
| 400 | 12 | | 2300 | 42 |
| 600 | 18 | | 2800 | 48 |
| 1000 | 24 | | 3400 | 54 |
| 1400 | 30 | | 4000 | 60 |

| That is, addition of buses per year will be: | | | | |
|--|---------|----------|---------|--------|
| Year I | Year II | Year III | Year IV | Year V |
| 400 | 600 | 800 | 1000 | 1200 |

- (c) Fleet expansion will be encouraged through incentives. In order to incentivize large fleet size, a cross cutting discount of one percent to the annual contribution/royalty will be given against every addition of 100 buses of the fleet. For example; if a bidder quotes Rs. One lakh contribution, he will be liable to an incentive discount as below on addition of buses shown in the following Chart:-

| No. of buses | Royalty amount (in Rs.) | Discount | | Royalty Payable |
|--------------|-------------------------|----------|-------------|-----------------|
| | | | | |
| 100 | 1,00,000 | 1% | 1,000 | 99,000 |
| 500 | 5,00,000 | 5% | 25,000 | 4,75,000 |
| 1,000 | 10,00,000 | 10% | 1,00,000 | 9,00,000 |
| 5,000 | 50,00,000 | 50% | 25,00,000 | 25,00,000 |
| 8,000 | 80,00,000 | 80% | 64,00,000 | 16,00,000 |
| 9,000 | 90,00,000 | 90% | 81,00,000 | 9,00,000 |
| 10,000 | 1,00,00,000 | 100% | 1,00,00,000 | 0 |

- (d) Fleet will be expanded to at least 1000 buses within 2 years from the date of execution of Agreement between TC and bus provider.
- (e) Failure to achieve desired fleet expansion will invite penalties.

iii. Bus Mix of Fleet and Specifications

- (a) Depending on route / road conditions and traffic demand in the operational Areas, the operator will be required to ply a balanced mix of buses of type (I,II,III), category (Comfort related), size (carrying capacity related), as defined in the bus code (AIS – 052).

- (b) Entire State may be covered by more than one type of buses defined in terms of technical specifications and features in respect of size, quality and floor height, based on the nature of the Route.
- (c) The buses shall meet the minimum specifications as envisaged in **Annexure B**, with the Bus Code AIS 052.
- (d) Bus mix fleet offered/operated by the POs shall comprise of ordinary fare buses of a minimum level of 60% of the total bus fleet, while up to 40% of the fleet may be super deluxe, deluxe and semi deluxe.
- (e) The colour scheme etc of the buses shall be as approved by the STA.

iv. Age of the Buses

Bus providers shall be required to ensure that at no point of time a vehicle over 8 years of age is operated on the routes. One third of the buses in the fleet should be less than two years old, while two thirds of the buses may be upto 8 years of age. However, the average age of fleet at any given time should not be more than 5 years. As soon as any bus in the fleet attains the age of 8 years it shall be replaced by a new bus, not more than two years old.

v. Service quality Standards

Bus providers will ensure maintenance of specified service Standards, bus specifications and the crew performance, failing which appropriate penalty would be levied for non-compliance thereof. The prescribed service quality standards are given in **Annexure C**.

vi. Networth and Net Cash Accrual

Bus provider is required to have a networth (as at the end of last financial year) of atleast Rs. 20 crores and net cash accrual Rs. 5 crores during the last financial year.

vii. Performance Guarantee/Bank Guarantee

Successful bidders/bus providers shall be required to submit a performance guarantee of an amount Rs. One crore, before or on the date of signing the agreement.

viii. Bus Parking Arrangement

Bus provider shall make arrangement for parking of the buses at his own cost. District Administration may in due course endeavour to create such space and offer to it to the bus provider on lease or payment of user charges for the duration of the contract. But this can not be construed by the bus provider as an assurance of any kind.

ix. Utilization of UPSRTC's Bus Station/Terminals/Stops.

Bus provider may utilize the bus stations/terminals and bus stops of the UPSRTC on payment of user charges prescribed by the DA. Till the prescription of the user charges, the operators will be liable to pay Rs. 50/- per entry per bus for 'A' class Bus terminals/Bus Stations, and Rs. 25/- per entry per bus for the others.

x. Route Structuring and Unified Time Table:

(a) Bus providers may carry out route planning/ structuring/operations scheduling etc. within entire State to operate buses as per their own operational plans. To ensure adequate rural services, the bus fleets will have to cover (i.e. pickup & drop passengers at) an average of 30 revenue villages per bus per day. It is to be ensured that 40% of the total fleet kilometrage will have to be on rural routes (which are structured within the revenue district) comprising Other District Roads (ODR), so that remote village are also serviced. Operations on inter-state routes will be permitted subject to prevailing inter-state agreements. Fleet kilometrage outside the state may be upto 20 % of the kilometrage logged on rural routes, structured within the revenue district comprising ODR.

(b) Bus providers will provide services throughout the State, on the basis of Unified Time Table prepared by all selected bus providers and UPSRTC with the mutual consent. In case of any controversy, the decision of the RTA/STA will be final.

xi. Fare Structure:

- (a) The operators are required to operate 60% buses of the fleet under fare-structure prescribed by the Government.
- (b) GoUP will prescribe a price band, within which operators may charge their fares.
- (c) Fare for super deluxe, deluxe and semi deluxe buses will be notified by Government on proposal of operators.

xii. Tax and Additional Tax Structure

The bus providers are required to pay the tax and additional tax as per UP Motor Vehicles Taxation Act and other relevant rules / regulations etc. and as amended from time to time. The GoUP will endeavour to provide a level playing field for all bus providers.

(2) Participants in the Project & Bid Security

Opportunity is available to public / private companies, other business entities / corporate houses/Consortiums, individual entrepreneurs, Societies / Cooperative Societies, Business Entities, including those formed by existing private bus operators duly incorporated as a company under Companies Act 1956. Bid Security of Rs. 10.00 Lakh (Ten lakh only) is required to be submitted by the Bidders with the Bids.

(3) Multiple operators

Apart from UPSRTC, maximum of two selected Private operators, besides the existing ones till the validity of existing permits, shall be allowed to operate in the entire State. Depending on the pace of fleet expansion, number of operators may be increased subsequently.

(4) Quantum of Contribution to Passengers Amenities Fund

Quoted contribution for a 100 bus fleet towards Passengers Amenities Fund (PAF) will be the basis of financial bid. Contribution or Royalty amount will be revised after every two years in line with the Whole sale Price Index/Cost Living Index (WPI/CLI).

(5) UPSRTC operations

UPSRTC will be allowed to operate on all routes through-out the State and Inter State routes, as per an unified time table prepared by mutual consent of UPSRTC and private operators. Time table once finalized will be submitted to the STA/RTA. In the event of any disagreement among operators, STA/RTA may be called to resolve the problem.

(6) Existing Operators' Operations

Existing individual operators will be allowed to operate their vehicles till the validity of their existing permits on the route mentioned in the permit. The renewal of their permits, however, would be as per the prescribed eligibility criteria and in consonance with other provisions of this document.

(7) Issuance of Permits

- (i) An area permit will be granted/issued to the bus providers and UPSRTC for operation in the entire State. Since a permit can be issued only for a maximum period of five years, to meet obligations under this Project, renewal of Permits will be required, for which purpose Operator shall be required to approach STA.
- (ii) The issue of letter of acceptance or grant/issue of permit will be the subject to vacation of stay orders in writ petition no. 398(MB)/2008 (Uttar Pradesh Roadways Karmachari Sanyukta Parishad and an other Vs. Union of India and others) by the Hon'ble High Court of Allahabad at Lucknow bench.

(8) Term of Agreement

The term of the Agreement shall be 30 (thirty) years commencing from the date of execution of the Agreement between Transport Commissioner and Bus Provider. Provided that permits for operation of vehicles are renewed periodically by the STA as per law.

(9) Penalties for default / deficiencies

Offences committed under the Motor Vehicles Act, 1988 shall be dealt with as per punishment clauses of the said Act, but fines and penalties for deficiencies in service quality level and in other service related parameters besides liquidated damages for delay/default in provisioning of buses and other facilities, shall be levied as per details placed at **Annexure A** to this RFQ cum RFP document. The TC will be empowered to receive payments thereof, charge penal interest for late payments, recover all outstanding dues by invoking Performance Guarantee, besides taking any other action deemed fit as per the Agreement, for any service defaults and deficiencies.

(10) Overriding Effect of the relevant Statutes

The operation of the above PPP scheme shall not be inconsistent with the provisions of the existing relevant statutes.

Chapter – C
NOTICE NO.932 STA/09-69STA/2007, dated: May 20, 2009

STATE TRANSPORT AUTHORITY, GOVERNMENT OF UTTAR PRADESH
INVITING REQUEST FOR QUALIFICATION CUM REQUEST FOR PROPOSAL (RFQ CUM RFP) FOR
OPERATING STAGE CARRIAGES BUSES IN UTTAR PRADESH

The Project inter alia requires selected private bus operators to Buy, Own, Operate and Maintain (BOOM) basis for plying the buses at their cost on various nationalized / non nationalized / other routes in the State. The RFQ cum RFP document is being issued for inviting proposals for induction of private buses for **PaRTS** Project on such terms and conditions, set forth in the said RFQ cum RFP document. The RFQ cum RFP document is available on the UP Transport Department website (www.uptransport.org), from where it can be downloaded and the same must be submitted with a demand draft of Rs. 15000/- payable to Transport Commissioner, U.P. at Lucknow. It is also available in the office of the Transport Commissioner, Uttar Pradesh during normal office working hours, from where it can be purchased on payment of the requisite fees Rs. 15000/- on cash.

How to Apply:

Proposal/Bids for selection of operators for the Project shall be in the prescribed formats, appended as appendices 1,2 & 3 with its annexed forms to the RFQ cum RFP document. If the Bid is not furnished in the prescribed formats, the same will not be considered.

Who can Apply

Public / private companies, other business entities / corporate houses / Consortium, Individual entrepreneurs, Societies, Cooperative Societies, Business entity formed by existing private bus operators, are eligible to apply under the PaRTS Project, who have networth of Rs. 20 Crores and net cash accrual of Rs. 5 crores and having capacity to induct a fleet of minimum 100 buses initially, increasing the same progressively to 1000 buses within two years.

Pre-Bid Meeting

A pre bid meeting of prospective bidders shall be held later on, for which the public notice will be published accordingly.

Last date of Submission of Bids

Last date of submission of bids is June 30, 2009 till 4.00 p.m.

Transport Commissioner
Government of Uttar Pradesh

Chapter – D DEFINITIONS & ABBREVIATIONS

In this RFQ cum RFP Document, the following words and expressions shall, unless repugnant to the context or meaning thereof and unless the document so specifically provides, have the meaning hereinafter respectively assigned to them:

“Aims and Objectives of the PaRTS project” is as ascribed in Chapter B to this RFQ cum RFP document.

“Agreement” means the Agreement including, without limitation, any and all Annexures thereto which will be entered into between Transport Commissioner and the Successful Bidder(s) through which the rights will be granted to the Successful Bidder(s) to buy, own, operate and maintain the buses in the PaRTS project on BOOM basis during the Period of the agreement.

“Agreement Period” shall be a period of 30 (thirty) years commencing from the date of execution of signing of the Agreement with the Transport Commissioner and the Successful Bidder, if not terminated earlier on the justified ground(s).

“Arbitrator”: A person who decides on the solution of a conflict in which the parties have expressly waived recourse to the civil courts.

“Bid Evaluation Committee”: means the Committee constituted/authorized by STA to assist itself in the examination, evaluation and comparison of bids offered/proposed by the operators.

“Bid” means the proposals submitted by the Bidder(s) in response to this RFQ cum RFP in accordance with the provisions hereof including the TBS 1/QB, technical proposal (TBS-2) and financial proposal alongwith all other documents forming part and in support thereof.

“Bidder” means any person(s) including a sole proprietor or a partnership firm or a company or a Joint Venture or a Consortium or a Society or a Cooperative Society, and who submits a Bid along with Bid Security under this RFQ cum RFP within the stipulated time for submission of Bids and fulfil(s) eligibility criteria.

“Bid Security” shall have the meaning ascribed to it in Chapter E under section Instructions to Bidders.

“Bid Process” means the process of selection of the Successful Bidder(s) through competitive bidding and includes submission of Bids, scrutiny and evaluation of such Bids as set forth in the RFQ cum RFP.

“Bus” means a passenger vehicle conform to AIS052 bus code and other applicable rules and shall be equipped with other device(s)/facilities as per Annexure-B of this document.

“Bus Stop” means a place earmarked on the route of buses where buses stop for a short duration for passengers to board or alight from the buses.

“Bus Depot”. The developed space/area equipped with facilities, equipments, gadgets etc for repair and maintenance, fuelling, washing and cleaning, besides parking etc of buses and for preparing them for operations as per schedules related to routes, trips, time etc in mass public transport services in addition to other activities related thereto.

“Bus Station”: means a place earmarked either on the route of buses where buses stop for a short duration for boarding/alighting passengers **or** a developed space/area from where the buses start/end their trips besides providing other passenger related amenities/facilities and facilitate transfer of passengers amongst modes and services.

“Bus Terminal” means the terminals from where the bus(es) start or end their trip(s) besides providing other passenger related amenities/facilities and facilitate transfers of passengers amongst modes/services etc. .

“BQS” means bus queue shelters constructed at bus stops

“Bus Provider” means the Successful Bidder(s) with whom TC shall enter into the Agreement on BOOM basis.

"Business Entity" means either a company incorporated under the Companies Act, 1956 but excluding companies covered under section 617 of the Companies Act, 1956; **or** an entity incorporated outside India under equivalent law; **or** partnership firm / proprietary firm / Joint Venture incorporated under the Companies Act.

“Breakdown Repairs”: is the immediate repair of vehicles which fail to operate/provide service satisfactorily or develop defects of any kind while in operation.

“Competent Authority”: means an authority or officer of GoUP ascribed in the relevant statutes for performing the duty for the prescribed purpose.

"Consortium" means the combination of a minimum of two and maximum of five entities incorporated under the Companies Act, coming together for submission of Bids and as particularly described under Chapter E to this document for the purpose of bidding.

“Central Control Room/Station” means a facility used mainly for service monitoring and operations control etc through hosting the central server and components thereof for centrally collecting, storing, consolidating, processing the information obtained from various elements of bus operations, its sub system elements, agents, employees, service providers, communications systems and related sources etc. and has to be established jointly by the selected bus providers atleast at each Regional HQ within one year in relation to the PaRTS project.

“Contribution or Royalty ”: is the amount of contribution payable by the bus provider to Passenger Amenities Fund every year in lump sum for every lot of 100 buses or part thereof for the passengers amenities etc to be provided by the GoUP and/ or its representative. The entire contribution amount shall be paid within seven days of the appointed date. Contribution or Royalty amount to be revised after every two years in line with the WPI/CLI.

“Deadline for Submission of Bids” means the last date and time for receipt of Bids as set forth in Chapter C to this RFQ cum RFP or such other date / time as may be decided by STA in its sole discretion and notified to the Bidders by dissemination of requisite information in this behalf in writing either by email or by facsimile or by registered post.

“Duty schedule”: is the trip/route/time schedule of a bus, for one time, in a scheduled service during an assigned operation

“DA” means the Designated Authority constituted/ nominated by the Government of UP. The roles of DA may be defined by the GoUP from time to time. Presently DA includes TC, STA and any other authority/officer ascribed in the relevant statutes for performing the duty for the prescribed purpose.

“DA Representative” means any person duly authorized by DA for the purposes of this RFQ cum RFP / PaRTS Project.

"GoUP" means the Government of Uttar Pradesh.

"Lead Member” means the specific member of the Consortium/JV duly nominated by all other members of that Consortium/JV and

- (i) who shall commit to hold an equity stake of at least 51% of the aggregate shareholding in the SPC; and
- (ii) whose financial and other capabilities would be evaluated as evaluation parameters for qualification and other evaluations of the Bids; and
- (iii) who shall commit to pay contribution/royalty every year in lumpsum within the specified period.

“Load Factor (LF)” is the Ratio of average number of passenger kilometers (kms) serviced by a bus during a particular period/trip/route or any other specified unit to average number of seat kilometers offered per bus during the same unit where seats offered (including standees) per bus are as per the bus specifications in the RFQ cum RFP and kms operated are the kms operations logged by the bus provider for the said unit of operation. $\text{Pax. Kms serviced} = \text{passengers traveled per bus during the unit considered above} \times \text{avg passenger trip length in kms.}$

“Letter of Acceptance” or **“LOA”** means the letter issued by STA to the Successful Bidder to provide buses on BOOM basis for the PaRTS project in conformity with the terms and conditions set forth in the RFQ cum RFP.

“Main Routes” means Inter-state, National Highway, State Highway, inter-regional and Inter-district headquarters routes.

"Operator" means the entity allowed by the STA to operate buses under this Project, and includes UPSRTC.

“PaRTS Project” has the meaning ascribed in the Chapters A and B of the RFQ cum RFP" and also includes that this is a Project for augmentation of mass public passenger road transport services using buses provided by private entities on Public Private Participation (PPP) model. It inter-alia includes without limitation the Buses, equipments, infrastructure, hardware, software, designed, developed, implemented and maintained for the PaRTS project requirements and the specification prescribed.

“**PIS**” means Passenger Information System whereby and where-under passengers shall be informed of selected details at bus terminals/stops/stations/BQS, inside the Bus etc.

"**Partnership Firm**" means a partnership firm as defined and registered under the Indian Partnership Act, 1932 or an entity incorporated outside India under equivalent law.

“**Permit**” means a document which is defined in Motor Vehicles Act, 1988.

“**Penalty Clause**”: is the valuation that the parties make voluntarily and as per mutual agreement regarding the sums agreed to be paid on account of damages for consequential damage, loss of profits, sanctions and indemnities caused by one contracting party to the other as direct or indirect consequence of acts or omissions of the other. Damages caused due to non-compliance will be understood to be estimated in the penalty clause and cannot be claimed for a lesser value. However, if this is the case, the bus provider shall pay damages which are evidenced higher to the estimated value in the penalty clause.

“**Preventive maintenance**”: interventions made in vehicles designed to avoid the deterioration or failure of the vehicle and to guarantee its functionality in optimum operating conditions.

“**PaRTS operational Area**”: are the roads network of entire State of UP for the PaRTS Project

“**Project**”: is the Passenger Road Transport System Project (PaRTS).

"**Qualification Stage bid**" refers to the first stage of the Bidding Process i.e. Technical Bid Stage I/Qualification Bid (TBSI/QB) which involves qualification of the Bidders for the second and the subsequent stages of evaluation of the bid.

"**Qualified Bidder**" means the Bidder who has qualified the qualification stage bid.

"**Route**" means as defined in Motor Vehicles Act, 1988.

“**Rural Routes**” means all motorable routes except inter-state, National Highway, State Highway, inter regional and inter-district HQ routes but lying in the entire State which are structured within the revenue district comprising ODR and/or may end at district headquarter.

“**RFQ cum RFP**” and / or “**RFQ cum RFP Document**” means this RFQ cum RFP document which comprises of the Chapter A-Disclaimer, Chapter B-An Overview of the PaRTS project, Chapter C-Notice Inviting Tenders, Chapter D-Definitions and Abbreviations, Chapter E-Bidding Process & Instructions to Bidders, Chapter F-General Conditions of Contract, Chapter G-Scope of services and Forms of Bid and include **Appendices 1 to 3** with any applicable Schedules and any amendments thereto made in accordance with the provisions contained in this document.

"**Scheme**" means the Stage Carriage Services to be provided by the bus provider under the PaRTS Project on the basis of permit granted by the

authorized authority as per terms of the RFQ cum RFP and the conditions imposed by the authority from time to time.

"State Area" means the area notified by the State Government of UP for the purposes of Chapter V and VI of the Motor Vehicles Act, 1988.

"Stage Carriage" means as defined in Motor Vehicles Act, 1988.

"Stage Carriage Services" means the public transport services to be provided by the Operator.

"STA" means State Transport Authority of Uttar Pradesh

"Service Certificate": is the document that accredits compliance by a the Bus Provider with all requirements established in the contract to allow the incorporation of a bus to the operation with the purpose of providing mass passenger transportation in the PaRTS Project.

"Successful Bidder", means the Bidder who qualifies the Technical Bid Stage I Technical Bid Stage II and the Financial proposal stage of this RFQ cum RFP and to whom a Letter of Acceptance is consequently issued after acceptance of RFQ cum RFP and completion of all other requirements thereto.

"Transportation Infrastructure of the GoUP": is the set of roads, stops, stations, terminals, parking yards, workshops, depots, properties, infrastructure works, urban fixtures/facilities, sign boards , passengers information system, bus queue shelters, and public spaces integrated to the mass passenger road transport system under the nomenclature of road transport in the State of UP.

"TC" means the Transport Commissioner, UP.

"UTT" means Unified Time Table prepared by the private operators and the UPSRTC for bus operations with the mutual consent and in case of any controversy the decision of the STA/RTA will be final.

"UPSRTC" means the Uttar Pradesh State Road Transport Corporation.

"User Charges" means the amount payable to UPSRTC for utilization of their bus-stop and bus-stations/bus-terminals. Till prescription by the DA, the operators will be liable to pay Rs. 50/- per entry per day for A class bus terminals/Bus Stations and Rs. 25/- per entry per bus for the others to the Corporation.

"User tariff" is the cost of the ticket for the use in the bus at the PaRTS Project services charged from the System's users.

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

Note-

The terms, expressions, statements, stipulations and provisions of this RFQ cum RFP Document, are mutually explanatory of one another and in the event of any inconsistency and controversy the same shall be harmoniously construed and governed by the Central Motor Vehicles Act, 1988 & relevant rules/ regulations.

Chapter – E

BID PROCESS AND INSTRUCTION TO BIDDERS (ITBs)

1 Brief Description of the Bid Process

- i. STA intends to follow a 3-stage process for selection of operators for the Scheme. This chapter deals with the all the three stages of the bidding process in detail.
- ii. All the bidders are required to submit proposals/bids in the prescribed formats which are appended to this document as Appendices 1, 2 & 3 and forms annexed with these.
- iii. Proposals/Bids for selection of operators for the scheme will not be taken into consideration if not furnished in the prescribed formats, which are appended as appendices. 1, 2 & 3 and forms annexed with these.

2. Eligibility Criteria

Public / private companies, corporate entities (which include companies, partnerships, proprietary concerns) / other business entities / Consortium Cooperative Societies, Societies, Business Entity formed by existing private bus operators duly incorporated under the Indian Companies Act, 1956, individual entrepreneurs, joint venture, (lead partner +1) are eligible to apply for operation of buses in PaRTS project, provided that they fulfill the following eligibility requirements:

- (i) Net worth of Rs. 20 crores at the end of the most recent financial year and net cash accruals of Rs. 5 crores for the last completed financial year. Business entity, constituted prospectively, is well within the eligibility criteria if has net worth of Rs 20 crores on or before the bid due date.
- (ii) Capacity to induct a fleet of minimum 100 buses within 4 months from the date of signing the Agreement. Bus providers are required to expand their fleet as per following time frame:

| No. of buses in fleet | Time frame (months from start date) | | No. of buses in fleet | Time frame (months from start date) |
|-----------------------|-------------------------------------|--|-----------------------|-------------------------------------|
| 100 | 4 | | 1800 | 36 |
| 400 | 12 | | 2300 | 42 |
| 600 | 18 | | 2800 | 48 |
| 1000 | 24 | | 3400 | 54 |
| 1400 | 30 | | 4000 | 60 |

| That is, addition of buses per year will be: | | | | |
|--|---------|----------|---------|--------|
| Year I | Year II | Year III | Year IV | Year V |
| 400 | 600 | 800 | 1000 | 1200 |

One third of the buses in the fleet should be less than two years old, while two thirds of the buses may be upto 8 years of age. However, the average age of fleet at any given time should not be more than 5 years. As soon as any bus in the fleet attains the age of 8 years it shall be replaced by a new bus, not more than two years old.

A balanced Bus fleet mix of different types (Type I,II,III); Categories (Super Deluxe, Deluxe, Semi Deluxe-Ordinary); Capacities / Sizes (High capacity, Standard, Mini, Midi) buses as given in the bus code (AIS 052) considering the route requirement and passenger travel demand. The colour scheme etc of the buses shall be approved by the STA.

Buses should be equipped with Global Positioning System (GPS), Electronic Ticketing Machines, besides other facilities as at **Annexure B**.

- (iii) The operational In-Charge of the entity should be a person having proven track record and managerial experience in Road Transport Sector.
- (iv) Commitment to provide bus parking spaces, to arrange control rooms, to provide/make arrangement of workshops for repair & maintenance of buses as per the RFQ-cum-RFP Document within a maximum period of one year.

3. Eligible Bidders

- (1) The following types of bidders shall be eligible to participate in the bid against this RFQ cum RFP:

Type 1: A Society registered in Uttar Pradesh under Societies Registration Act, 1860;

Type 2: A Business Entity or Corporate Entity (which includes companies, partnerships / proprietary concerns) registered under the Companies Act, 1956;

Type 3: A Co-operative Society registered in Uttar Pradesh under Uttar Pradesh Co-operative Societies Act, 1965;

Type 4: A Business Entity promoted by existing stage carriage bus operators with the shareholders, each holding permit(s) issued by the State / Regional Transport Authority, Uttar Pradesh and duly incorporated under the Indian Companies Act, 1956.

Type 5: A combination of a minimum two and maximum of five members, comprising one Lead Member who is a Type 1 / Type 2 / Type 3 entity, with other members who are Type 1 / Type 2 / Type 3 and shall hereinafter be referred as "Consortium".

- (2) The Bidders under the category of Type 4 & 5, in the event of being declared the Successful Bidder, would be required to incorporate a

Special Purpose Company as a company in accordance with the provisions of the Indian Companies Act. 1956.

Bids submitted by a Consortium should comply with the following additional requirements:

- (i) the number of members in the Consortium would be limited to five (5);
 - (ii) the Bid should contain the information regarding each member;
 - (iii) the Bid should include a description of the roles and responsibilities of all the members with regard to the scheme;
 - (iv) Members of the Consortium shall nominate one member as the Lead Member and that member must be a Type I / Type 2 /Type 3 etc. as defined in the RFQ cum RFP;
 - (v) A Bidder who has applied in its individual capacity as part of a Consortium cannot participate as a member of any other Consortium applying for the Project;
 - (vi) all members of the Consortium shall execute a Power of Attorney authorizing the Lead Member of Consortium to do all acts, deeds and things for the scheme on behalf of it as per the format enclosed at **Appendix 1 (Form No. 4)**; and
 - (vii) All members of the Consortium shall enter into a Memorandum of Understanding (MoU), as per the format provided under **Appendix 1(Form NO. 6)** for the purpose of submission of the bids.
 - (viii) The MoU should, interalia,
 - (a) convey the intent of the Lead Member to form a SPC with the shareholding pattern as detailed under relevant clause. Such SPC shall enter into the Bus Provider Agreement and subsequently carry out all the responsibilities in terms of the Agreement;
 - (b) clearly outline the proposed roles and responsibilities of each member of the Consortium with regard to the Project;
 - (c) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for the Project in accordance with the terms of the Agreement; and
 - (d) clearly refer to the Project for which the arrangement is made.
 - (ix) A copy of the MoU signed by all members should be submitted with the bid. The MoU entered into between the members of the Consortium should be specific to the Project and should contain the above requirements, failing which the bid shall be considered non-responsive.
- (3)** All the bidders are required to submit their detailed description and proposed role and responsibilities in this scheme as per the

format provided under **Appendix 1** (Form No.2).

- (4) All the bidders are required to submit a Power of Attorney as per the format enclosed at **Appendix 1** (Form No.3) authorizing the signatory of the bid to commit the same.
- (5) A bidder or member of Consortium which has earlier been barred by GoUP or blacklisted by any State Government or Central Government / Department / Agency in India from participating in Bidding Process shall not be eligible to submit the bid, either individually or as member of a Consortium, if such bar subsists as on the bid Due Date. The bidder or the member of Consortium shall be required to furnish an affidavit that there is no such bar imposed and existing as on the bid Due Date as per format provided in **Appendix 1** (Form NO.5).
- (6) Type 4, 3 and 1 bidders are required to submit a Memorandum of Understanding in terms of format set out in **Appendix 1 (Form NO.7, 8 & 9)**.
- (7) All the bidders are required to submit evidence of professional experience (in case of Consortium, experience of each of the members), details of key personnel, details of availability of bus parking facilities, induction-schedule of buses, arrangements for their repair and maintenance, details of minimum service quality levels for the operational parameters, undertaking related to bus specifications and undertaking for acceptance of required qualifications & correctness of the information given in terms of format set out in **Appendix 1** (Form Nos.10, 11, 12, 13, 14, 15 & 16 respectively).
- (8) All the bidders are required to submit the information in regard to Financial Capability in terms of Format set out in **Appendix 2 (Form Nos. 17, 18, 19 & 20)**.
- (9) **Change in Consortium Composition**
 - i. Any change in the composition of a Consortium shall not be permitted during the bid processing Stage i.e. from the due date of opening of the initial bid till finalization of the bid and signing of agreement. It may however be considered after receipt of 400 buses or one year period from the date of agreement, whichever is later during the agreement period subject to prescribed conditions/requirements decided by STA and further subject to the condition that the replacing member / entity is equal or better than the replaced members / entity.
 - ii. The grant of approval for change in the composition of a Consortium shall be at the sole discretion of STA.
 - iii. The modified Consortium would be required to submit a revised MoU.
- (10) **Number of bids**

Each bidder shall submit only one bid in respect of the entire State.

(11) Financial Capability

- i. Financial Capability of the Bidders (Lead Member in case of JV/Consortium) would be evaluated on the basis of the following:
 - a. net worth of Rs 20 crores as at the end of the most recent financial year.
 - b. net cash accruals of Rs 5 crores for the last completed financial year.
- ii. The Bidders should provide information regarding the above based on audited annual accounts for the respective financial years. The financial year would be the same as the one normally followed by the Bidder for its Annual Report.

The Bid must be accompanied by the audited annual financial statements of the Bidder (in case of JV/Consortium only Lead Members financials would be considered for evaluating the financial capability) for the last financial year.

- iii For the purpose of Qualification, a Bidder would be required to demonstrate the threshold of Net Worth and cash accruals etc. as given in the RFQ cum RFP
- iv. In case the Bidder is a Consortium, for the purpose of evaluation the Lead Member's Financial Capability (net worth and net cash accruals) should be equal to 100% of the capability criteria as stipulated in this sub-section and further the Lead Member shall commit to hold a minimum equity stake equal to 51% and all members of the Consortium shall individually, commit to hold a minimum equity stake of not less than 11% of SPC.

4 Instruction to bidders (ITBs)**(1) Due Diligence**

- (i) The Bidder is expected to examine all instructions, forms, terms and specifications in the RFQ cum RFP. The Bid should be precise, complete and in the prescribed formats which are appended to this document as appendices 1, 2 & 3 and forms annexed with these.. Failure to furnish all information required by these formats shall render the bid non responsive to the RFQ cum RFP in every respect and result in rejection of the Bid.

(ii) Project Appraisal

- (a) It is desirable that each bidder submits his bid after collection of required information and analysis or any other matter considered relevant by it.
- (b) It would be deemed that by submitting the bid, the bidder has made a complete and careful examination of the RFQ cum RFP Document.

(c) STA shall not be liable for any mistake or error on the part of the bidder in respect of the above.

(2) Cost of Bidding

The Bidder shall bear all costs associated with the preparation and submission of its Bid and STA will in no case be held responsible or be liable for these costs regardless of the conduct or outcome of the Bidding Process.

(3) Content of Bidding Document

The requirements, bidding procedures and terms are explained in the RFQ cum RFP Document and appended as Appendices 1 to 5 with Annexures A to D.

(4) Cost of RFQ cum RFP Document:

The RFQ cum RFP Document would cost Rs. 15,000/- (Rupees Fifteen Thousand only) (non-refundable) payable in cash or in the form of a Demand Draft drawn in favour of "Transport Commissioner, UP" and payable at Lucknow, Uttar Pradesh.

(5) Clarification to RFQ cum RFP Document

In the event that any Bidder requires any clarification on the RFQ cum RFP, such Bidder is expected to send their queries to STA in writing by post, courier or by facsimile at least 48 (forty eight) hours prior to the time of the Pre Bid Meeting at the following address / fax number in order to enable STA to have adequate notice of the said queries so that the same may be addressed at the Pre Bid Meeting:

Transport Commissioner,
Uttar Pradesh,
Parivahan Bhawan, Tehri Kothi, MG Marg,
Lucknow-226001
Phone: (0522) 2613978, Fax: 2629235, Email: transport.up@gmail.com

- (i) Nothing in this sub-section shall be taken to mean or read as compelling or requiring STA to respond to any questions or to provide any clarification to a query. STA reserves the right to not respond to questions it perceives as non-relevant which may be raised by a Bidder or not to provide clarifications if STA in its sole discretion considers that no reply is necessary.
- (ii) No extension of Deadline for Submission of Bids will be granted on the basis or grounds that STA has not responded to any question or provided any clarification to a query.

(6) Amendment of Bidding Documents

At any time before the Deadline for Submission of Bids, STA may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFQ cum RFP by amendment. Any amendments / modifications to the RFQ cum RFP Document, which may become necessary for any reason, shall be through the issue of addendum(s) to

the RFQ cum RFP which shall be published through news papers and placed on the departmental website. The contents, terms and conditions of all such Addendum(s) shall be binding on Bidders. If required, in order to allow prospective Bidders reasonable time in which to take the Addendum(s) into account in preparing their respective Bids, STA reserves the right to extend the Deadline for the Submission of Bids. However no request from the prospective Bidder(s), shall be binding on STA for the same.

(7) Pre-Bid Meeting

- (i) A pre-bid meeting shall be held for any clarifications and replies to the queries raised by prospective Bidders on a date, place and time to be published by the TC.
- (ii) Clarifications, if any, including the text of the relevant questions raised at the Pre Bid Meeting and the responses given thereon shall be conveyed through fax or by registered post to those, who purchased the RFQ cum RFP Document.
- (iii) Pursuant to the Pre Bid Meeting, the terms and conditions of the RFQ cum RFP Document may be frozen with or without amendments thereto as applicable.
- (iv) Non-attendance at the Pre-Bid Meeting will not be a cause for disqualification of a Bidder. However, the terms and conditions of the Addendum(s) will be binding on all the Bidders irrespective of their attendance at the Pre-Bid Meeting.
- (v) STA may, at its sole discretion, extend the Deadline for Submission of Bids.

(8) Documents Constituting Bid

The documents constituting the Bid shall be as follows:

(i) Technical Bid Stage 1/Qualification Bid (QB) with Bid Security

The Bidder(s) shall submit a **Technical Bid Stage 1 / QB** with bid security in the form and manner set forth in **Appendix 1** of the RFQ cum RFP Document along with all documents required to be submitted as per the said Appendix 1 including without limitation Memorandum of Understanding and the Bid Security. The Bidder(s) shall undertake the following requirements with respect to Qualification criterion:-

- (a) to be a bidder in the category of a corporate entity (which includes companies, partnerships, proprietary concerns), duly registered society / cooperative societies, other business entity (including those formed by the existing private bus operators)/ joint ventures (lead partner + one)/ either individually or as a Consortium or Joint venture of such firms duly incorporated.

(In case of Consortium/Joint venture,, the lead firm (which shall be single entity) it is specifically has to be undertaken that the Lead Firm is fully empowered to represent the Consortium/Joint Venture. The lead firm has and further commits to hold a minimum stake of 51% in the Consortium or Joint venture and that each member has

and commits to hold a minimum stake of not less than 11% through out the period of agreement).

- (b) to have the net cash accruals of the operator, corporate entities (which include companies, partnerships, proprietary concerns), duly registered society / cooperative societies, other business entity (including those formed by the existing private bus operator)/ joint ventures (lead partner + one), company / Consortium of more than Rs 5 crores (Rs five crores) during the last financial year.
- (c) to have a net-worth (as at the end of last financial year) of atleast Rs 20 crores (Rs twenty crores) as indicated in audited annual accounts..
- (d) to meet the criteria, in the case of Consortium/Joint Venture the net cash accruals and net worth of the lead member on 100% basis.
- (e) to establish the legal requirement if the bidder is a company / Consortium, cooperative society etc.
- (f) to have sufficient technical skilled manpower with sufficient experience in case of the corporate entities (which include companies, partnerships, proprietary concerns), duly registered societies/cooperative societies, other business entity (including those formed by the existing private bus operators)/ joint ventures (lead partner + one), to buy, own, operate and maintain the buses of specification given in the RFQ cum RFP on BOOM basis and operate them in PaRTS project as per terms and conditions of the RFQ cum RFP document.
- (g) to accept provisioning of a fleet of 100 buses within 4 months, increasing the same progressively to 1000 buses within two years as per following time frame:

| No. of buses in fleet | Time frame (months from start date) | | No. of buses in fleet | Time frame (months from start date) |
|-----------------------|-------------------------------------|--|-----------------------|-------------------------------------|
| 100 | 4 | | 1800 | 36 |
| 400 | 12 | | 2300 | 42 |
| 600 | 18 | | 2800 | 48 |
| 1000 | 24 | | 3400 | 54 |
| 1400 | 30 | | 4000 | 60 |

| That is, addition of buses per year will be: | | | | |
|--|---------|----------|---------|--------|
| Year I | Year II | Year III | Year IV | Year V |
| 400 | 600 | 800 | 1000 | 1200 |

- (h) to accept the bus mix fleet comprise of ordinary fare buses of a minimum level of 60% of the total bus fleet, while upto 40% of the fleet may be super deluxe, deluxe and semi deluxe.
- (i) to submit the prescribed Bid Security amount in the form of fixed deposit receipt from any scheduled bank approved by the RBI.
- (j) to submit Unconditional Acceptance of all the Terms and conditions of the RFQ cum RFP
- (k) to submit certificate to satisfy the test for its constitution
- (l) to submit the Confirmation / acceptance of Performance Security of the amount /in prescribed form / for the required period

- (m) to submit the bid in the requisite RFQ cum RFP format, complete in all respects and at the required time, date and place and in the form prescribed therefore.
- (n) to submit the Acceptance of payment of user charges for use of bus terminals / bus stations and other infrastructure as decided by the DA, GoUP
- (o) to accept to keep 2% of the entire fleet in reserve to meet breakdown and other contingencies.
- (p) to submit Acceptance of provisioning of ITS related equipments on the buses and creation of central control rooms jointly by the selected bus providers atleast at each Regional HQ within one year and other control rooms at each district & depot level as and when TC directs for on line monitoring of bus operations and for parallel feeding of such data to the TC as decided from time to time.
- (q) to commit for operation under PaRTS Project as per schedules on routes of the area as they have structured & finalised and submitted to STA/RTA.
- (r) to deposit the cost of RFQ cum RFP document
- (s) to accept of furnishing of performance guarantee of requisite amount in the prescribed form etc.
- (t) to meet out all other criterion set fourth in this RFQ cum RFP for qualification.
- (u) to meet out all qualifying parameters applicable to the lead member of the Consortium, in case of Consortium.
- (v) to accept provisioning of parking spaces @ 200sq.mtr. per bus atleast at each district headquarter level within one year and elsewhere as and when TC prescribes. The bus provider shall either have his own workshop for various types of day to day repairs and maintenance activities atleast at each district headquarter level within a year from the appointed date and at elsewhere as and when TC directs or enters into annual maintenance contract (AMC) with the bus manufacturer or his authorized service centre or an AMC with any other accredited workshops.
 - (w) to accept payment of all dues to TC in time, failing which payment of interest due thereon.
 - (x) to accept provisioning of minimum service frequency to the every revenue villages i.e. the bus fleets will have to cover (i.e. pickup & drop passengers at) an average of 30 revenue villages per bus per day. It is to be ensured that 40% of the total fleet kilometerage will have to be on rural routes (which are structured within the revenue district) comprising Other Diistrict Roads (ODR) so that remote village are also serviced. Fleet kilometerage outside the state may be upto 20 % of the kilometerage logged on rural routes, structured within the revenue district comprising ODR.
 - (y) to submit acceptance of delivery of services as per prescribed quality standard.
 - (z) to commit that the statements made and the information provided in the duly completed application is true and correct in every respect. In case any material misrepresentation is made or discovered with regard to the requirements of the RFQ cum RFP document at any stage of the bidding process or thereafter during the concession agreement period, the bid or award will be liable for rejection or cancellation.

The said TBS 1/QB shall be evaluated by STA in its sole discretion as per the evaluation criteria set forth in this RFQ cum RFP.

(ii) **Technical Bid Stage II (TBS II)**

The Technical Bid should be in the form and manner set forth in **Appendix 2** of this RFQ cum RFP document and should comprise of all documents required to be submitted as per the said **Appendix 2**.

(iii) **Financial Bid**

The Financial Bids should be in the form and manner set forth in **Appendix 3** to this RFQ cum RFP and should comprise of all such documents and details mentioned in the said **Appendix 3**.

(9) Preparation of Bids

(i) **Language of Bid**

The Bid prepared by the Bidder, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and STA shall be written in English/Hindi language only. However, in case Bidder chooses to enclose certain supporting document(s) in any language other than English/Hindi, then Bidder shall also enclose certified / authentic translated copies of the same in English/Hindi language. Any document which is not translated into English will not be considered. For the purpose of interpretation and evaluation of the Bids, the English/Hindi language translation shall prevail.

(ii) **Bid Currency**

All prices quoted in the Bid shall be quoted in Indian National Rupee(s) (INR).

(iii) **Format of Earnest Money Deposit (“EMD”) or Bid Security**

i Bid submitted in response to the RFQ cum RFP Document shall be accompanied by a Bid Security of Rs 10,00,000/- (Rs ten lakhs only) (hereinafter referred to as “Bid Security” or “EMD”) in the form of a Fixed Deposit Receipt account ----- (bidders name to be inserted by the bidder) from any Scheduled Bank approved by RBI, in favour of “Transport Commissioner, UP”, and encashable at Lucknow, Uttar Pradesh.

ii. Bids received without EMD as above shall be summarily rejected

(iv) **Currency of Bid Security**

The Bid Security should be furnished in Indian National Rupees (INR)

(v) **Conditions for Consortium or Joint Venture**

(a) If and to the extent applicable, Bids shall have notarized copies of unconditional teaming agreement between Consortium partners, signed by the authorized signatories of the partner companies of such

Consortium on stamp paper of Rs.100/- (Rupees One Hundred only), dated prior to Deadline for Submission of Bid and valid for the Bus Provider Period of Agreement and any extension thereof as per **Appendix 1** (Form No. 6).

- (b) In the alternative, teaming agreement(s) may be signed on a plain paper. In such a case the lead Bidder would be expected to provide an affidavit regarding the authenticity of the teaming agreement, on stamp paper of Rs.100/- (Rupees One Hundred only) dated prior to Deadline for Submission of Bids valid for the Bus Provider Period and any extension thereof.
- (c) A copy of such teaming agreement shall be attached along with the Bid as required by **Appendix 1** (Form No.6) hereto.
- (d) Any such teaming agreement shall clearly specify the lead bidder and the various Consortium/JV partners with their respective roles and responsibilities if any during the PaRTS Project.
- (e) Any changes and deviation of roles and responsibilities after the submission of Bid and before the execution of the Agreement shall entitle STA to reject the Bid in its sole discretion.
- (f) Prior written consent of STA is necessary for any change in the constitution of the consortium, or substitution, addition or removal of any of the Consortium partners. After getting approval for the change in composition, the modified Consortium would be required to submit a revised MOU.
- (g) STA reserves the right to reject the Bid in case of change in the constitution of the Consortium after the submission of Bid and before the execution of the Agreement.

(vi) **Authentication and Consideration of Bid**

- i. The original and the photo copy of the Bid shall preferably be type written or written in indelible ink and shall be signed by a person or persons duly authorized by the Bidder in this behalf by way of a Power of Attorney duly executed by the Bidder in the form set forth in **Appendix 1** (Form NO.3) hereto. The person or persons signing the Bid shall initial all pages of the original and photo copy of the Bid.
- ii. All the bidders are required to submit the proposals/bids in the prescribed formats which are appended to this document as Appendices 1, 2 & 3 and forms annexed with these.
- iii. Only those Bids will be evaluated that are received in the required format and are complete in all respects. Proposals/bids for selection of operators for the scheme will not be taken into consideration if not furnish in the prescribed formats which are appended as appendices. 1, 2 & 3 and forms annexed with these.

(vii) **Validation of interlineations in Bid**

Any interlineations, erasures or overwriting shall be valid only if the person or persons signing the Bid have authenticated the same with their respective signature alongside such interlineations, erasures or overwriting.

(viii) **Number of Copies of Bid**

The Bidder shall submit **one original** and **one photo copy** of the **Technical Bid Stage 1 / QB** separately, clearly marking each "**Technical Bid Stage 1 /QB – Original**" and "**Technical Bid Stage 1 /QB – Photo Copy**", as appropriate. In the event of any discrepancy between the original and the photo copy, the original shall govern.

Similarly, one original and one photo copy of the **Technical Bid Stage II** should be submitted and marked as "**Technical Bid Stage II – Original**" and "**Technical Bid Stage II – Photo Copy**".

Bidder shall submit **only one original** of the **Financial Bid**, clearly marking the same as "**Financial Bid**".

(ix) **Sealing and Marking of Bids**

- (a) The Bid Security of the required value and in approved format shall be sealed separately in an envelope on which the following shall be superscribed:

"Envelope – B- Bid Security for PaRTS Project"

- (b) The original and photo copy of the original of the **Technical Bid Stage 1 /QB** shall be sealed separately in an envelope on which the following shall be superscribed:

"Envelope – A1- Technical Bid Stage 1/QB for PaRTS Project "

- (c) The original and photo copy of the original of the **Technical Bid Stage II** shall be sealed separately in an envelope on which the following shall be superscribed:

"Envelope – A2- Technical Bid Stage II for PaRTS Project"

- (d) The original of the Financial Bid shall be sealed separately in an envelope on which the following shall be superscribed:

"Envelope – A3- Financial Proposal for PaRTS Project"

- (e) All the above envelopes viz. 'B', 'A1', 'A2' and 'A3' shall then be **sealed in one outer envelope**.

i. The inner and outer envelopes shall be addressed to Transport Commissioner, U.P. and marked as "**Tender for PaRTS Project**"

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

iii. If the outer envelope is not sealed and marked as above, STA will assume no responsibility for the misplacement or premature opening of the Bid.

iv. Each envelope shall contain the following (check-list):

| Sl. No. | Description | Submitted ref. vide | |
|---------|--|---------------------|------------------------|
| | | Appendix | Form No. |
| 1 | Letter of Application for Bid | 1 | 1 |
| 2 | Details of bidder (in case of JV/ Consortium, this would need to be provided by all the members). | 1 | 2 |
| 3 | Bank Draft of Rs fifteen thousand in favour of Transport Commissioner, payable at Lucknow, towards the cost of RFQ cum RFP Document (in case the same has been downloaded from the website)/ A photocopy of the receipt of the payment is pasted on the RFQ cum RFP document submitted by us. | 1 | DD/ Cash receipt |
| 4 | the EMD amount of Rs.10 lakhs (Rs. Ten lakhs) vide FD no. - ---- dated----of bank -----drawn in favour of Transport Commissioner, UP and payable at Lucknow is sealed separately in an envelope marked as A 1. | 1 | FDR |
| 5 | A certificate for proving the applicant's legal status (in the case of company, certified copy of the memorandum of Association with certified copy of incorporation under Indian Companies Act, 1956, in the case of Firm or Consortium, certified copy of the partnership deed duly registered under Indian Partnership Act, 1932, in case of Society or Co-operative society the certificate of registration under Society Act, 1860 or Co-operative Act, 1965 respectively) and the nationality. | 1 | -- |
| 6 | Power of Attorney for signing of the Bid (in case of JV/Consortium, this would need to be provided by all the member) | 1 | 3 |
| 7 | Power of Attorney by all the members to the Lead Member in case of JV/Consortium. | 1 | 4 |
| 8 | Affidavit certifying that Business Entity/ Director(s) of Business Entity/ Member(s) of JV/Consortium are not blacklisted / barred. | 1 | 5 |
| 9 | MOU (in case of Consortium/Joint Venture i.e. type 5 bidder) indicating share of the lead firm in equity/profits. | 1 | 6 |
| 10 | MOU where the Bidder is a Type 4 Bidder.. | 1 | 7 |
| 11 | MOU where the Bidder is a Type 3 Bidder. | 1 | 8 |
| 12 | MOU where the Bidder is a Type 1 Bidder. | 1 | 9 |
| 13 | Professional Experience of Bidder (in case of Consortium, experience of all the members) | 1 | 10 |
| 14 | Details of key personnel of the bus provider/Bidder. | 1 | 11 |
| 15 | Details of availability of bus parking facilities. | 1 | 12 |
| 16 | Induction–schedule of buses and their repair and maintenance arrangement. | 1 | 13 |
| 17 | Details of minimum service quality levels for the operational parameters. | 1 | 14 |
| 18 | Undertaking related to bus specifications | 1 | 15 |
| 19 | Undertaking by the bidders for acceptance the required qualification and correctness of the information given. | 1 | 16 |
| 20 | Letter for Technical Bid stage II | 2 | 17 |
| 21 | Format for Financial Capability of the Bidder | 2 | 18 |
| 22 | Summary details of the Bidder | 2 | 19 |
| 23 | Undertaking by the Bidder for correctness of the information given for TBS II | 2 | 20 |

| | | | |
|----|--|---|----|
| 24 | Letter for Financial Bid | 3 | 21 |
| 25 | Format of Financial Bid | 3 | 22 |
| 26 | Undertaking by the Bidder for correctness of the information given for Financial Bid | 3 | 23 |

(10) Period of Validity of Bids

(i) Validity Period

Bids shall remain valid for a period of 270 (two hundred and seventy) days after the date of bid opening prescribed by STA. STA reserves the right to reject a Bid as non-responsive if such Bid is valid for a period of less than 270 days and STA shall not be liable to send an intimation of any such rejection to such Bidder.

In exceptional circumstances, prior to expiry of the bid Validity Period, STA may request bidders to extend the bid Validity Period for a specified additional period. Bidders not extending the bid Validity Period, when so requested, would automatically be disqualified.

(ii) Extension of Period of Validity

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

(11) Mailing Address for Bids

Bids shall be addressed to The Chairman, STA, U.P. and sent at the following address:

Transport Commissioner,
Uttar Pradesh,
Parivahan Bhawan, Tehri Kothi, MG Marg,
Lucknow-226001.
Phone: (0522) 2613978, Fax: 2629235, Email: transport.up@gmail.com

(12) Deadline for Submission for Bids

(i) Last Date and Time for Submission

The Bids must be received by STA, at the specified address, latest by the Deadline for Submission of Bids. In the event of the specified date which is stipulated as the Deadline for Submission of Bids is declared as a holiday for the office of the Transport Commissioner the Bids will be received up to the appointed time on the next working day.

(ii) Extension of Deadline for Submission of Bids

If the need so arises, STA may, in its sole discretion, extend the Deadline for Submission of Bids by amending the RFQ cum RFP documents in this behalf. In such event, all rights and obligations of STA and Bidders previously subject to the earlier deadline will thereafter be subject to the deadline as extended. Any such change in the Deadline for Submission of Bids shall be notified to the Bidders by dissemination of requisite information in this behalf in writing either by email or by facsimile or by registered post.

(iii) **Late Bids**

Any Bid received by STA after the Deadline for Submission of Bids prescribed by STA will be summarily rejected and returned unopened to the Bidder. STA shall not be responsible for any postal delay or non-receipt / non-delivery of any documents. No further correspondence on this subject shall be entertained by STA.

(13) Modification and Withdrawal of Bids

(i) **Modification of Bid**

Bidder may modify any part of its Bid after the Bid submission provided that such Modification (s) is received by STA in writing from such Bidder in a sealed envelope before the expiration of Deadline for Submission of Bids. Such modification(s) shall be sent through registered post or by hand. Any such modification shall comply with the general terms of this RFQ cum RFP.

(ii) **Withdrawal of Bid**

In order to avoid forfeiture of Bid Security, a Bidder may withdraw his Bid after submission thereof, provided that STA receives written notice of such withdrawal before the expiration of Deadline for Submission of Bids.

The Bid Security of a Bidder shall be forfeited in the following events:

- (i) If a Bidder withdraws the proposal during the period of Bid validity. or
- (ii) In the case of a Successful Bidder, if the Bidder fails to sign the Agreement or fails to furnish the required performance guarantee within stipulated time in accordance with General Conditions of Contract set forth in chapter-F.

(14) Bid Process – Steps & Evaluation

(i) **Opening of Technical Bid (Stage 1) /QB --The Qualification Bids**

- (A) No Bids will be opened before the Bid Due Date. Bids would be opened on any working day after Bid Due Date in presence of the Bidders and with prior notice to them for the purpose of evaluation.
- (B) The Bids, so received, would subsequently be examined and evaluated in accordance with the criteria set out in the RFQ cum RFP.
- (c) STA reserve the right to utilize the services of Bid Evaluation Committee (BEC), constituted by itself to assist in the examination, evaluation and comparison of Bids.

- (D)(a) Bids received without the EMD as prescribed shall be summarily rejected and no action for opening etc of their subsequent stage bids shall be taken.
- (b). All **Technical Bid Stage 1 /QB** received by STA in response to this RFQ cum RFP shall be opened by STA or BEC in the presence of Bidders' representatives who choose to attend the opening of **Technical Bid Stage 1 /QB** in the office of the Transport Commissioner, U.P., Lucknow. The Bidders' representatives who are present at such opening shall sign a register evidencing their attendance as a witness to the Bids opening process. In the event of the specified date of Bid opening being declared a holiday for the office of the Transport Commissioner, the Bids shall be opened at the appointed time and location on the next working day.

The Bidder's names, Bid modifications or withdrawals (as applicable) and the presence or absence of requisite Bid Security and such other details, as STA in its sole discretion may consider appropriate, will be announced at the opening of **Technical Bid Stage 1 / the Qualification Bid**.

After opening the qualification bid, the STA or the BEC shall shortlist those bidders who meet the prescribed criteria as per sub-section (15)(1) to this section, and announce the names of the qualified bidders.

(ii) Opening of Technical Bid Stage II

- (a) After the **Technical Bid Stage 1 /QB** evaluation process has been completed, the Technical Bid Stage II of only qualified bidders shall be opened. The criterion for qualification in this behalf is set forth in sub-section (15)(2) to this section.
- (b) **Technical Bid Stage II** shall be opened, in the presence of Bidders' representatives who choose to attend the **Technical Bid Stage II** opening on such date and time which shall be communicated to the qualified Bidders. The Bidders' representatives who are present at such opening of the **Technical Bid Stage II** shall sign a register evidencing their attendance as a witness to the Bids opening process. The name of Bidder etc. will be announced at such opening.

After opening the TBS II, the STA or BEC shall shortlist and announce the names of those bidders whose TBS II are accepted.

(iii) Opening of Financial Bids

After the TBS II evaluation process has been completed, the financial bids of those bidders shall be opened whose TBS II are accepted. Financial Bids shall be opened, in the presence of Bidders' representatives who choose to attend the Financial Bid opening on such date and time which shall be communicated to the Bidders who's **Technical Bid Stage II** are accepted. The Bidders' representatives who are present at such opening of Financial Bids shall sign a register evidencing their attendance as a witness to the Bids opening process.

After opening the financial bids the STA or BEC shall shortlist the bidders' ranking as per evaluation criteria prescribed in sub-section (15)(3) to this section.

(iv) Regarding Rectification, clarification and rejection of bid(s) by STA

- (A) STA or BEC will examine the Bids to determine whether these are complete, whether these meet all the conditions of the RFQ cum RFP Document and whether the documents have been properly signed and the Bids are generally in order. If there is a discrepancy between words and figures, the figures/details in words shall prevail.
- (B) During evaluation of Bids, STA or BEC may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing. If the response to the clarification is not received by STA or BEC before the expiration of the deadline prescribed in the written request for clarification, STA reserves the right to make its own reasonable assumptions at the total risk and cost of the Bidder.
- (C)(a) A Bid will be rejected by STA without any further correspondence, as non-responsive, if:-
- (i) Bid Security does not conform to the provisions set forth in sub section (9) (iii) of section-4 of the chapter-E to this RFQ cum RFP; or
 - (ii) Bid is not submitted in the prescribed formats which are appended to this document as Appendices 1, 2 & 3 and forms annexed with these : or
 - (iii) Bid is not submitted in the manner as prescribed in the Instructions to Bidders under chapter E and is otherwise not in conformity with the terms and provisions of this RFQ cum RFP Document: or
 - (iv) Bid is submitted by telex, fax or email: or
- (b) Failure of any one (or more) of the conditions set forth herein above shall result in rejection of Bid.
- (c) In addition to the foregoing, in the event a Bidder makes an effort to influence STA in its decisions on Bid evaluation, Bid comparison or selection of the Successful Bidder, it may result in rejection of such Bidder's Bid.
- (d) Notwithstanding anything contained in this RFQ cum RFP Document, STA reserves the right to accept or reject any bid or to annul the Bidding Process or reject all bids at any time without assigning any reasons thereof and without any liability or any obligation, of any nature whatsoever for such rejection or annulment.
- (e) STA reserves the right to reject any bid if:
- i) at any time, a material misrepresentation is made or discovered; or
 - ii) the bidder does not respond promptly and diligently to requests for additional information or clarification required for evaluation of the bid.
- (f) Rejection of the bid by STA, as aforesaid, would lead to the disqualification of the bidder. If the bidder is a Consortium, then the

entire Consortium would be disqualified.

(g) If such disqualification / rejection occurs after the bid evaluation stage, and the best Bidder gets disqualified / rejected, then STA reserves the right to either:

i) invite the next best Bidder to match the bid submitted by the best Bidder;

OR

ii) take any such measures as may be deemed fit in the sole discretion of STA including annulment of the Bidding Process.

(15) Criteria for Evaluation of Bids

(i) Criteria for Evaluation of Technical Bid Stage 1 / Qualification Bid

The **Technical Bids Stage 1 / QB** shall be evaluated on the following criteria:

- (a) Bidder shall be in the category of a corporate entity (which include companies, partnerships, proprietary concerns), duly registered society / cooperative society, other business entity (including those formed by the existing private bus operators)/ joint venture (lead partner + one)/ either individually or as a Consortium or Joint venture of such firms duly incorporated. In case of Consortium or Joint venture, the lead firm (which shall be a single entity) must be specified and fully empowered to represent the Consortium or Joint venture. The lead firm shall have and further commit to hold a minimum stake of 51% in the Consortium or Joint venture and each member shall have and commit to hold a minimum stake of 11% through out the period of agreement.
- (b) The net cash accruals of the corporate entity (which include companies, partnerships, proprietary concerns), duly registered society / cooperative society, other business entity (including those formed by the existing private bus operator) / joint ventures (lead partner + one), company / Consortium shall be more than Rs 5 crores (Rs five crores) during the last financial year.
- (c) The bidder has a net-worth (as at the end of last financial year) of atleast Rs 20 crores (Rs twenty crores) as indicated in audited annual accounts..
- (d) In the case of Consortium/Joint Venture, the net cash accruals and net worth of the lead member on 100% basis shall meet the criterion
- (e) The company / Consortium, cooperative society etc must be established under the legal requirement.
- (f) The corporate entities (which include companies, partnerships, proprietary concerns), duly registered societies/cooperative societies, other business entity (including those formed by the existing private bus operators)/ joint ventures (lead partner + one), have sufficient technical skilled manpower with sufficient experience to buy, own, operate and maintain the buses of specification given in the RFQ cum RFP on BOOM

basis and operate them in PaRTS project as per terms and conditions of the RFQ cum RFP document.

- (g) The bidder has accepted for provisioning a fleet of 100 buses within 4 months, increasing the same progressively to 1000 buses within two year as per following time frame:

| No. of buses in fleet | Time frame (months from start date) | | No. of buses in fleet | Time frame (months from start date) |
|-----------------------|-------------------------------------|--|-----------------------|-------------------------------------|
| 100 | 4 | | 1800 | 36 |
| 400 | 12 | | 2300 | 42 |
| 600 | 18 | | 2800 | 48 |
| 1000 | 24 | | 3400 | 54 |
| 1400 | 30 | | 4000 | 60 |

| That is, addition of buses per year will be: | | | | |
|--|---------|----------|---------|--------|
| Year I | Year II | Year III | Year IV | Year V |
| 400 | 600 | 800 | 1000 | 1200 |

- (h) The bidder has accepted the prescribed fleet composition i.e. bus mix fleet comprise of ordinary fare buses of a minimum level of 60% of the total bus fleet, while up to 40% of the fleet may be super deluxe, deluxe and semi deluxe.
- (i) Bidder has submitted the prescribed Bid Security amount in the form of fixed deposit receipt from any scheduled bank approved by the RBI.
- (j) Bidder has submitted the Unconditional Acceptance of all the Terms and conditions of the RFQ cum RFP
- (k) The bidder satisfies the test for its constitution
- (l). Bidder has submitted the Confirmation / acceptance of Performance Security of the amount /in prescribed form / for the required period
- (m) Bidder has submitted the bid in the requisite RFQ cum RFP format complete in all respects and at the required time, date and place and in the form prescribed therefore.
- (n) Bidder has submitted the Acceptance of payment of user charges for use of bus terminals / bus stations and other infrastructure as decided by the DA, GoUP
- (o) Bidder accepts to keep 2% of the entire fleet in reserve to meet breakdown and other contingencies.
- (p) Bidder has submitted Acceptance of provisioning of ITS related equipments on the buses and creation of central control rooms jointly by the selected bus providers atleast at each Regional HQ within one year and other control rooms at each district & depot level as and when TC directs for on line monitoring of bus operations and for parallel feeding of such data to the TC as decided from time to time.
- (q) Bidder has committed for operation under PaRTS Project as per schedules on routes of the area as they have structured & finalised and submitted to STA/RTA.
- (r) Bidder has submitted the cost of RFQ cum RFP document
- (s) Bidder has submitted the acceptance of furnishing of performance guarantee of requisite amount in the prescribed form etc.

- (t) Bidder meets all other criterion set fourth in this RFQ cum RFP for qualification.
- (u) In case of Consortium, all qualifying parameters shall be applicable to the lead member of the Consortium.
- (v) Bidder has accepted provisioning of parking spaces @ 200sq.mtr. per bus atleast at each district headquarter level within one year and elsewhere as and when TC prescribes. The bus provider shall either have his own workshop for various types of day to day repairs and maintenance activities atleast at each district headquarter level within a year from the appointed date and at elsewhere as and when TC directs or enters into annual maintenance contract (AMC) with the bus manufacturer or his authorized service centre or an AMC with any other accredited workshops.
- (w) Bidder has accepted payment of all dues to TC in time failing which payment of interest due thereon.
- (x) Bidder has accepted provisioning of prescribed service frequency to revenue villages as decided by STA i.e. the bus fleets will have to cover (i.e. pickup & drop passengers at) an average of 30 revenue villages per bus per day. It is to be ensured that 40% of the total fleet kilometerage will have to be on rural routes (which are structured within the revenue district) comprising Other Diustrict Roads (ODR) so that remote village are also serviced. Fleet kilometerage outside the state may be upto 20% of the kilometerage logged on rural routes, structured within the revenue district comprising ODR.
- (y) Bidder has accepted of delivery of services as per prescribed quality standard.
- (z) Bidder has committed that the statements made and the information provided in the duly completed application are true and correct in every respect. In case any material misrepresentation is made or discovered with regard to the requirements of the RFQ cum RFP document at any stage of the bidding process or thereafter during the concession agreement period, our bid or award for the caption scheme will be liable for rejection or cancellation.

After opening the qualification bids, BEC or STA shall shortlist and announce the names of the qualified bidders for consideration of their technical bids.

(ii) **Criteria for evaluation of Technical Bids Stage II**

Bidders are required to give their financial capability of last financial year in the following format to evaluate the technical bid stage II :-

(Equivalent in Rs. In crores)

| Bidder | Net Worth (As on) | Net Cash Accruals Year (From----- to -----) |
|------------------------------|-----------------------------------|--|
| Sole Bidder | | |
| Lead Member of Consortium/JV | | |

The technical bid stage II shall be evaluated on the following criteria-

- (a) The Bidder should provide the Financial Capability based on its own financial statements. Financial Capability of the Bidder's parent company or its subsidiary or any associate company will not be considered for computation of the Financial Capability of the Bidder.
- (b) Any Bidder being a Type 1, Type 2 or Type 3 Bidder should fill in details as per the row titled Sole Bidder and ignore the row below. In case of bidder being type 5 ignore the first row and provide relevant details of Lead Member in the subsequent row. For the purpose of evaluation on financial parameters, financial parameters of the Lead Member only shall considered in case of being bidder type 5.
- (c) Net Cash Accruals means Profit After Tax + Depreciation + Non cash Expenses.
- (d) Net Worth means Subscribed and Paid-up equity + Reserves + Share Allotment Money Already Received + Preference Shares (including Redeemable) + Convertible Debentures but excluding Warrants - (Revaluation reserves + Miscellaneous expenditure not written off)
- (e) The last financial year would be the year immediately preceding Year of the current financial year.
- (f) The Bidder shall provide complete set of the **audited annual financial statements complete with schedules, notes to accounts, auditor's report**. Failure to do so would be considered as a non-responsive Bid for Qualification.
- (g) The Bidder should clearly indicate the calculations and references in the financial statements in arriving at the above numbers in an attached worksheet.
- (h) For the purpose of Qualification, a Bidder would be required to demonstrate the threshold of Net Worth and cash accruals etc. as given in the RFQ cum RFP
- (i) In case the Bidder is a Consortium, for the purpose of evaluation the Lead Member's Financial Capability (net worth and net cash accruals) should be equal to 100% of the capability criteria as stipulated in this document and further the Lead Member shall commit to hold a minimum equity stake equal to 51% and all members of the Consortium shall individually, commit to hold a minimum equity stake of not less than 11% of SPC.

STA or BEC shall shortlist of those bidder(s) who fulfils the above criteria of financial capability and announce the names of the qualified bidder(s) for consideration of their financial bids.

(iii) **Criteria for evaluation of Financial Bids**

Financial bids of only those bidders, whose financial capability has accepted by the STA or BEC, shall be opened and considered. After opening the financial bids a chart will be prepared in the following format:-

| Sl.No. | Name of the Bidders | Contribution/Royalty offered by the bidder per year in Rs. lakhs for 100 buses | Ranking |
|-------------------|---------------------|--|---------|
| 1 | 2 | 3 | 4 |
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 and so on | | | |

Preparation of select list

- (a) The bidders shall be ranked-highest ranking to lowest ranking on the basis of quantum of amount of contribution/royalty quoted by the bidder(s) in the financial bid and will be mentioned in column-4 in chart prepared above.
- (b) Select list of **two top** bidders shall be prepared by the BEC on the basis of above ranking.
- (c) The bidder who quotes maximum amount in the above evaluation shall be declared as the highest (H1) bidder. In case of a tie between two bidders for top rank, then the financial bids of both the bidders shall be accepted and they will be placed in select list of two top bidders. In case of a tie between more than two top bidders, then the financial bids shall be submitted again by such bidders to the STA to break the tie, provided however, that such re-submission of financial bid(s) by the bidders shall not, in any event, be lower than their respective original financial bid(s). Such subsequent financial bid(s) shall also be evaluated on the same criteria as the original financial bid(s).
- (d) Select lists shall be forwarded by the BEC to the STA for consideration and final selection/decision.

(16) Notification to Successful Bidder(s) by the STA

Before the expiry of the period of validity of the Bid, STA shall notify the Successful Bidder(s) on the basis of consideration of the recommendation/suggestion made by the BEC constituted by the STA for its assistance, and accordingly inform the successful bidders/applicants in writing by registered AD and email by issuing the Letter of Acceptance to such Successful Bidder(s) which shall amount to grant of permit to the bidders/operators. The Successful Bidder(s) shall send its acceptance to provide the specified buses as per terms and conditions finalized by STA on BOOM basis for the PaRTS Project as well as enter into the Agreement within one month from the date of receipt of the Letter of Acceptance/Grant of permit.

(Issue of letter of acceptance/grant of permit will be the subject to vacation of stay orders passed in writ petition no. 398(MB)/2008 (Uttar Pradesh Roadways Karmachari Sanyukta Parishad and an other Vs. Union of India and others) by the Hon'ble High Court of Allahabad at Lucknow bench).

(17) Signing of Agreement

Bidders should note that in the event of acceptance of their Bid, the Successful Bidder(s) would be required to execute the Agreement in the Format attached hereto in **Annexure-F** with such modifications thereto / therein as may be considered necessary by the Transport Commissioner at the time of finalization of the Agreement. Accordingly, Transport Commissioner hereby reserves the right to modify the terms of the Draft Agreement not amounting to post bid benefits. It is clarified that the issuance of the Letter of Acceptance shall be followed by signing of the Agreement (as aforesaid) and thereafter the Successful Bidder(s) shall commence provisioning and operation of the buses for the PaRTS Project. The signing of the Agreement shall be completed within a month from the date of receipt of the letter of grant of permits or within such time frame as extended by the Transport Commissioner.

(18) Expenses for the Agreement

Any and all incidental expenses of execution of the Agreement shall be borne by the Successful Bidder(s).

(19) Annulment of Award & Forfeiture of the Bid Security.

Failure of the Successful Bidder(s) to comply with the requirements set forth in this RFQ cum RFP Document and /or the provisions of the Agreement shall constitute sufficient grounds for the annulment of grant of the award and forfeiture of the Bid Security.

(20) Issue of Permits

After the signing of the agreement and producing the service certificate issued by the Competent Authority, STA shall issue the granted permits for operation of the buses in the PaRTS Project. (Issue of permits will be the subject to vacation of stay orders passed in writ petition no. 398(MB)/2008 (Uttar Pradesh Roadways Karmachari Sanyukta Parishad and an other Vs. Union of India and others) by the Hon'ble High Court of Allahabad at Lucknow bench).

(21) Discharge of Bid Security of unsuccessful Bidder(s)

The Bid Security of unsuccessful Bidder(s) will be discharged / returned by the STA as promptly as possible after the expiry of Bid validity and latest after the 30th (thirtieth) day of the signing of the Agreement with the Successful Bidder(s).

(22) Discharge of Bid Security of successful Bidder(s)

The Successful Bidder(s) shall be required to furnish a performance guarantee on or before the date of signing the Agreement. The Bid Security of a Successful Bidder shall be discharged only after the Successful Bidder furnishes the performance guarantee as required. The Successful Bidder(s)' Bid Security shall not be adjusted against the Performance Guarantee.

(23) Failure to abide by the Agreement

The conditions stipulated in the Agreement shall be strictly adhered to by the Bus Providers/Operators and any violation thereof by the Bus Providers/operators may result in cancellation of permit and termination of the Agreement without prejudice to any rights available to TC upon such termination as set forth in the Agreement.

Chapter – F

GENERAL CONDITIONS OF CONTRACT

1. Application

These general conditions shall apply to Bus Provider to the extent that provisions in the Agreement do not supersede them.

2. Standard of Performance

- (i) Bus provider shall perform the services and carry out its obligations under the Agreement with due diligence, efficiency and economy, in accordance with generally accepted practices used in the industry and in a professional manner and shall observe sound management, technical and engineering practices. Bus Provider shall deploy appropriate technology, safe and effective equipment, skilled, competent and professionally trained staff and use latest methods for the PaRTS Project. In the event that STA requires any interaction and / or arrangement with a third party in relation to the PaRTS Project, Bus Provider shall act as a faithful advisor to STA in such process and shall, at all times, support and safeguard STA's legitimate interests in this context.
- (ii) Bus provider shall maintain service quality and other performance as per standards given in the RFQ-cum-RFP document.

3. Use of Agreement & Information

- a. Bus Provider shall not, without Transport Commissioner's prior written consent, disclose the contents of this Agreement, or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of Transport Commissioner in connection therewith, to any person outside the scope of the PaRTS Project.
- b. Bus Provider shall not, without Transport Commissioner's prior written consent, make use of any document or information, which becomes available to Bus Provider during the performance of the Agreement, except such use of information for the purpose of performing the Agreement.
- c. All documents other than the Agreement itself, including without limitation any drawings, plans, specifications, charts, etc. shall remain the property of STA and shall be retained (in all copies) by STA.

4. Indemnity

Bus Provider shall at all times, i.e. during the subsistence of the Agreement and any time thereafter, defend, indemnify and hold GoUP/STA harmless from and against all claims (including without limitation claims for infringement of intellectual property, breach of contract, death or injury to a person or injury to property, or other tort claims) and expenses (including court costs) arising out of or relating to the breach by Bus Provider of any covenant, representation or

warranty or from any act or omission of the Bus Provider or his agents, employees or sub contractors. STA/DA will notify Bus Provider of any such claim, suit or proceeding and will assist Bus Provider (at Bus Provider's expense) in the defence of the same.

5. Performance Guarantee

- (a) Before signing the Agreement with the Transport Commissioner, Bus Provider shall furnish a performance guarantee to TC, UP, **for an amount equal to Rs 100,00,000/- (Rs one crore)** in the form of a Bank Guarantee from any Scheduled Bank approved by RBI or Demand Draft / Bankers' Cheque drawn in favour of "Transport Commissioner, UP" payable at Lucknow. However, should Bus Provider furnish Bank Guarantee of foreign banks, the same should be counter guaranteed by a Scheduled Bank approved by RBI. The Bid Security submitted by the Successful Bidder shall not be adjusted against the Performance Guarantee. The general format of the bank guarantee for Performance Guarantee is set forth in **Annexure-E** of this RFQ cum RFP.
- (b) Performance Guarantee in the form of a bank guarantee shall be irrevocable and valid for the entire Agreement Period and an additional period of 180 (One hundred and eighty) days thereafter.
- (c) The Performance Bank Guarantee may be forfeited mainly in respect of the following, besides others given in RFQ-cum-RFP Document elsewhere:
 - Non-fulfillment of any or all of the bus providers' obligations with reference to the bus provider Agreement for PaRTS Project
 - Non-payment of any of the dues payable to TC by the bus provider in respect of the following, amongst others:
 - Liquidity Damages delayed / short / non-supply of buses of prescribed specifications, or the fleet mix ratios duly equipped with various amenities / facilities
 - Fines / penalties for defaults / deficiencies in performance of the services / obligations
 - Fund Contribution
 - Interest leviable on delayed / non-payment of dues
 - Non-provisioning of parking facilities / control rooms / workshops / repair & maintenance arrangements within the stipulated time mentioned in RFQ cum RFP document.
 - Any other default / deficiency in fulfillment of the obligations by the bus provider as per the Agreement

6. Representations and Warranties

- a. Bus Provider hereby represents and warrants that the buses and the services implemented under the PaRTS Project shall be:
 - (i) in accordance with the standards laid out in the RFQ cum RFP and/ or by STA for the PaRTS Project and those provided during the term of the agreement;

- (ii) provided under the BOOM scheme shall be as per the specifications given in the RFQ cum RFP and meeting all mandatory, legal and other statutory requirements.
 - (iii) compliant with the System Requirements/Specifications set forth in this RFQ cum RFP;
 - (iv) fit and sufficient for the purpose(s) for which they are designed and developed;
 - (v) one third new (less than two years old) at the stage of induction and there-after as given in the RFQ cum RFP / agreement , certified for quality; and registered with the concerned agency after completing all legal, statutory and other requirements,
 - (vi) free from defects in design, material and workmanship, whether latent or otherwise.
- a. Bus Provider hereby represents and warrants that neither the buses for the PaRTS Project nor any use thereof for DA/STA will infringe any patent, trademark, copyright, trade secret or other proprietary right of a third party.
 - b. Bus Provider hereby further represents and warrants that the mass passenger road transport services, Bus Provider(s) provides hereunder shall be performed in a competent manner and be for any purpose for which Bus Provider knows or has reason to know DA/STA intends to use such services.
 - c. Bus Provider hereby agrees that the above stated Representations and Warranties (i) shall survive the inspection, acceptance and use of buses for the PaRTS Project by DA/STA or any other authorized agency (ii) are for the benefit of DA/STA and (iii) are in addition to any warranties and remedies to which DA/STA may otherwise agree or which are provided by law.

7. Exit Clause

Bus Provider may transfer his right/interest with the approval of STA, provided the transferee satisfies all stipulated criteria.

8. Delay/default in providing buses to the PaRTS Project and deficiencies/default in quality of service by the Bus Providers

- a) The Bus Provider shall ensure that the buses are provided to the PaRTS project on BOOM basis as per the time schedule given in the Agreement and / or any amendments thereto. A delay by Bus Provider in the performance of its obligations under the Agreement shall render Bus Provider liable to any or all the following sanctions in the sole discretion of STA.
 - (i) Forfeiture of Bus Provider's Performance Guarantee
 - (ii) Imposition of liquidated damages on Bus Provider in terms of this RFQ cum RFP, and / or
 - (iii) Termination of the Agreement
- b) Bus provider shall ensure that quality of service rendered is as per the specified standards or better if so quoted by him in his bid. Any default/deficiency in service quality performance shall attract

penalties/fines as specified in **Annexure A** to the RFQ cum RFP document. Bus provider shall ensure timely payment of the same failing which actions as provided for at sub clause 'a' above besides any other action deemed fit shall be taken.

- c) If at any time during performance of the Agreement, Bus Provider or its Consortium partners should encounter conditions impeding the timely completion and / or performance of the services under the Agreement, Bus Provider shall promptly notify Transport Commissioner in writing of the fact and reasons for the delay and likely duration of such delay. As soon as practicable after receipt of Bus Provider's notice in this behalf, Transport Commissioner shall evaluate the situation and may at its discretion extend Bus Provider's time for performance of Bus Provider's obligations under the Agreement. Any such extension shall be valid only if ratified by the parties by way of making appropriate amendment(s) in writing to the Agreement as may be mutually agreed to between the parties.

9. Quality Check & Acceptance of buses

Bus Provider shall certify that offered buses are according to bus specifications as per bus code AIS 052 and Annexure-B. The buses offered by the Bus Provider for the PaRTS Project shall be inspected for acceptance / rejection (as applicable) accordingly by Transport Commissioner or its authorised agency.

10. Payment Terms

- a) Payment of Contribution or Royalty by the Bus Provider (as per the Agreement) to PAF shall be made in lumpsum once in a year. The aforesaid lumpsum payments by Bus Provider towards PAF shall be made within seven days from the appointed date and failure to do so will attract an interest of 18% per annum (1.5% per month) on the entire amount of the outstanding amount.
- b) Payment of any other dues such as Liquidated Damages, fines / penalties for delays / defaults / deficiencies in fulfillment of bus providers' obligations besides interest on non / short / delayed payments shall be made as per the scheduled dates prescribed by the TC for making of the payments by the bus provider.
- c) Any and all payment(s) of contribution/ liquidated damages/penalties etc by the Bus Provider shall be by way of a Pay Order / cheque of a Scheduled Bank drawn in favour of the "Transport Commissioner, UP," and payable at par at Lucknow or in cash at the counter of the Transport Commissioner's Office. When-ever feasible the payments would be effected through the ECS and or any other mechanism followed by the banks for which the bus provider / TC shall have to complete necessary formalities as required by the bankers.
- d) Any and all applicable taxes including without limitation any and all Service Tax in the performance of the services under the Agreement shall be borne by the Bus Provider.

11. Liquidated Damages

In the event of delay in induction of buses by the Bus Provider in relation to the schedule stipulated in the Agreement for the PaRTS Project, or any subsequent amendment thereto, STA TC shall recover from Bus Provider liquidated damages (and not by way of penalty) @ Rs.1,000/- (Rupees one thousand) per bus per day of delay. Further, Liquidity Damages shall also be recovered for delays / non-provisioning of any or all of the following within the prescribed time schedule as per details in **Annexure A**.

- Bus repair workshops / arrangement for day to day repairs and maintenance of buses as per RFQ-cum-RFP Document
- Control rooms –
- Parking Spaces
- Bus mix fleet ratio comprising of minimum 60% of ordinary fare buses while upto 40% of the fleet may be super deluxe, deluxe and semi deluxe.
- Age profile of buses as per RFQ-cum-RFP document.

12. Implementation

- i) Bus Provider shall make the buses available after due inspection, registration etc and complete with all documents, certificates as required for the PaRTS Project as per the schedule and commence their operations as per the duty schedule, on routes as they have structured & finalized and submitted to STA/RTA.
- ii) Bus provider shall ensure, at all times, that service quality and other performance standards are maintained throughout the Agreement. Fines/penalties shall be levied for any defaults/deficiencies in performance.
- iii) Movement of buses will be monitored via GPS at regional control rooms to be established jointly by the selected bus providers by an independent monitoring committees constituted for this purpose.

13. Ownership & Protection of Property

- a) DA shall retain the title and ownership of site if any allowed to use / allotted by DA to Bus Provider for purposes of carrying out Bus Provider's obligations in relation to the PaRTS Project. Such title and ownership of DA in any such site shall not pass to Bus Provider.
- b) Transport Commissioner shall own any and all data created out of the PaRTS Project at all the times, during and after the expiry / termination of the Agreement. Bus Provider shall not have any claim on/and for such data and shall not for any reason withhold such data from Transport Commissioner.
- c) Bus Provider shall exercise all due caution to protect and maintain the data created out of / during this PaRTS Project.
- d) Bus Provider shall not share, sell or in any manner use the data created by Bus Provider out of this PaRTS Project otherwise than in accordance with the terms of the Agreement.
- e) Upon expiry or earlier termination of the Agreement, Bus Provider shall transfer the possession of any and all assets including without limitation

any hardware, software etc. designed, created, implemented by Bus Provider for the PaRTS Project to TC.

14. Intellectual Property Rights

- a) Bus Provider shall acknowledge and agree that any and all hardware, software, and / or firmware developed by Bus Provider for Transport Commissioner in relation to the PaRTS Project and any modifications thereto or works derived there-from shall be the exclusive property of Transport Commissioner at all times and Transport Commissioner shall retain all right, title and interest in and to the same. Provided however that the Bus Provider shall have the right to possess and use the same during the Agreement Period for purposes of effective implementation, operation and maintenance of the PaRTS Project on specific approval of the same by Transport Commissioner.
- b) After the expiry or termination of the Agreement Bus Provider shall have no right, title or interest in or to any work including without limitation the designs, software, modifications or facilities developed by Bus Provider for Transport Commissioner under the PaRTS Project for any purpose whatsoever.
- c) For purposes of this RFQ cum RFP and the Agreement the terms “software”, “software programs” shall include without limitation the specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided by Transport Commissioner to the Bus Provider in relation to the PaRTS Project pursuant to the Agreement, if any.
- d) TC may allow, in its sole discretion, the use of any and all buses used in relation to the PaRTS Project by Bus Provider to a third party for the purpose of advertisements etc inside / outside the buses.

15. Confidentiality Obligations of Bus Provider

(a) Confidential Information

- (i) Bus Provider shall treat as confidential any information which is clearly described as confidential and marked as confidential and is under proprietary to Transport Commissioner.
- (ii) Bus Provider shall not without Transport Commissioner’s prior written consent use, copy or remove any Confidential Information from TC’s premises except to the extent necessary to carry out Bus Provider’s obligations hereunder. Upon completion or termination of each assignment hereunder, Bus Provider shall return to Transport Commissioner all documents or other materials containing Transport Commissioner’s Confidential Information and shall destroy all copies thereof.

(b) Confidentiality Exceptions

Confidential Information shall not include information which:

- (i) is or becomes generally available to the public without any act or omission of Bus Provider or

- (ii) was in Bus Provider's possession prior to the time it was received from Transport Commissioner or came into Bus Provider's possession thereafter, in each case lawfully obtained from a source other than Transport Commissioner and not subject to any obligation of confidentiality or restriction on use or
- (iii) is required to be disclosed by court order or operation of law; in such event, Bus Provider shall so notify Transport Commissioner before such disclosure or
- (iv) is independently developed by or for Bus Provider by persons not having exposure to Transport Commissioner's Confidential Information.

(c) Period of Confidentiality

Bus Provider's obligations of confidentiality regarding TC's Confidential Information shall terminate 3 (three) years after the expiry or earlier termination of the Agreement.

16. Suspension

On the occurrence of any of the following events, Transport Commissioner shall by a written notice of suspension, suspend any agreements as set forth in the Agreement which may have been granted to the Bus Provider there-under:

- (i) in the event and to the extent Transport Commissioner is required to do so by any applicable law(s), rule(s), guideline(s), or court order(s). Any such notice of suspension shall specify the applicable law(s), rule(s), guideline(s), or court order(s).
- (ii) in the event Bus Provider fails to perform any of its obligations under the Agreement as required (including the carrying out of any services there-under). Any such notice of suspension issued by Transport Commissioner to Bus Provider shall specify the nature of the failure and may request the Bus Provider to remedy such failure within a specified period, as decided by Transport Commissioner in its sole discretion, from the date of issue of such notice of suspension.

17. Termination

- (a) Without prejudice to any other rights available to Transport Commissioner for breach of contract or otherwise, Transport Commissioner may in its sole discretion terminate the Agreement in whole or in part if:
 - (i) Bus Provider fails to perform any of Bus Provider's obligations set forth in the Agreement; and / or
 - (ii) Bus Provider fails to adhere to the timelines set forth in the Agreement for performance of Bus Provider's obligations there-under; and / or
 - (iii) Bus Provider fails to comply with the applicable Acts, Rules, Regulations and Laws.
- (b) In any of the above mentioned conditions, Transport Commissioner shall have the right to

- Invoke the Performance Guarantee and / or take any other action including provisioning of buses to the PaRTS Project through another Agreement with any replacement Bus Provider selected by STA in its sole discretion at the risk and cost of the bus provider.
 - Take over the entire infrastructure developed by Bus Provider for the PaRTS Project or any part thereof and / or negotiate with Bus Provider to transfer the said infrastructure or part thereof to a replacement Bus Provider selected by STA, in Transport Commissioner's sole discretion.
- (c) If Bus Provider, having been notified, fails to remedy the defect(s)/ defaults/deficiencies etc within a timeframe specified in the RFQ-cum-RFP and as decided by TC, TC may proceed to take such remedial action as may be necessary, at Bus Provider's risk and expense and without prejudice to any other rights which Transport Commissioner may have against the Bus Provider under the Agreement.

18. Termination for Insolvency, Dissolution etc

Transport Commissioner may at any time terminate the Agreement by giving written notice to Bus Provider without any compensation to Bus Provider, if Bus Provider becomes bankrupt or otherwise insolvent or in case of dissolution of firm or winding up of the company, provided that such termination will not prejudice any other rights of Transport Commissioner. Notwithstanding the generality of the foregoing, Transport Commissioner reserves the right to invoke the Performance Guarantee and / or take any other action including provisioning of buses to the PaRTS Project through another Agreement with any replacement Bus Provider selected by STA in its sole discretion at the risk and cost of the bus provider, take over the entire infrastructure developed by Bus Provider for the PaRTS Project or any part thereof and / or negotiate with Bus Provider to transfer the said infrastructure or part thereof to a replacement Bus Provider selected by STA, in Transport Commissioner's sole discretion.

19. Force Majeure

- a) Transport Commissioner shall not forfeit Bus Provider's Performance Guarantee or charge liquidated damages or terminate the Agreement for default, if and to the extent that delay in performance or failure to perform Bus Provider's obligations under the Agreement is the result of an event of Force Majeure.
- b) For purposes of this Clause "Force Majeure" means an event beyond the reasonable control of Bus Provider. Such events may include wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- c) If a Force Majeure situation arises, Bus Provider shall promptly notify Transport Commissioner in writing of such conditions and the cause thereof. Unless otherwise directed by TC in writing, Bus Provider shall continue to perform its obligations under the Agreement as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

20. Steering Committee

(1) Constitution of the PaRTS Project Steering Committee

- (a) GoUP may constitute a Steering Committee to oversee and monitor the work performed by the Bus Provider(s). The Steering Committee shall comprise of the following persons:
 - (i) 5 (five) representatives nominated by the GoUP,
 - (ii) 1 (one) representative of each of the Bus Providers,
 - (iii) 1 (one) representative of the STA
 - (iv) 1 (one) representative of UPSRTC, and
 - (v) such other experts as deemed necessary to be appointed by GoUP in its sole discretion.
- (b) Out of the 5 (Five) representatives nominated by the GoUP, 1 (one) shall be appointed as Chairman of the Steering Committee and 1 (one) shall be its Member Secretary.
- (c) As the PaRTS Project is an entirely new initiative taken by the GoUP in the Mass Passenger Road Transport System involving totally new concepts of planning / implementation situations, the Principal Secretary (Transport), GoUP, may be assigned the position of the Chairman of the Steering Committee for facilitating coordination at various levels in other Departments of the Government besides the UPSRTC.

(2) Functions, Role and Frequency of Steering Committee Meetings

- (a) The Steering Committee shall carry out such functions and exercise such powers as are determined by GoUP from time to time including, without limitation, examining the reports submitted by the monitoring committees.
- (b) The Steering Committee is expected to hold meetings at least once every month to review the progress made/operational performance etc in relation to the PaRTS Project.
- (c) The Steering Committee may establish one or more Sub Committee to assist it in its work.

22 (a) Constitution of the Monitoring Committees

To oversee and monitor the work performed by Bus Provider under the PaRTS Project, GoUP shall constitute the Monitoring Committees at the Regional Headquarters of the State of Uttar Pradesh under the chairmanship of the Commissioner of concern revenue division with following member:

- (i) District Magistrates of the Regional Headquarter Districts – Member
- (ii) All Police Heads of the districts within the jurisdiction of region - Members
- (iii) Regional Transport Officer of the concern region - Convener

- (b) **Functions, Role and Frequency of Monitoring Committees Meetings**
- (i) All the Monitoring Committees will perform his work under the direction and supervision of State Transport Authority, Uttar Pradesh.
 - (ii) The Monitoring Committees shall carry out such functions and exercise such powers as are determined by STA from time to time including without limitation examining the reports submitted by bus provider(s).
 - (iii) The Monitoring Committees are expected to hold meetings at least once every month to review the progress made/operational performance etc in relation to the PaRTS Project during the agreement period.
 - (iv) The Regional Transport Officer of the concern region shall with the approval of the Chairman prepare a list of item to be considered in the meeting and shall issue to each member of the committee before the meeting and prepare a minutes to send the report to the Transport Commissioner, UP.
 - (v) GoUP reserves right to change, in its sole discretion, at any point of time during the Bus Provider agreement Period, the constitution of the Monitoring Committees either by removing /replacing any of the members of the Monitoring Committees which are appointed by GoUP or by nominating any further persons.

Chapter- G

SCOPE OF SERVICES

1. Overview of the Scope of services for the PaRTS Project with regard to bus provider activities

In order to achieve the Aims and Objectives of the PaRTS project, GoUP/TC plans to implement the PaRTS project of mass passenger public road transport system in the entire state as specified in the Scope of services

(1) Bus Provider shall:

- a) buy, Own, Operate and Maintain buses as per bus specifications prescribed by STA in the RFQ cum RFP document and operate them for the PaRTS project as per the schedules, on routes of the area as they have structured & finalized and submitted to STA/RTA.
- b) make arrangement of the parking spaces for the buses @ 200 sq.mtr. per bus atleast at each district level within one year and central control room (s) jointly by the selected bus providers atleast at each Regional HQ within one year, rest control rooms at each district and depot level for online monitoring of services, etc., at his cost as and when TC prescribes. DA, may in due course endeavour (not to be construed as any assurance) to create such parking spaces and offer it to the bus providers on lease for the duration of the contract for the purpose of parking of buses as per terms and conditions finalized by the DA.
- c) make available the assigned number of buses as per the prescribed fleet mix ratios or as amended, if required, for the operation at a place, time, for the duration etc and operate them on routes, schedules, trips, etc at his cost from time to time as per terms & conditions of the agreement.
- d) provide trained and skilled staff for operation, maintenance and supervision of the buses and other facilities related there to at his cost for services as per the agreement.
- e) ensure quality of buses, purchased by him, to be as per the prescribed specifications. Obtain all certificates, test reports, and other documents as indicated in the specifications and submit them to TC or authorized officer. Get the buses inspected and approved by TC or authorized officer and obtain a certificate of acceptance to enable him to commence operations in the PaRTS project.
- f) arrange for regular preventive maintenance and break down repairs etc at his own workshop or through an annual maintenance contract with the bus manufacturer or his authorized dealers or through other well equipped workshops.. Submit a certificate of inspection from the authorised dealer or representative of the bus manufacturer, interalia indicating that the bus is in full roadworthiness state of operation, free from any defect, deficiencies etc meeting all the specifications as contracted.
- g) co-operate with all other service providers and facilitate their operations in the PaRTS Project e.g. for the on board advertisements by the advertising agencies / advertiser, terminal facilities provider if any, etc
- h) operate the buses maintaining highest standards of service quality including behavior of the crew and the other staff. Implement all the instructions,

directions, guidelines etc issued through various means of communications by the TC.

- i) ensure cleanliness of buses at all times both inside and outside.
- j) ensure crew interventions for the route destination display system as required by the system for efficient and proper operation of the system. Maintain the system in perfect operational state at all times.
- k) provide all information, data, records, documents etc as required by STA/TC /Monitoring Committees from time to time. Respond to all notices letters communications received from STA/TC/Monitoring Committees within the given time frame with complete and full replies.
- l) pay all dues to TC without any delays.
- m) train staff and retrain them periodically for updating their skills in all the related fields at his cost
- n) participate in all the meetings, committees etc as directed by the STA/TC/ Monitoring Committees from time to time.
- o) implement the PaRTS Project as per the schedule specified
- p) carry out all other obligations listed elsewhere either in the RFQ cum RFP or in the agreement .

(2) STA/TC shall;

- a) Specify the requirements and provisioning standards for the system and its elements clearly, engage all other services providers in time, develop the requisite PaRTS infrastructure and facilities, plan, schedule, monitor and control all the related activities of the system for timely implementation and commissioning of the system
- b) Establish systems, procedures. Develop service provider manuals on various aspects of the PaRTS services
- c) Ensure service quality performance to be as per the laid out requirements by various service providers
- d) Establish effective system of communication and coordination amongst all the stake holders of the system
- e) Ensure timely means of assessment and communication of defaults / deficiencies in the services provided
- f) Ensure timely and amicable resolution of disputes between various bus providers.
- g) Carry out all other obligations as detailed else where for efficient performance of the system on sustainable basis.

2.0 Rights, Duties and Responsibilities of the bus provider

(1) Rights of the Bus Provider Derived from the Agreement of the PaRTS Project

The bus provider expressly declares and accepts that the service provided is a service of public nature for all legal purposes and with the consequences derived from its nature. The contract to BOOM the buses for the transport activity/operation of the PaRTS Project, confers on the bus provider, on a non-exclusive basis, the following rights:

- (i) The right to provisioning of the passenger transport services within the PaRTS Project's Area and schedules etc and earn revenue from user charges at rates as fixed / approved by GoUP for the provision of the services.
- (ii) The right to use the transport infrastructure of the PaRTS Project and use same within the limits imposed by the operating conditions established by DA.
- (iii) The right to use, if needed, individually and/or together with any/all other service provider contract holders and bus operators/operators of the feeder system as and when operationalised, bus stations/bus terminals, the technical support system/ parking area of the operations yard if provided by DA or by its any other agency, as per the rates, terms and conditions laid out by the DA.
- (iv) The right to use, if needed, individually and or together with any/all other service provider contract holders and bus operators/operators of the feeder system as and when operationalised, the parking area of the operations yard of another concession holder, if so decided by DA or by its any other agency, as per the rates, terms and conditions laid out by the DA.

Note: The above efforts mentioned in point (i), (ii) & (iv) shall not be construed by the bus provider as assurance of any kind.

- (v) The right to execute all contracts and operations which it may deem useful to its interests, provided they are within the scope of the rights and obligations which may arise from this contract and which are consistent with its purpose.
- (vi) The right to pledge, or in any other form, encumber up to 50% of the future revenues which accrue or may accrue by means of this contract, provided that the purpose of said encumbrance is to guarantee or ensure the payment of credits which the bus provider may obtain for investments designed to further the performance of this contract. In no case, may the rights of GoUP & TC be affected.
- (vii) The right to receive and dispose of freely the revenues, incentives, etc it may obtain as a result of PaRTS Project under the terms and conditions laid in this contract.
- (viii) The right to receive any other economic compensation which may be stipulated in this contract.
- (ix) The right to enjoy the rights conferred by this contract.
- (x) The right to obtain cooperation both from GoUP/TC as also from all other service providers and contractors, for the development of the Project within the legal framework of the contract.
- (xi) Right to carryout route structuring and trip scheduling etc in its Area of operation for high end and ordinary fare bus services and ensuring minimum services / connectivity etc as required in the agreement.
- (xii) Right to fix user charges / tariffs for all high end services (other than the ordinary fare services) and charge the same. For ordinary fare services, right to

approach and get fixed user tariff by the GoUP as per existing system and get them reviewed/ revised from time to time by the GoUP on the basis of WPI/CLI.

(2) Duties and Responsibilities of the bus provider derived from the bus provider Agreement of the PaRTS Project

(A) Regarding the provision of the mass passenger road transport services:

- (A)(i) To buy, own, operate and maintain requisite number of specified buses of type, design, shape, size, style and detailed specifications/quality requirements at his cost.
- (A)(ii) To provide bus fleet mix as per the requirements of the agreement of the PaRTS Project maintaining a minimum of 60% of the bus fleet as ordinary fare buses.
- (A)(iii) To ensure fitment of vehicle tracking system and all other equipment which must be installed in the buses as per **Annexure-B**. All these units shall be compatible with the systems available at bus station/ bus terminals etc
- (A)(iv) To maintain in adequate conditions of safety and transit, the route buses and fitment of equipment which it assigns to meet the services required.
- (A)(v) To ensure that all his equipments, buses etc are insured as per applicable laws and that all damages, liabilities caused by any incident/accident of buses whether to the bus provider's assets or to any third party are fully and completely taken care of by the bus provider and GoUP/TC is not held responsible for any of such damages/losses etc and is fully indemnified for them.
- (A)(vi) To maintain adequate conditions of cleanliness and security on the buses, stops, stations and the terminals used by him / assigned to the PaRTS Project, in compliance with the assigned obligations.
- (A)(vii) To provide the minimum service quality requirement as prescribed in **Annexure-C** and shall be maintained as worked out on monthly basis for every route and/or the area basis.
- (A)(viii) To make available to PaRTS Project the vehicles required for the provision of services as per time frame and under the terms and conditions as laid down in the RFQ-cum-RFP document.
- (A)(ix) To perform maintenance of equipment / buses strictly following manufacturer's instructions and to submit a certificate of road worthiness of the buses periodically i.e. every quarter, as per the contractual specifications of the bus manufacturer or his authorised dealer.
- (A)(x) To obtain the service certificate for operation into the Project, for vehicles assigned to the PaRTS Project's operation.
- (A)(xi) To provide adequate rural connectivity by ensuring that on an average every bus of the fleet covers 30 revenue villages (to drop and pickup passengers) per day and upto 40% of the total fleet kilometerage will have to be on rural routes.

- (A)(xii) To carry out route structuring and scheduling, in the allocated Area(s) as per traffic demand. While planning for these activities the minimum prescribed frequency of operations to every revenue village connected with motorable roads shall be ensured as per RFQ-cum-RFP document.
- (A)(xiii) To propose tariffs of Super Deluxe, Deluxe, Semi Deluxe bus services for notification by GoUP, while tariffs for Ordinary fare services shall be fixed / re-fixed from time to time by GoUP. On board tariff collection shall be made using hand held electronic ticket vending machines. The entire data collected and stored therein shall be transferred to the central control room and other control rooms to be established by the selected bus providers.
- (A)(xiv) To train drivers and organize refresher training programs as decided/accepted by TC/DA ensuring that the drivers know and strictly observe the applicable rules/regulations/practices/instructions for the operation of the buses within the PaRTS Project and of the environmental norms and guaranteeing the due attention and protection of the passenger.
- (A)(xv) The obligation provided at the above para, applies to the fact that drivers are duly qualified and are in possession of valid driving licence to drive heavy passenger transport buses in the allocated operational areas / routes. Before deployment of any driver on the buses provided for operation in the PaRTS Project, the bus provider shall arrange to get verified through conduct of tests-theoretical and practical examinations or procedures for evaluation of knowledge, skills and expertise of the proposed drivers by or an agency / individual appointed in this behalf and obtain a acceptance certificate for deployment of each and every driver. When on duty, the driver shall always carry this certificate. No driver without the said certificate shall ever be deployed on the buses provided for PaRTS project.
- (A)(xvi) To ensure that all the legal, statutory, and all other requirements as per the applicable labour acts/rules/regulation/practices are fully complied with by the Bus Provider and that GoUP/TC is fully and completely absolved of any responsibility, liability of any kind what so ever on this behalf and/or of any act of omission or commission by them. The GoUP/TC is expressly understood to be indemnified by the bus provider for any of the acts of omission/commission and of any consequential damages/losses caused by the bus provider's employees, agents, contractor, sub contractors, etc.
- (A)(xvii) To establish operations control rooms atleast at each district and depot level at his cost as and when TC directs, and arrange their on line communications with central control rooms established jointly by selected bus providers atleast at each regional headquarter within one year from the date of appointed date for monitoring and control of services. Bus provider shall ensure that the entire data collected processed by the bus operator is transmitted to the central control rooms on line and regularly.
- (A)(xviii) To submit, information, data, returns, reports, certificates etc as per the requirements of monitoring committees/STA from time to time at the defined place and within the stipulated time in relation to provisioning and operation of buses for the PaRTS project besides for any other related activity.

(A)(xix) To comply with the operating instructions issued by STA and to guarantee the operational-ability, security, quality and functionality of the System and to enforce them among its employees, contractors, subcontractors, agents or dependents along with the instructions issued by the GoUP its authorized representatives and or its control Centers/offices.

(A)(xx) To ensure that no deficiencies, defaults or failures in the quality of service provided and/or of any of the related elements of or acts of providing the specified bus transport service levels / provisioning facilities such as workshops, parking places, control rooms, etc., allowed to occur failing which accept and pay penalties/fines / liquidity damages as detailed in the RFQ cum RFP document/the agreement.

(A)(xxi) To extend full cooperation to and to facilitate the work of the Independent Monitoring Committees including provision of complete reliable and timely information and any other support needed for carrying out his responsibilities.

(2)(B) Regarding payments under PaRTS Project:

(B)(i) To pay the contribution or royalty in lump sum by the due date every year.

(B)(ii) To pay additional tax penalties/fines etc as per the RFQ cum RFP.

(B)(iii) To pay all dues by the scheduled date and in the prescribed manner.

(B)(iv) To pay user charges to UPSRTC for using bus stations/bus terminals as decided by DA.

(B)(v) To pay damages which may be caused to DA or to third parties, for non-compliance regarding delivery, induction and operations of buses and other actions or omissions of the bus providers. The party to enforce such damages is TC.

(B)(vi) To pay for the fines and penalties for deficiency in service quality besides Liquidity Damages for various delays / defaults in provisioning of buses / facilities:-

Offences committed under the Motor Vehicles Act, 1988 shall be dealtwith the punishment clauses of the said Act but the fines and penalties for deficiencies in service quality level and in other service related parameters besides liquidated damages for delay/default in provisioning of buses and other facilities shall be levied as per details placed at **Annexure A** to this RFQ cum RFP document. These fines and penalties shall be payable by the service provider as per schedule given in the agreement. Should payment as above not be made / delayed for any reason the Transport Commissioner shall invoke the performance guarantee and recover the dues. Transport Commissioner shall be free to recover besides these fines / penalties the penal interest for delayed payments from the service provider. Transport Commissioner shall also be free to take any other action as deemed fit in different cases.

(2)(C) Regarding operations yard/ bus terminals / bus shelters /parking places/ workshops as and when provided:

- (C)(i) To establish and maintain the bus parking yard/spaces has and where required @ 200 sq.mtr. per bus but at each district level within one year from the appointed date.
- (C)(ii) The bus provider shall either have his own workshop for various types of day to day repairs and maintenance activities atleast at each district headquarter level within a year from the appointed date and at elsewhere as and when TC directs or enters into annual maintenance contract (AMC) with the bus manufacturer or his authorized service centre or an AMC with any other accredited workshops.

3.0 Rights and obligations of GoUP/TC/DA

- (1) **RIGHTS OF GoUP/TC/DA:** The bus provider under this contract confers to GoUP/TC/DA, the rights that correspond to it in accordance to law and to its nature as owner and manager of the PaRTS Project, these include, without limitation, the following:
- (i) The right to keep the ownership on the System, and therefore, that this ownership be recognized and honoured by the bus provider.
 - (ii) The right to effect the structural planning of the PaRTS Project.
 - (iii) The right to prescribe minimum operational frequency of rural services to be planned by the bus provider and to be performed by the bus provider.
 - (iv) The right to exercise control of the PaRTS Project operation.
 - (v) The right to fix, revise, alter ordinary bus user tariff / charges
 - (vi) The right to levy penalties, fines, liquidity damages for delayed provisioning of buses as per prescribed lead mix besides provisioning of parking places / control rooms / workshop facilities, etc for service deficiencies / defaults etc and recover the same from the bus provider.
 - (vii) The right to fix minimum/maximum number of buses in the Area/Areas and distribute the total requirement of buses amongst a number of bus providers and or allocate buses to any bus providers to any areas/Areas to optimally meet the requirements of the PaRTS Project operation from time to time.
 - (viii) The right to recover liquidated damages from the bus provider at the prescribed rates per bus per day of delay compared to the scheduled delivery in providing the acceptable quality buses along with the requisite staff complete with all certificates etc.
 - (ix) The right to obtain performance guarantee of value described in RFQ cum RFP for performance of the contract either through a bank draft drawn in favour of "Transport Commissioner, Uttar Pradesh" and payable at Lucknow or through a bank guarantee valid for the duration of the contract .
 - (x) The right to issue to the bus provider, its employees, agents, contractors or subcontractors, the operating instructions which it may deem convenient in order to guarantee the operational-ability, safety, quality and functionality of the System
 - (xi) The right to supervise the performance and execution of this contract, and to have access to the documents and information where the bus provider's activities are recorded.
 - (xii) The right to determine, according to the convenience of the mass passenger public transport service based on buses, the future developments of the PaRTS Project 's infrastructure.

- (xiii) The right to appoint any other service provider etc and place on board any equipments, gadgets, etc as per requirement of the service provider.
 - (xiv) The right of restitution of the technical support areas in the operation yards, parking yards, workshops, bus depots, if any ever provided to the bus holders for their use during the currency of the contract and as per terms and conditions decided by the DA together with all their appurtenances and improvements, all of which will be attached to the assets delivered under administration, as per the terms and conditions foreseen in this contract.
 - (xv) The right to supervise and carryout such management services as deemed necessary for the proper provision of mass passenger road transport services in the area(s) of the PaRTS Project and levy and collect Contribution/Royalty from the bus provider for such services.
 - (xvi) The right to authorize / reject / modify the placement of advertising material inside the buses or to reject such authorization, where specifications, norms and guidelines contained in the manuals and regulations issued or may issue are not complied with, or due to limitations in the contents of said material.
 - (xvii) The right to stop the authorization for the placement of advertising material, if studies on the demand show that advertising adversely affects the use of the PaRTS services or otherwise.
 - (xviii) Right to prescribe bus mix fleet wrt type, category, capacity of buses etc, their head ways, deployments etc to provide mass passenger road transport services to the various segments of commuters in different areas, routes, timings etc as per the details in the RFQ cum RFP document.
 - (xix) Right to obtain on line information about rider-ship, revenue collection, operations, quality of service on regular basis and as per requirement. Right to get set up central control room(s) and connect them to the bus providers' control rooms for monitoring and control of services of the bus providers.
 - (xx) Right to appoint a steering committee and independent monitoring committees for the PaRTS project and for any other related work.
 - (xxi) Right to amend the agreement terms and conditions in any or all clauses in public interest not amounting to post bid benefits to the bus provider.
- (2) **Obligations of GoUP/TC/DA:** The contract awarded to the bus provider establishes the following obligations on GoUP/TC/DA:
- (i) To effect, either itself or by proxy, the planning and control activities of the PaRTS Project, which enable the bus provider to perform the transport activity object of this contract.
 - (ii) To allow the operation on all routes of the entire State to the bus providers in transparent and equitable manner as per the terms and conditions of the RFQ cum RFP.
 - (iii) To deliver in administration, the operations yard as and when possible/feasible in future and as per terms and conditions finalised by DA to the bus providers, mainly in accordance with the conditions mentioned in this contract if any. This is only a facilitation by DA and should not be construed as any assurance.
 - (iv) To refrain from disposing of the assets delivered under administration, if this affects the rights of the bus providers.
 - (v) To make diligent use of the resources available/collected at Uttar Pradesh, judiciously aiming at continued sustainability and growth of the mass passenger public transport system in Uttar Pradesh.

- (vi) To adopt necessary measures in order to guarantee the peaceful possession of rights or assets affected or delivered for the exploitation of the contract. This obligation is understood only for dispossession purposes.
- (vii) To revise bus user tariff / charges, payable to the bus providers by the commuters of ordinary services, inter-alia on the basis of the variation in wholesale price index and Cost Living Index.
- (viii) To expeditiously demand the prepared route plans, time tables, unified time tables and ordinary bus services for rural services in the entire Area(s).
- (ix) To notify the user charges / user tariffs for high end services as per recommendations/proposals of the services provider(s).
- (x) To guarantee and allow the bus provider to operate the contracted buses in the allocated area(s) as per laid out schedules.
- (xi) To institute a mechanism of redressal of bus operators / other service providers' grievances within a maximum period of seven days of the submission of the application for the same. To form a Steering Committee and Monitoring Committees under this Agreement. All issues arising out of the PaRTS Project, which can not be resolved by discussions etc at the level of the concerned officials shall be referred to the Steering Committee, which decision shall be binding upon Parties
- (xii) To institutionalize the tariff / operations regulatory mechanism, bus stations/ bus terminals/bus stops user charges fixing / reviewing mechanism, inspection and certification of buses stations using state of the art equipments/gadgets etc as soon as possible.
- (xiii) To ensure collection of the contribution or royalty and revised amount after every two years from the bus provider as per the payment schedule etc failing which collect the dues along-with the penal interest calculated on the overdue payment as per RFQ cum RFP document.
- (xiv) To verify the service quality performance compliance and work out penalties as set forth in the RFQ cum RFP document on monthly basis. The penalty shall be paid by Bus Provider as and when TC directs.
- (xv) To undertake all other tasks required for smooth functioning of the PaRTS project in the state of UP.

4.0 Legal Regime

This contract shall be governed by the civil and commercial norms in effect in the State of Uttar Pradesh except in matters particularly regulated by law, the norms and decrees replacing, supplementing or amending same and as provided in all other consistent regulations which may be applicable.

The legal jurisdiction of this contract and any matter related thereto shall be the courts at Lucknow, Uttar Pradesh.

5.0 Tax Regime of The Project

- (1) The tax matters of this contract will be governed in accordance with the following:
 - (i) The execution of this contract will be in accordance with the provisions of applicable tax regulations of the State of Uttar Pradesh.

- (ii) All taxes, duties and contributions imposed or to be imposed at the National level, State level or by any territorial entity or any other authority, and which accrue as a result of the execution, signature, performance, compliance or liquidation of this contract will be assumed by the bus provider.
- (2) The taxes, duties or contributions imposed or to be imposed on the title of the assets delivered under administration if any, will be assumed by the bus provider as of the date of the Delivery Certificate of the assets, if any, whether provisional or final.
- (3) The additional tax will be charged as per UP Motor Vehicles Taxation Act and rules / regulations etc. and as amended from time to time. The GoUP will endeavour to provide a level playing field for the bus provider

6.0 Disqualification

The bus provider declares under oath, which is understood taken upon signature of this contract, that on this date it is not subject to any disqualification provided for in the Constitution or the law, and its regulatory Decrees, or by any other applicable norm.

7.0 Economic Aspects of the Project

- (1) Establishment and management of the Passenger Amenities Fund:-
PAF shall be established by the GoUP and the funds generated from the project and all other income which the project may receive will be administered and managed by the Transport Commissioner U.P..
- (2) Responsibility of the Transport Commissioner U.P. in Funds Disposal:-
The Transport Commissioner, UP is charged with the responsibility of administration of the funds derived from the project and all other income which the system receives, and its dispersals to various claimants. The Corpus shall be required to receive the entire collection of contribution and other revenues collected so in a most efficient manner with adequate safeguards, monitoring and control systems / mechanism ensuring maximum returns to carryout the management, investment, payment and management of the entire cash flows which are to be directly related to the development and functionality of the PaRTS Project.

8.0. Preservation of the Infrastructure

The preservation of the infrastructure shall be made on the terms and conditions which guarantee the efficient operation of same, technical suitability of the organization and performance of the operation yards, permanent availability of the fleet required for continuity and safety of the passenger transport public service of the PaRTS.

In any event, when upgrading works are being carried out, the renewal of work stability policies will be reviewed.

9.0 Vehicles

(1). Provision of vehicles

- (i) The bus provider will be responsible for providing the vehicles required to meet the services planned by the Project, with the fittings and specifications which STA establishes and in accordance with applicable legal regulations in force.
- (ii) The obligation related to the provision of vehicles will be understood to have been complied with, when vehicles correspond exactly to the specifications established for its operation within the PaRTS Project in Public Notice / advertisement and provided that compliance with the obligation regarding fleet replacement has been accredited.

(2) Specifications of vehicles

- (i) The specific characteristics of the type of vehicle which the bus provider undertakes to provide to the PaRTS Project shall be for all effects, those herein provided, in accordance with this document.
 - (ii) The model year of the vehicles provided to the PaRTS Project's should conform to the condition that one third of the buses in the fleet should be less than two years old, while two thirds of the buses may be upto 8 years of age. However, the average age of fleet at any given time should not be more than 5 years. As soon as any bus in the fleet attains the age of 8 years it shall be replaced by a new bus, not more than two years old, nor any used parts, components or re-worked vehicles for purposes of the initial fleet to be incorporated to the regular operation in the PaRTS Project. To verify the requirement of this clause and in order to establish the model year of vehicles in the case of vehicles comprised by chassis and bodywork, the model year of the chassis will be taken into account.
 - (iii) TC or any nominated officer reserves the right to verify with manufacturers or with certifying entities the model corresponding to each vehicle linked to the Project.
 - (iv) When the type of vehicles provided for herein requires precise dimensions for the different characteristics of the vehicles or in case that maximum or minimum ranges are established for its properties or require specific characteristics, the modification or change of these characteristics or variations to these ranges when there is prior express and written authorization by the Authority which authorization may be issued to the bus provider provided that there are technical studies which fully justify such changes.
 - (v) Also STA may add or delete elements of specification of vehicles which due to their conditions or technological circumstances of the infrastructure improve the Project's operation, in agreement with the bus providers. The implementation cost of these changes or modifications will be for account of the bus providers.

(3) Allocation of vehicles to service:

Only vehicles which have been issued a Service Certificate by the STA or any nominated officer may operate. This Certificate shall be issued on vehicle wise, only when the following requirements have been met:

- (i) To deliver to STA or any nominated officer of a certificate issued by vehicles manufacturers or suppliers which certifies that the vehicles comply with the specifications provided here.
- (ii) To have vehicles available to STA or the entity it appoints to make a technical inspection who will ensure compliance with specifications and minimum equipment of vehicles as provided for herein including the incorporation and functionality of the logical unit and of the communications and control system, if any, required by Project provided above.
- (iii) To have vehicles duly registered with the transport authority in Uttar Pradesh and provided with the registration number and the certificate of registration etc.
- (iv) To show that the vehicle is covered with the Mandatory Insurance Policy in force, so long as this insurance remains a legal obligation.
- (v) To evidence compliance with PaRTS's Corporate Image Manual as it related to communication strategies which involves internal and external appearance of the vehicles established by the PaRTS Project.
- (vi) The Service Certificate shall be a mandatory requirement for remuneration of the activities undertaken by the operator within the PaRTS Project by each vehicle assigned thereto.

(4) Vehicle Maintenance

- (i) The bus provider must deliver to the TC or nominated officer upon request, manuals and minimum standards recommended by the manufacturers or suppliers of the vehicle. It will make available to the TC or nominated officer detailing the inspection procedure, as well as the frequency and type of inspection for each technical condition specified for the vehicle. This procedure must have the approval in express and written acknowledgement of the manufacturer or supplier.
- (ii) The above standards and procedures must provide, as minimum, the Schedule of preventive maintenance, services and major overhauls according to the number of kilometers traveled and internal regulations which enable an evaluation to be made of the need of a corrective maintenance on the basis of information supplied by the driver.
- (iii) Vehicles may only be maintained in the service if they are kept in perfect operating conditions, equipped in accordance with applicable laws, regulations, standards and procedures, with instructions issued by STA as manager, as provided herein and in regulations and manuals in force issued by and those which may be adopted in the future.
- (iv) Without prejudice to the above, STA may exclude from the service, without indemnity, vehicles which evidence one or more of the following situations:
 - (a) When, in the opinion of the PaRTS Project, the vehicle presents risks to passenger safety.

- (b) When the vehicle evidences deficiencies which have direct or indirect incidence in noise or air pollution, above the limits provided in this contract or in the law.
 - (c) When the vehicle exhibits technical or mechanical modifications from its initial specifications.
 - (d) When the vehicle has suffered accidents which seriously affect its structure and/or if passenger safety is at risk.
 - (e) In any case, by virtue of this contract and this clause in particular, the bus provider undertakes, unilaterally and irrevocably, to exclude buses from operation in the areas/influence Area/contiguous areas, after termination of this contract, either due to expiry or for earlier due to other causes.
- (v) After the useful life of up to 8 years, the vehicle will be dis-engaged from the System and the bus provider must withdraw it from public transport service in the areas / influence Area / contiguous areas of operations, to be replaced with a new bus of less than two years of age.

(5) Nature of Fleet size for regular operation

- (i) The bus provider shall be responsible for maintaining a fleet size/mix according to the operating needs of the System, in accordance with scheduled services, timing, frequency and place, and meeting operating standards provided herein
- (ii) Reserve Fleet

The bus provider must maintain a reserve fleet of 2% of the fleet buses in addition to the operating fleet, which ensures the coverage of the system and permanent availability of the fleet approved and which enables it to meet the contingencies of the PaRTS and the maintenance needs of the fleet. The size of the reserve fleet will be established exclusively by the bus provider.

(6) Increase in Fleet Size

- (i) Bus providers are required to induct a fleet of minimum 100 buses initially within 4 months from the date of signing the agreement. Thereafter fleet expansion is required as per following time frame:

| No. of buses in fleet | Time frame (months from start date) | | No. of buses in fleet | Time frame (months from start date) |
|-----------------------|-------------------------------------|--|-----------------------|-------------------------------------|
| 100 | 4 | | 1800 | 36 |
| 400 | 12 | | 2300 | 42 |
| 600 | 18 | | 2800 | 48 |
| 1000 | 24 | | 3400 | 54 |
| 1400 | 30 | | 4000 | 60 |

| That is, addition of buses per year will be: | | | | |
|--|---------|----------|---------|--------|
| Year I | Year II | Year III | Year IV | Year V |
| 400 | 600 | 800 | 1000 | 1200 |

- (ii) Fleet expansion will be encouraged through incentives. In order to incentivize large fleet size, a cross cutting discount of one percent to the annual contribution/royalty may be considered against every addition of 100 buses of the fleet. For example; if a bidder quotes Rs. One lakh contribution for 100 buses, he will be liable to get incentive discount as below on addition of buses as shown in the following Chart:-

| No. of buses | Royalty amount (in Rs.) | Discount | | Royalty Payable |
|--------------|-------------------------|----------|-------------|-----------------|
| | | | | |
| 100 | 1,00,000 | 1% | 1,000 | 99,000 |
| 500 | 5,00,000 | 5% | 25,000 | 4,75,000 |
| 1,000 | 10,00,000 | 10% | 1,00,000 | 9,00,000 |
| 5,000 | 50,00,000 | 50% | 25,00,000 | 25,00,000 |
| 8,000 | 80,00,000 | 80% | 64,00,000 | 16,00,000 |
| 9,000 | 90,00,000 | 90% | 81,00,000 | 9,00,000 |
| 10,000 | 1,00,00,000 | 100% | 1,00,00,000 | 0 |

- (iii) Fleet will be expanded to at least 1000 buses within 2 years from the date of execution of Agreement between Transport Commissioner and bus provider.
- (iv) Failure to achieve desired fleet expansion will invite penalties.
- (v) The proposed scheme inter alia requires the private operators to Buy, Own, Operate and Maintain (BOOM) the buses at their cost for operation on various nationalized / non nationalized / other routes in the entire State of Uttar Pradesh.

10.0 Modifications in Operating Fleet Size

Before resorting to a new RFQ cum RFQ document to grant the economic exploitation of a new area, route, schedule, STA will evaluate whether all or part of the new demand may be served by the available bus providers, in which case it may give the operation to existing operators, and these operators will undertake to provide services in accordance with STA's directions.

Form No.1

Request for Technical Bid Stage I (TBS I)/the Qualification bid

Letter of Application

(Letterhead of the Bidder/Lead Partner, including full postal address, telephone, fax, email addresses)

Date.....

To
The Chairman,
STA, UP
Parivahan Bhawan,
Tehri Kothi, MG Marg,
Lucknow-226001.

Sir,

- 1- We acknowledge having received the RFQ cum RFP document including all appendices, forms and schedules issued by the STA vide notice no..... dated.... And addenda thereto.
2. Being duly authorized to represent and act on behalf of (here-in after "the Bidder"), and having reviewed and fully understood all the Technical bid stage I/qualification requirement provided in the RFQ cum RFP issued in this behalf, the undersigned hereby applies to be qualified as a bus provider Bidder for the PaRTS (Passenger Road Transport System in the State of Uttar Pradesh) Project on BOOM (Buy Own Operate & Maintain) basis.
3. Following certified copies of original documents are attached for your kind consideration for qualifying as a bus provider bidder for the PaRTS Project on BOOM basis:
 - (a) Details of bidder as per Form No.2 (in case of JV/ Consortium, this would need to be provided by all the members).
 - (b) Bank Draft of Rs fifteen thousand in favour of Transport Commissioner, payable at Lucknow, towards the cost of RFQ cum RFP Document (in case the same has been downloaded from the website)/ A photocopy of the receipt of the payment is pasted on the back to this application.
 - (c) the EMD amount of Rs.10 lakhs (Rs. Ten lakhs) vide FD no. - ----dated--- --of bank -----drawn in favour of Transport Commissioner, UP and payable at Lucknow is sealed separately in an envelope marked as "Envelop-B- Bid security for PaRTs project on BOOM basis."
 - (d) A certificate for proving the applicant's legal status (in the case of company, certified copy of the memorandum of Association with certified copy of incorporation under Indian Companies Act, 1956, in the case of Firm or Consortium, certified copy of the partnership deal duly registered under Indian Partnership Act, 1932, in case of Society or Co-operative society the certificate of registration under Society Act, 1860 or Co-operative Act, 1965 respectively) and the nationality.

- (e) Power of Attorney for signing of the Bid as per Form No.3 (in case of JV/Consortium, this would need to be provided by all the member)
 - (f) Power of Attorney by all the members to the Lead Member in case of JV/Consortium as per Form No.4.
 - (g) Affidavit certifying that Business Entity/ Director(s) of Business Entity/ Member(s) of JV/Consortium are not blacklisted / barred as per Form No.5.
 - (h) MOU (in case of Consortium/Joint Venture i.e. type 5 & type 6 bidder) indicating share of the lead firm in equity/profits as per Form No.6.
 - (i) MOU where the Bidder is a Type 4 Bidder, as per Form NO.7..
 - (j) MOU where the Bidder is a Type 3 Bidder, as per inform No.8.
 - (k) MOU where the Bidder is a Type 1 Bidder, as per inform No.9.
 - (l) Professional Experience of Bidder as per Form No.10 (in case of Consortium, experience of all the members)
 - (m) Details of key personnel of the bus provider/Bidder as per Form No.11.
 - (n) Details of availability of bus parking facilities as per Form No.12.
 - (o) Induction–schedule of buses and their repair and maintenance arrangement as per Form No.13.
 - (p) Details of minimum service quality levels for the operational parameters as per Form No.14.
 - (q) Undertaking related to bus specifications as per Form No. 15.
 - (r) Undertaking by the bidders for acceptance the required qualification and correctness of the information given as per Form No.16.
4. STA and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this application, and to seek clarification from banker(s) and / or client(s) regarding any financial and technical aspects hereof by way of letters or otherwise from any such institutions, in order to verify statements and information provided in this application, or with regard to our resources, experience, and competence.
5. This application is made in the full understanding that:
- (a) Our bid and any information submitted for Technical bid stage I/the qualification bid at the time of bidding will be subject to verification by STA;
 - (b) STA has reserved the right to:
 - (i) Amend the scope of work for the PaRTS Project. In such an event, bids will only be called from qualified bidders who meet the revised requirements; and
 - (ii) Reject or accept any application, cancel the Technical Bid Stage I/the qualification bid / Bid process, and reject all applications; and
 - (c) STA shall not be liable for any such actions and shall be under no obligation to inform us of the grounds for the same.
6. We confirm that in the event of our bid is successful resulting in award of contract, the same will be:
- (a) Signed so as to legally bind all partners jointly and severally; and
 - (b) Submitted with a Consortium/Joint Venture agreement providing the joint and several liability of all partners/Consortium members in the event contract is awarded to us.

7. As a Lead firm, we would have a minimum of 51% equity or profit sharing participation in the Joint venture/Consortium.
8. We confirm that we agree with the terms and conditions provided in RFQ cum RFP/TBS 1(QB) and the Draft Bus Provider Agreement.
9. The Technical Bid Stage I (TBS 1) and Technical Bid Stage II(TBS II), the Financial Bid submitted by us for the PaRTS Project shall be valid for the period of 270 (Two hundred and seventy days) from the date of bid opening prescribed by STA.
10. The undersigned declares that the statements made and the information provided in the duly completed application is complete, true and correct in every detail.

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No.2**Company name and address details**

| Sr. No. | Description | Particulars |
|----------------|---|--------------------|
| 1 | <p>(a) Name of the Company (b) Country of incorporation/registration (c) Address of the registered office, corporate headquarters, and its branch office/s, if any, in India Date of incorporation and/or commencement of business</p> | |
| 2 | <p>Registered Office Address: House No. Street Area / Locality City PIN Telephone Fax E-mail</p> | |
| 3 | <p>Local Office Address: House No. Street Area / Locality City PIN Telephone Fax E-mail Contact Person: Name Designation Telephone Fax E-mail</p> | |
| 4 | <p>Other details</p> <p>I. Brief description of the Bidder's main lines of business and proposed role and responsibilities in this Scheme.</p> <p>II. Details of individual/s who will serve as the point of contact / communication with STA/DA/GoUP..</p> <p>(i)</p> <p>(a) Name :</p> <p>(b) Designation :</p> <p>(c) Company :</p> <p>(d) Address :</p> <p>(e) Telephone Number :</p> <p>(f) E-Mail Address :</p> <p>(g) Fax Number :</p> <p>(h) Mobile Number :</p> <p>(ii)</p> | |

| | | |
|--|--|--|
| | (a)Name : (b)Designation : (c)Company : (d)Address : (e)Telephone Number : (f)E-Mail Address : (g).Fax Number : (h) Mobile Number | |
|--|--|--|

Signature of the authorized person

Name of the authorized person

Contact address

Contact telephone no.

Note-

In case of a JV/Consortium: the information above (1 to 4) should be provided for all the members.

Form No.3
(Format of POA for signing of bid)

POWER OF ATTORNEY

(On Non -judicial stamp paper of Rs 100/- or such equivalent document duly attested by notary public)

Know all men by these presents, we (name of the company ----- address of the registered office) do hereby constitute, appoint and authorize Mr.----- (full name and residential address) who is presently employed with us and holding the position of-----, as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for bus provider project envisaging Operation of Stage Carriage Services in Uttar Pradesh on BOOM basis for the Uttar Pradesh PaRTS project in response to the tenders invited by the STA, UP including signing and submission of all documents and providing information/responses to STA in all matters in connection with our Bid. We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.
Dated this _____ day of _____ 2009

For

(Signature)
(Name, Designation and Address)

Accepted

(Signature)
(Name, Title and Address of the Attorney)
Date:

Note

1. To be executed by the all members in case of a JV/Consortium.
2. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants and when it is so required the same should be under common seal affixed in accordance with the required procedure.
3. Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution / power of attorney in favor of the Person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
4. In case the Application is signed by an authorized Director / Partner or Proprietor of the Applicant, a certified copy of the appropriate resolution / document conveying such authority may be enclosed in lieu of the Power of Attorney.

Form No. 4
(Format for POA for Lead Member of JV/Consortium)

Power of Attorney

(On Non -judicial stamp paper of Rs 100/- or such equivalent document duly attested by notary public)

Whereas the STA, UP has invited Bids from interested parties for **Operation of Stage Carriage Services in Uttar Pradesh in its PaRTS Project.**

Whereas, the members of the JV/Consortium are interested in bidding for the Scheme and implementing the Scheme in accordance with the terms and conditions of the RFQ cum RFP Document and other connected documents in respect of the Scheme, and Whereas, it is necessary under the RFQ cum RFP Document for the members of the JV/Consortium to designate the Lead Member with all necessary power and authority to do for and on behalf of the JV/Consortium, all acts, deeds and things as may be necessary in connection with the JV's/Consortium's bid for the Scheme who, acting jointly, would have all necessary power and authority to do all acts, deeds and things on behalf of the JV/Consortium, as may be necessary in connection the JV's/Consortium bid for the Scheme.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT;

We, M/s..... (Lead Member), and M/s..... (the respective names and addresses of the registered office) do hereby designate M/s..... being one of the member of the JV/Consortium, as the Lead Member of the JV/Consortium, to do on behalf of the JV/Consortium, all or any of the acts, deeds or things necessary or incidental to the JV's/Consortium bid for the Project, including submission of Bid / Proposal, participating in conferences, responding to queries, submission of information/ documents and generally to represent the JV/Consortium in all its dealings with STA/ DA/GoUP, any other Government Agency or any person, in connection with the Scheme until culmination of the process of bidding and thereafter till the Bus Provider Agreement is entered into with TC.

We hereby agree to ratify all acts, deeds and things lawfully done by Lead Member, our said attorney pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

(Executants)

Dated this the .. Day of 2009

Note:

- 1- Please strike out whichever is not applicable.
- 2- To be executed by all the members of the JV/Consortium.
- 3- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.

Form No. 5
(Format for Affidavit Certifying that Entity / Director(s) of Entity / Member of
JV/Consortium are not blacklisted)

(On a Stamp Paper of relevant value)

Affidavit

I M/s(Sole Bidder / Lead Member/ Other Member /s)), (the names and addresses of the registered office) hereby certify and confirm that we or any of our promoter/s / director/s are not barred by GOUP or blacklisted by any State Government or Central Government / Department / Agency in India from participating in Scheme/s, either individually or as member of a JV/Consortium as on
(Mention the bid due date)

We further confirm that we are aware that as per undertaking given by us our Bid for the captioned Scheme would be liable for rejection in case any material misrepresentation is made or discovered with regard to the requirements of the RFQ cum RFP document at any stage of the Bidding Process or thereafter during the Concession Agreement period.

Dated this Day of ,2009....

Name of the Bidder

Signature of the Authorised Person

Name of the Authorised Person

Note:

- 1- Please strike out whichever is not applicable.
- 2- To be executed separately by all the Members in case of JV/Consortium

Form No. 6
(Format for MOU for Type 5 Bidders)

Memorandum of Understanding
(On Non-judicial stamp paper of Rs.100/- or such equivalent document duly attested by notary public)

This Memorandum of Understanding (MoU) entered into this day of.....2009 at.....among.....

..... and having its registered office at _____, (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof includes its successors and permitted substitutes) of the First Part
And

..... and having its registered office at _____, (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof includes its successors and permitted substitutes) of the Second Part
And.....

... and having its registered office at....., (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof includes its successors and permitted substitutes) of the Third Part
And

..... and having its registered office at, (hereinafter referred as", which expression unless repugnant to the context or meaning thereof includes its successors and permitted substitutes) of the Fourth Part
And

..... and having its registered office at....., (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof includes its successors and permitted substitutes) of the Fifth Part

The parties are individually referred to as Party and collectively as Parties. WHEREAS the STA has invited Request for Qualification cum Request for Proposal (RFQ cum RFP) from entities interested for Operation of Stage Carriage Services in Uttar Pradesh as per the terms contained in the RFQ cum RFP Document.

AND WHEREAS the Parties have had discussions for formation of a Consortium for bidding for the said Project and have reached an understanding on the following points with respect to the Parties' rights and obligations towards each other and their working relationship.

IT IS HEREBY AS MUTUAL UNDERSTANDING OF THE PARTIES AGREED AND DECLARED AS FOLLOWS:

1. That the Parties will form a Special Purpose Company (SPC) with the shareholding commitments expressly stated as
.....
.... The said SPC shall not undertake any other business during the Bus Provider Agreement Period.

2. That the equity share holding of the Parties in the issued and paid up capital of the SPC shall not be less than as specified in the RFQ cum RFP Document.
3. That M/s....., M/s....., M/s., M/s. and M/s. who are Members of the Consortium commit to hold the equity stakes in the SPC which are in line with the requirements of RFQ cum RFP Documents.
4. That the shareholding commitments shall be recorded in the Bus Provider Agreement and no changes shall be allowed thereof except in accordance with the provisions of the RFQ cum RFP Document and the Bus Provider Agreement that will be executed if the Project is awarded to us.
5. That the Parties shall carry out all obligations and responsibilities in terms of the Concession Agreement.
- 6- That the Parties shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Bus Provider Agreement to be executed on award of the Project.
7. That the Parties affirm that they shall implement the Project in good faith and shall take all necessary steps to ensure the expeditious implementation of the Project.
8. That this MoU shall be governed in accordance with the laws of India and Courts in UP shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.
- 9- In witness whereof the Parties affirm that the information provided is accurate and true and have caused this MoU to be duly executed on the date and year above mentioned.

1. First Party
2. Second Party
3. Third Party
4. Fourth Party
5. Fifth Party

Witness:

Form No. 7
(Format for MOU for Type 4 Bidder)

Memorandum of Understanding

(On Non-judicial stamp paper of Rs.100/- or such equivalent document duly attested by notary public)

This Undertaking entered into this _____ day of _____ 2009
at _____ among.....

.....
and having permanent residence at _____, (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof include its successors) of the First Part

And.....

...

and having permanent residence at _____, (hereinafter referred as".....", which expression unless repugnant to _____ the context or meaning thereof include its successors) of the Second Part

And.....

....

and having permanent residence at _____, (hereinafter referred as".....", which expression unless repugnant to the context or meaning thereof include its successors) of the Nth Part

The parties are individually referred to as Party and collectively as Parties.

WHEREAS STA has invited Request for Qualification cum Request for Proposal (RFQ cum RFP) from entities interested for Operation of Private Stage Carriage Services in Uttar Pradesh, as per the terms specified in the RFQ cum RFP Document containing the terms of Bus Provider Agreement.

AND WHEREAS the Parties have had discussions for formation of a Special Purpose Company (SPC) for bidding for the said Project and have reached an understanding on the following points with respect to the Parties' rights and obligations towards each other and their working relationship.

IT IS, HEREBY, AS MUTUAL UNDERSTANDING OF THE PARTIES, AGREED AND DECLARED AS FOLLOWS:

1. That the Parties have formed a SPC by the name of _____ with the shareholding commitments expressly stated and attached as Annexure to this Undertaking. The said SPC shall not undertake any other business during the Concession Period.
2. That the authorised capital of the SPC is Rs 20 crores.
3. That the Parties commit to subscribe to the equity of the SPC in case the Bidder is the Successful Bidder to the Project.
4. That the Parties hereby are submitting a copy of the certificate issued by Registrar of Companies confirming registration of the SPC.
5. That the Parties confirm that they shall hold minimum 51% common equity in

the SPC at all times during the tenure of the Bus Provider Agreement.

6. That the shareholding commitments shall be recorded in the Bus Provider Agreement and no changes shall be allowed thereof, except in accordance with the provisions of the RFQ cum RFP Document and the Concession Agreement that will be executed if the Project is awarded to us.
7. That the Parties shall carry out all responsibilities in terms of the Bus Provider Agreement.
:
8. That the Parties shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Bus Provider Agreement to be executed on award of the Project.
9. That the Parties affirm that they shall implement the Project in good faith and shall take all necessary steps to ensure the expeditious implementation of the Project.
10. That this Undertaking shall be governed in accordance with the laws of India and courts in Uttar Pradesh shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.
11. In witness whereof the Parties affirm that the information provided is accurate and true and have caused this Undertaking to be duly executed on the date and year above mentioned.
 1. First Party - Signatures, Name, Address and Contact Details
 2. Second Party - Signatures, Name, Address and Contact Details
 - N. Nth Party - Signatures, Name, Address and Contact Details

Witness:

Form No. 8
(Format for MOU for Type 3 Bidder)

Memorandum of Understanding
(On Non-judicial stamp paper of Rs.100/- or such equivalent document duly attested by notary public)

This Undertaking entered into this _____ day of _____ 2009
at _____

by.....

and having its registered office at _____,..... (hereinafter referred as the "Cooperative Society", which expression unless repugnant to the context or meaning thereof include its successors and permitted substitutes)

WHEREAS STA has invited Request for Qualification cum Request for Proposal (RFQ cum RFP) from entities interested for Operation of Stage Carriage Services in Uttar Pradesh (hereinafter called the "Project") as per the terms contained in the RFQ cum RFP Document containing the terms of Bus Provider Agreement to be issued to the Qualified Bidders.

AND WHEREAS all members of the Cooperative Society had discussions for bidding for the said Project and have reached an understanding on the following points with respect to the rights and obligations towards each other and their working relationship.

IT IS HEREBY AS MUTUAL UNDERSTANDING OF THE PARTIES AGREED AND DECLARED AS FOLLOWS:

1. That the Cooperative Society is duly registered under the Uttar Pradesh Co-operative Societies Act, 1965
2. That the Cooperative Society shall undertake to amend its bye-laws in conformity with the bye-laws as prescribed under Uttar Pradesh Co-operative Societies Act, 1965
3. That the members of the Cooperative Society shall raise the Net Worth of the Cooperative Society to at least Rs 20 crores in case the Bidder is the Successful Bidder to the Project.
4. That the members of the Cooperative Society commit to subscribe to the Net Worth of the Cooperative Society in case the Bidder is the Successful Bidder to the Project.
5. That the Cooperative Society hereby is submitting a copy of the certificate issued by Registrar confirming registration of the Cooperative Society.
6. That all members agree that the Cooperative Society shall carry out all responsibilities in terms of the Bus Provider Agreement.
7. That all members of the Cooperative Society shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Bus Provider Agreement to be executed on award of the Project.

8. That all members of the Cooperative Society affirm that they shall implement the Project in good faith and shall take all necessary steps to ensure the expeditious implementation of the Project.
9. That this Undertaking shall be governed in accordance with the laws of India and courts in Uttar Pradesh shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.
10. In witness whereof all members of the Cooperative Society affirm that the information provided is accurate and true and have caused this Undertaking to be duly executed on the date and year above mentioned.

(Signature)

Name

Contact address

Contact telephone No.

Note- Signing person be duly appointed person acting for and on behalf of the Cooperative Society who is also a member of the Management Committee of the Cooperative Society

Witness:

Form No. 9
(Format for MOU for Type 1 Bidder)

Memorandum of Understanding
(On Non-judicial stamp paper of Rs.100/- or such equivalent document duly attested by notary public)

This Undertaking entered into this _____ day of _____ 2009
at _____
by.....
and having its registered office at _____,..... (hereinafter referred as the
"Society", which expression unless repugnant to the context or meaning thereof include its successors and permitted substitutes)

WHEREAS STA has invited Request for Qualification cum Request for Proposal (RFQ cum RFP) from entities interested for Operation of Stage Carriage Services in Uttar Pradesh (hereinafter called the "Project") as per the terms contained in the RFQ cum RFP Document containing the terms of Bus Provider Agreement.

AND WHEREAS all members of the Society had discussions for bidding for the said Project and have reached an understanding on the following points with respect to the rights and obligations towards each other and their working relationship.

IT IS HEREBY AS MUTUAL UNDERSTANDING OF THE PARTIES AGREED AND DECLARED AS FOLLOWS:

1. That the Society is duly registered under the Uttar Pradesh Societies Registration Act, 1860.
2. That the Society shall undertake to amend its bye-laws in conformity with the bye-laws as prescribed under Uttar Pradesh Societies Registration Act, 1860.
3. That the members of the Society shall raise the Net Worth of the Society to at least Rs. 20 crores in case the Bidder is the Successful Bidder to the Project.
4. That the members of the Society commit to subscribe to the Net Worth of the Society in case the Bidder is the Successful Bidder to the Project.
5. That the Society hereby is submitting a copy of the certificate issued by Registrar confirming registration of the Society.
6. That all members agree that the Society shall carry out all responsibilities in terms of the Bus Provider Agreement.
7. That all members of the Society shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Bus Provider Agreement to be executed on award of the Project.
8. That all members of the Society affirm that they shall implement the Project in good faith and shall take all necessary steps to ensure the expeditious implementation of the Project.
9. That this Undertaking shall be governed in accordance with the laws of India

and courts in Uttar Pradesh shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.

10. In witness whereof the all members of the Society affirm that the information provided is accurate and true and have caused this Undertaking to be duly executed on the date and year above mentioned.

(Signature)

Name

Contact address

Contact telephone No.

Note- Signing person be duly appointed person acting for and on behalf of the Cooperative Society who is also a member of the Management Committee of the Cooperative Society

Witness:

Form No. 10
Brief description of Professional Experience

Name of Bidder/Bidder Company.....

| Experience in road Transport sector and other sectors | Level of Professional Experience | Length of professional Experience (in years) |
|--|---|---|
| 1 | 2 | 3 |
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| And so on | | |

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 11
Details of Key personnel of the bus provider
for PaRTS Project of Uttar Pradesh

Key personnel Team

Name of the bidder/bidder company

| Sr. No. | Name of the Employee | Designation | Qualifications | Total Experience | Expertise / Skill Set |
|----------------|-----------------------------|--------------------|-----------------------|-------------------------|------------------------------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |
| 7 | | | | | |

Signature

Name

For and on behalf of(name of Bidder)

Seal

Note-

The above details be given at least for the Chief Executive officer; Project Team Leader; Engineer for Bus technology, bus inspection and maintenance supervisor; Operations Manager; Accountant; any other key person

Form NO. 12
Details of Availability of bus parking facilities

(Attach separate sheet for each facility)

Name of the bidder/bidder company

| Sr. No. | Description | Particulars | Remarks |
|----------------|---|---|---|
| | Name of the Company/Bidder | | |
| 1 | Registered Office Address: House No. Street Area / Locality City PIN Telephone Fax E-mail | | |
| | Local Office Address: House No. Street Area / Locality City PIN Telephone Fax E-mail Contact Person: Name Designation Telephone Fax E-mail | | |
| 2 | Physical Resources---for bus parking facilities | | |
| 2.1 | Number and Location of the yard(s) | | |
| 2.2 | Address of above yard(s) | | |
| 2.3 | Area of the yard in Square Meters | | |
| 2.4 | Parking Capacity of each of the yards (No. of buses)@ 200 sq.mtr. per bus) | | |
| 2.5 | Hard standing in yards (separate details for each yard) | RCC / BitumenBased / kutcha | |
| 2.6 | Owner-ship of the yards(separate sheet may be added if required) | Self / Hired | |
| 2.7 | Distance of the yards from ----- Lucknow in Uttar Pradesh | | |
| 2.8 | Availability of electricity/water/other utilities at each of the yards | | |
| 3.0 | Other details Copy of the Hiring arrangement or Copy of the ownership documents Site maps of the yards (copies be duly attested) | Attached Attached Attached | Yes / no Yes / no Yes / no |

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 13
Induction-Schedule of Buses and their repair and maintenance arrangement

Name of the bidder/bidder company

| Sr. No | Description | Proposals | | | | |
|--------|---|--|--|----------------------------|---------------------|--|
| 1 | Induction Schedule of Buses | Assured delivery schedule of up to the last bus of the 1 st lot within (days) from the date of issue of the letter of acceptance of the bid as a bus provider | | | | |
| | | 25 | 50 | 75 | 100 buses | |
| 1.1 | Induction of 1 st lot of 100 buses in number of days | | | | | |
| 2.0 | Arrangement for repair and maintenance of buses(circle which ever is applicable) | Own worksh ops | Annual Maintenance Contract (AMC) with the | | | Periodic Inspection and certification of roadworthine ss of the buses by the bus manufacture or his dealer |
| | | | Bus manufacture | Dealer of Bus manufa cture | Accredited workshop | |

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 14
Minimum Service Quality levels for the Operational Parameters
(Average per month -service quality parameter wise)

I / We, M/s (name of Bidder & Address) undertake that the minimum service quality levels encircled hereunder shall remain maintained for the bus services provided by us for the PaRTS Project till the validity of the agreement.

| | | | | | | | |
|-----|--|--|--------|-------------|-------------|-------------|-------|
| | Service quality standards planned / proposed by the bidder (for performing in all services in the PaRTS project) | Bidder to encircle the offered levels of service quality performance against various parameters (marks to be allotted while evaluation of bids are indicated against each) | | | | | |
| 1.0 | Regularity of services | | | | | | |
| 1.1 | Trip efficiency 'T' (%) | Offered T | 99-100 | 98>T> 96 | 96>T> 94 | 94>T> 92 | >=92% |
| 1.2 | Kilometer Efficiency 'E' (%) | Offered E | 99-100 | 98>E> 96 | 96>E> 94 | 94>E> 92 | >=92% |
| 2.0 | Punctuality of operations 'P' (%) | Offered P | 99-100 | 98>P> 96 | 96>P> 94 | 94>P> 92 | >=92% |
| 3.0 | Reliability of buses 'B' (No of Break downs/ million) | Offered B | B<=5 | 8>B> 5 | 11>B> 8 | 14>B> 12 | B>=15 |
| 4.0 | Safety of bus operations 'S' (Accidents/ten million km) | Offered S | S=0 | 3>S> 0 | 5>S> 3 | 10>S> 6 | S=10 |
| 5.0 | User Satisfaction-'U' (Complaints/lakh km) | Offered U | U<6 | 10>U> 6 | 15>U> 10 | 20>U> 15 | U=20 |

Dated this ____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Notes

1. Definitions

"T" = no. of trips operated*100 / no. of trips scheduled (Prescribed level \geq 99%)

"E" = No. of kms operated*100 / No. of kms scheduled (Prescribed level \geq 99%)

"P" = No. of trips on time at start*100 / Total no. of trips operated (Prescribed level \geq 99%)

"B"= Total no. of breakdowns* a million / Total kms operated (Prescribed level < 8)

"S"= No. of accidents* ten million / Total kms operated (Prescribed level < 5)

"U"= No. of complaints per one lakh km (Prescribed level < 6)

2. Prescribed service quality levels are available at **Annexure E.**

Form No. 15

Undertaking Related to Bus Specification

I / We, M/s (name of Bidder & Address) undertake that the bus specifications mentioned below shall remain maintained at all times in the PaRTS Project till the validity of the agreement.

1. All buses offered shall be as per the bus code (AIS – 052)
2. The buses shall be type approved by the authorized agency as per the relevant act, rules etc.
3. All buses shall meet requirements of the applicable acts/ Rules/laws/ norms as enacted/notified by the Central/State Government and as applicable for the proposed services

The bus mix fleet shall comprise of minimum of 60% buses of ordinary fare while upto 40% buses of the fleet may be as super deluxe, deluxe & semi deluxe.

Additional fitments/facilities in buses, over and above those prescribed in bus code (AIS052) and in various acts/ rules, are available in Annexure B.

Dated this ____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 16

Undertaking

1- I/We, M/s..... (Name of Bidder and address) undertake for acceptance the requirement with respect to qualification criterion mentioned in sub section (8)(1) (Technical Bid Stage-I /Qualification Bid) of section 4 of the Chapter-E of the RFQ cum RFP document.

2- It is certified that I/We, M/s..... (Name of Bidder and address) is/are the eligible bidder(s) and the information furnished in this Technical Bid Stage I/the Qualification Bid and as per the document(s) submitted therewith is true and correct and nothing has been concealed or tampered with. I/we have gone through all the conditions of RFQ cum RFP and agree to be liable to any punitive action for furnishing false information / documents.

Dated this _____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form NO. 17

REQUEST FOR TECHNICAL BID Stage II

(Letter for TBS II)

To
 The Chairman,
 STA, UP
 Parivahan Bhawan, Tehri Kothi, MG Marg,
 Lucknow-226001.

Sub: Technical Bid for Bus Provider on BOOM basis for the Passenger Road Transport System (PaRTS) of the State of Uttar Pradesh

Dear Sir,

1. Having examined the RFQ cum RFP Document Package for the **PaRTS Project** including all Appendices, Forms and Schedules thereto and addenda thereto, we, the undersigned, in conformity with the provisions of the RFQ cum RFP, offer to provide the said services on the basis of our financial capability (in case of JV/Consortium financial capability of Lead Member) is enclosed herewith in the prescribed format.
2. Appended to this application, we give Summary details of the participation of each party, including capital contributions and Profit and Loss arrangements, as per requirements of the TBS II Document.
3. The undersigned declares that the statements made and the information provided in the duly completed application is complete, true and correct in every detail. An undertaking to this effect is enclosed herewith in the prescribed Form No. 20

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 18
(Enclosures to letter for TBS II)

(Format for Financial Capability of the Bidder)

| Sr. No. | Particulars | Financial Capability |
|---------|---|------------------------|
| 1 | Net Cash Accruals of the Bidder during the last financial year (Attach necessary documentary proofs.) | Rs crores |
| 2 | Net worth of the Bidder as on the last day of the last financial year (Attach necessary documentary proofs.) | Rs crores |
| 3 | Attested copy of the "a". Certificate of Incorporation with the copy of "b". Articles and Memorandum of Association | Attached "a" "b" |

* Please tick which ever is applicable

(Equivalent in Rs. In crores)

| Bidder | Net Worth (As on) | Net Cash Accruals Year (From----- to -----) |
|------------------------------|----------------------------|---|
| Sole Bidder | | |
| Lead Member of Consortium/JV | | |

The Bidder should provide the Financial Capability based on its own financial statements. Financial Capability of the Bidder's parent company or its subsidiary or any associate company will not be considered for computation of the Financial Capability of the Bidder.

* Any Bidder being a Type 1, Type 2 or Type 3 Bidder should fill in details as per the row titled Sole Bidder and ignore the row below. In case of bidder being type 5 ignore the first row and provide relevant details of Lead Member in the subsequent row. For the purpose of evaluation on financial parameters, financial parameters of the Lead Member only shall considered in case of being bidder type 5.

General Instructions:

- (i) Net Cash Accruals = (Profit After Tax + Depreciation + Non cash Expenses)
- (ii) Net Worth = (Subscribed and Paid-up equity + Reserves + Share Allotment Money Already Received + Preference Shares (including Redeemable) + Convertible Debentures but excluding Warrants - (Revaluation reserves + Miscellaneous expenditure not written off)
- (iii) The financial year would be the year immediately preceding Year of the current financial year.
- (iv) The Bidder shall provide complete set of the **audited annual financial statements complete with schedules, notes to accounts, auditor's report.** Failure to do so would be considered

as a non-responsive Bid for Qualification.

The Bidder should clearly indicate the calculations and references in the financial statements in arriving at the above numbers in an attached worksheet.

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form NO. 19
(Enclosures to letter for TBS II)

Summary details of the Bidder(s)

(All individual firms and all members of a JV/Consortium are requested to complete and sign separately, the information in the following formate)

| | Firm Particulars (for each firm in case wherein Joint Venture/Consortium is the Bidder) | Capital contribution | Details of profit and loss arrangement |
|------|---|----------------------|--|
| i) | Name of Firm Head office address Contact Person Telephone Fax: email | | |
| ii) | Place for incorporation/registration:: | | |
| iii) | Year of incorporation/registration | | |

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form NO. 20
(Enclosures to letter for TBS II)

Undertaking

It is certified that the information furnished here in and as per the document submitted is true and correct and nothing has been concealed or tampered with. We have gone through all the conditions of tender and are liable to any punitive action for furnishing false information /documents.

Dated this ____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form No. 21

Request for Financial Bid

(Letter for Financial Bid)

To
 The Chairman,
 STA, UP
 Parivahan Bhawan, Tehri Kothi, MG Marg,
 Lucknow-226001.

Sub: Financial Bid for Bus Provider on BOOM basis for the Passenger Road Transport System (PaRTS) Project of the State of Uttar Pradesh

Dear Sir,

1. Having examined the RFQ cum RFP Document Package for the **PaRTS Project** including all Appendices, Forms and Schedules thereto and addenda thereto, we, the undersigned, in conformity with the provisions of the RFQ cum RFP, offer to provide the said services on terms of reference to be signed upon the award of contract at the rates indicated as per financial bid enclosed herewith in the prescribed format.
2. If our bid is accepted, we hereby undertake, to provide the buses and the services comprised in the Bus Provider Agreement within time frame specified, starting from the date of receipt of Letter of Acceptance from STA, UP.
3. We agree to abide by this proposal for a period of 270 (Two Hundred and Seventy) days from the date of bid opening prescribed by STA and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
4. We agree to execute the Agreement in the form as appendix-5. incorporating all agreements with such alterations or additions thereto as may be necessary to adapt such agreement to the circumstances of the standard and notice of the award within the time prescribed after notification of your intention to accept this proposal by way of a Letter of Acceptance.
5. Unless and until a formal agreement is prepared and executed this proposal together with your written acceptance thereof shall constitute a binding contract agreement.
6. We understand that you are not bound to accept the lowest or any bid you may receive, not to give any reason for rejection of any or all bids and that you will not defray any expenses incurred by us in bidding.

Dated this _____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Form NO. 22
(Enclosures to Letter for Financial Bid)
(Format of Financial Bid)

Contribution in terms of Rupees (in lakh) per year for upto 100 buses or part thereof buses fleet, Cost and revenue per bus kms, proposed fare structure.

Name of the bidder/bidder company

| Sr.No | Description | Quoted Rates Rs | |
|-------|--|--|---------------------------------------|
| | | | |
| 1 | Contribution (Rupees per year for upto 100 buses or part thereof) | | per year |
| 2 | Proposed Fare structure for high end buses (Rs per passenger per kilometer) in inter city services | Rs per passenger per kilometer | |
| 2.1 | Super Deluxe (A/C Deluxe) | | |
| 2.2 | Deluxe buses | | |
| 2.3 | Semi Deluxe buses | | |
| 2.4 | Ordinary | As fixed by STA on the date of submission of bid | |
| 3.0 | Break up of Operational costs amongst various cost elements basket (for use in future) for a standard size(10.5-11.5 meters length) bus operating ordinary services in inter city services | Rs per bus per km | Element wise costs as % of total cost |
| 3.1 | Staff / Labour cost inclusive of over heads | | |
| 3.2 | Fuel, Oil and lubricants cost | | |
| 3.3 | Tyres cost | | |
| 3.4 | Repair and Maintenance cost | | |
| 3.5 | Depreciation | | |
| 3.6 | Interest charges | | |
| 3.7 | Taxes, fees, Insurance, etc | | |
| 3.8 | Other charges (administrative, utilities, return on investment etc) | | |
| 3.9 | Total cost of operation per bus per km (total of 3.1 to 3.8) for a standard size(10.5-11.5 meters length) bus | | 100% |
| 4.0 | Total estimated cost of operation- Rs per bus per km for high end buses of standard size(10.5-11.5 meters length) operating inter city services | | |
| 4.1 | Super Deluxe | | |
| 4.2 | Deluxe bus | | |
| 4.3 | Semi Deluxe bus | | |
| 5.0 | Total estimated revenue per bus per km at the fare levels proposed at 2.1 to 2.4 above for a standard size bus(10.5-11.5 meters length) in inter city operations | Rs per bus per km | No of seats |
| 5.1 | Super Deluxe | | |
| 5.2 | Deluxe bus | | |
| 5.3 | Semi Deluxe bus | | |
| 5.4 | Ordinary bus | | |
| 6.0 | Proportion of buses (as % of total fleet) proposed for deployment on various category of services (standard buses on intercity operations) | | |
| 6.1 | Super Deluxe | | |
| 6.2 | Deluxe bus | | |
| 6.3 | Semi Deluxe bus | | |
| 6.4 | Ordinary bus (min required 60%) | | |

1. We agree to the formula for the variation of fare for ordinary services as given in the RFQ cum RFP document.
2. We agree to the payment terms for Contribution/Royalty as given in the RFQ cum RFP document.
3. We confirm that the Contribution quoted above are exclusive of all applicable taxes and levies if any and that DA/GoUP is not liable to pay any of taxes/levies. Nothing shall be recovered from the above said Contribution and that any taxes applicable shall be payable by us as above, the same shall be paid to the concerned authority by us directly at the applicable rates. Should however, DA/STA/GoUP be required to collect and pay any applicable taxes on the Contribution, we shall pay the same to DA/STA/GoUP at actuals
4. We agree to pay TC, the liquidated damages/penalties etc levied by TC for defaults / deficiencies in services etc besides any other dues payable by us to DA on any other account.
5. We understand that the details given at sl.no. 2, 3, 4, 5 & 6 of the above table will not be considered for “qualification of my bid” but may be used for any other subsequent evaluations at this stage and or for any other purpose in future.

Signature

Name

For and on behalf of(name of Bidder)

Seal

Note - Please note that the figure quoted should be exclusive of any and all applicable taxes, duties levies including without limitation service tax and any other statutory liability. Bidders may note that any present or future tax liability including without limitation service tax, advertisement tax or any other statutory tax / duty shall be the sole liability of the Bidder and shall not be compensated in any way over and above the Bus hiring charges payable by DA.

**Form No. 23
(Enclosures to Financial Bid)**

Undertaking

It is certified that the information furnished herein for Financial Bid and in the document submitted in support of the statements is true and correct and nothing has been concealed or tampered with. We have gone through all the conditions of tender and are liable to any punitive action for furnishing false information /documents.

Dated this _____ day of _____ 2009

Signature

Name

For and on behalf of(name of Bidder)

Seal

Annexure A

Offences committed under the Motor Vehicles Act, 1988 and the UP Motor Vehicles Taxation Act, 1998 shall be dealt with under the punishment clauses of the said Act, but the fines and penalties for deficiencies in service quality level and in other service related parameters besides liquidated damages for delay/default in provisioning of buses and other facilities, shall be levied as per details placed at this table

| Sr. No. | Description | Fine Rs per violation and/or per day |
|----------|--|--|
| 1 | Bus service provider/Bus operation/Bus related defaults/ deficiencies | |
| 1.1 | Not Deploying minimum 60% ordinary fare buses of the total fleet on the routes. | 500 per violation per day |
| 1.2 | Non-provisioning of Bus workshops @ 1 per 50 buses atleast at each district headquarter level within one year or Annual Maintenance Contract (AMC) etc. as per RFQ-cum-RFP | 500 per unit per day of delay |
| 1.3 | Non-provisioning of Bus parking spaces @ 200 sq.mtr. per bus at least at District Headquarter within one year. | 500 per unit per day of delay |
| 1.4 | Non-provisioning of Central Control Rooms jointly, at least at each Regional HQ level, within one year | 500 per unit per day of delay |
| 1.5 | Non-induction of 100 buses within 4 months and thereafter as per time frame as per RFQ-cum-RFP | Liquidated damages of 1,000 per bus per day of delay |
| 1.6 | Not operating as per agreed route plan | 1000 |
| 1.7 | Not operating as per agreed schedule | 1000 |
| 1.8 | Not ensuring timely operation of buses as per agreed schedule | 500 |
| 1.9 | Not deploying the requisite staff for supervision and control of bus operations | 500 |
| 1.10 | Not taking corrective action on repeated occurrence of vehicle and/ or driver related deficiencies(occurrence of deficiencies more than 3 times in a month shall be termed as repetitive) | 1000 |
| 1.11 | Not ensuring timely execution of preventive, breakdown repair/maintenance of buses as per vehicle manufacturer prescribed norms/schedules | 1000 |
| 1.12 | Not submitting/delaying submission of the requisite inspection and certification documents periodically from the agreed agency | 1000 |
| 1.13 | Not presenting the bus, staff or any other item at a time and place as indicated by DA GoUP | 500 |
| 1.14 | Not transferring the requisite data stored in the TM to the concerned agencies as per prescribed norms/schedules | 1000 |
| 1.15 | Transferring of TMs equipments to any other person without written permission of the TC | 5000 |
| 1.16 | Transferring of buses to any other person/owner without written permission of DA and/ or permitting of benami operation | 5000 |
| 1.17 | Causing loss of, damage of, tampering with the recordings in the complaint book and/or not informing/delayed informing DA about the complaints/suggestions | 1000 |
| 1.18 | Causing any damage to the fixed infrastructure like road, bus stops, terminals, parking places etc. during the operation | As per actual cost of replacement |

| Sr. No. | Description | | Fine Rs per violation and/or per day | | | | |
|---------|---|--------------------------|--|--|---------|---------|------|
| 1.19 | Refusing to accept any document, paper, notices, circulars, instructions etc of the DA GoUP or its representatives/agents etc | | 1000 | | | | |
| 1.20 | Hiding any incidents, accidents, enroute or at the bus stops, inside the bus, etc | | 500 | | | | |
| 1.21 | Not operating, causing it to not operate any passenger information system, gadgets, devices etc if equipped in the bus | | 500 | | | | |
| 1.22 | Not submitting the required returns, data, information, documents periodically or as and when called for by GOUP/STATC/ Monitoring Committees or its representatives in time. | | 2000 per return | | | | |
| 1.23 | Not verified Complaints from other service providers eg ITS services, Station managements etc | | 500 | | | | |
| 1.24 | Non-provisioning of control rooms, parking places & workshops within prescribed time frame as per RFP-cum-RFP at each district and depot level | | Liquidated damages of 1,000 per bus per day of delay | | | | |
| 1.25 | Damaging or tampering with any of the vehicle sub systems, audio/video display systems | | 1000 | | | | |
| 1.26 | Not following any of the instructions issued by the authority, authorized under RFQ-cum-RFP | | 500 | | | | |
| 1.27 | Commission of offence in derogation of agreed performance parameters without written permission of STA, UP | | | | | | |
| | Description | Performance level | | Fine Rs per violation per route / service per month | | | |
| i. | Trip efficiency 'T' | ≥ 99 | Commission of T | 99>T≥96 | 96>T≥94 | 94>T≥92 | <92 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| ii. | Kilometer Efficiency 'E' | ≥ 99 | Commission of E | 99>E≥96 | 96>E≥94 | 94>E≥92 | <92 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| iii. | Punctuality of operations 'P' | ≥ 99 | Commission of P | 99>P≥96 | 96>P≥94 | 94>P≥92 | <92 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| iv. | Reliability of buses 'B' | B<8 | Commission of B | 10>B≥8 | 12>B≥10 | 14>B≥12 | B≥14 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| v. | Safety of bus operations 'S' | S=0 | Commission of S | 5>S≥0 | 7>S≥5 | 10>S≥7 | S≥10 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| vi | User Satisfaction- 'U' | U<6 | Commission of U | 10>U≥6 | 15>U≥10 | 20>U≥15 | U≥20 |
| | | | Penalty Rs. | 3000 | 3500 | 4000 | 5000 |
| 1.28 | Unclean, dirty bus outside or inside at the start of the trip | | 500 | | | | |
| 1.29 | Slogans, posters on the bus without prior approval of STA, UP | | 500 | | | | |
| 1.30 | Any unauthorized fitment of radio, music system, or any other gadgets inside the bus without prior permission of DA | | 500 | | | | |
| 1.31 | Carrying, operating any unauthorized gadgets/devices in the bus | | 500 | | | | |
| 1.32 | No TM /Defective/non operative TM on bus | | 1000 | | | | |
| 1.33 | Broken, missing, non operative or otherwise damaged disfigured keys on the key board, illegible numbers / markings on the keys / the screen of the TM | | 500 | | | | |
| 1.34 | Non operative/malfunctioning GPS/VMU interfacing | | 500 | | | | |
| 1.35 | Non operative/ malfunctioning data acquisition/transfer system unit of the TM | | 500 | | | | |
| 1.36 | Missing, broken, loosely hanging, wheel chair anchorages | | 500 | | | | |
| 1.37 | Defective, damaged, otherwise inoperative wheel chair ramp | | 200 | | | | |
| 1.38 | Defective, damaged, otherwise inoperative electronic route | | 200 | | | | |

| Sr. No. | Description | Fine Rs per violation and/or per day |
|----------|--|---|
| | destination system if equipped in the bus | |
| 1.39 | Any other defect observed/ reported in the bus | As decided by the STA, UP |
| 1.40 | Violating any other provisions of the agreement not covered with this schedule | 1000 |
| 2 | Bus driver related defaults/deficiencies | Fine Rs per violation and/or per day |
| 2.1 | Using head phone or any other gadgets while driving | 1000 |
| 2.2 | Allowing any person to sit, stand or chat in the driver work area/near driver seat | 500 |
| 2.3 | Stopping buses at unauthorised bus stops/stations/platforms etc | 500 |
| 2.4 | Not stopping the bus at designated place, not aligning the bus with bus platform at bus station/bus stop, not stopping for enough time, | 500 |
| 2.5 | Over taking buses operating under PaRTS project on the same route | 1000 |
| 2.6 | Parking buses at unauthorized places in the parking yard wherever owned or provided by the DA GoUP or any other agency of GoUP. | 300 |
| 2.7 | Quarrelling or otherwise ill treating passengers, other road users, | 500 |
| 2.8 | Not providing help/assistance/first aid to persons injured in road accidents of the PaRTS project | 1000 |
| 2.9 | Carrying weapons/arms of any kind on board the bus/ on person while on duty | 5000 |
| 2.10 | Any other undesirable act while on duty | 500 |
| 3 | Bus Conductor related defaults/deficiencies | Fine Rs per violation and/or per day |
| 3.1 | Not assisting the wheel-chair passengers and others in boarding/alighting/anchoring wheel chair, placing his other supports properly (wherever provided) | 500 |
| 3.2 | Not providing help/assistance/first aid to persons injured in road accidents of the PaRTS project | 1000 |
| 3.3 | Quarrelling or otherwise ill treating passengers, other road users, | 500 |
| 3.4 | Not verifying the validity of travel passes/advance booking tickets for the journey | 300 |
| 3.5 | Carrying weapons/arms of any kind on board the bus/ on person while on duty | 5000 |
| 3.6 | Any other undesirable act while on duty | 500 |

Annexure B

Schedule of facilities required on various types of buses (in addition to AIS 052)

| Sl. No. | Description | Super Deluxe (A/C Deluxe) | Deluxe | Semi-Deluxe | Non-Deluxe (Ordinary) | Remarks |
|----------|---|---------------------------|--------|-------------|-----------------------|---------|
| 1 | ITS based sub-systems | | | | | |
| | ➤ GPS | ✓ | ✓ | ✓ | ✓ | |
| | ➤ Electronic Ticket Vending Machine | ✓ | ✓ | ✓ | ✓ | |
| 2 | Passenger Amenities | | | | | |
| | ➤ Large size windows | ✓ | ✓ | | | |
| | ➤ Individual Seat Specific Lighting Arrangement | ✓ | ✓ | - | - | |
| | ➤ Mobile Charging System | ✓ | | | | |
| | ➤ Internet Facility | ✓ | - | - | - | |
| | ➤ Laptop Charging Facility | ✓ | - | - | - | |
| | ➤ Fans | ✓ | ✓ | | | |
| 3. | Pneumatically controlled doors | ✓ | | | | |
| 4. | Tinted (within permissible limits) window glasses | ✓ | ✓ | ✓ | | |

Annexure C

Performance Level Standards for PaRTS Project

| Sl. No. | Parameters | Performance Levels | | | |
|---------|---|--------------------------|------------------|--|--|
| | | Achieved in FY 2006-2007 | | | Specified Performance Level for Bus services for the PaRTS Project |
| | | UPSRTC (Rural) | All INDIA (STUs) | Best Performing STU (performing level) | |
| 1 | Regularity of Services | N.A. | N.A. | KnSRTC (99.11) | 99 |
| i | Trip Efficiency (%) | | | | |
| ii | KM Efficiency (%) | | | | |
| ii | Punctuality (%) | N.A. | N.A. | SETC (TN) (99.44) | 99 |
| 2 | Reliability (No. of breakdowns per million kms) | 6 | 19 | KnSRTC (8) | < 8 |
| 3 | Safety (No. of accidents per ten million kms) | 13 | 17 | STP JB (5) | <5 |
| 4 | User Satisfaction (User complaints per lakh kms) | N.A. | N.A. | RSRTC (6) | < 6 |

Service Quality Parameter

| Sl. No. | Reliability of services as indicated by: | Description | Minimum requirement |
|---------|--|---|---------------------|
| 1.1 | Trip efficiency | Ratio of trips operated to Trips agreed for each category / type of service preferably route wise and for the whole area | 99% |
| 1.2 | Kilometer Efficiency | Ratio of kms operated to kilometers Operation agreed for each category / type of service route wise and for the whole area | 99% |
| 1.3 | Punctuality of operations | Ratio of no. of trips arrival and departure within 5 minutes of the scheduled timings to total no. of trips operated route wise and for the whole area | 99% |
| 2 | Reliability of buses | No. of Break downs per million kms operation | <8 |
| 3 | Safety of bus operations | No. of accidents per TEN million(one crore) kms operations | < 5 |
| 4 | User Satisfaction | No. of user complaints per lakh kilometers regarding crew behavior, over charging, non stopping / over stopping at bus stops, rash driving, carrying un-social elements, over loading, cleanliness / presentability of buses, fitment of un authorized gadgets, non issue of tickets , non operational sub systems of the bus , etc | < 6 |

Note: The minimum service quality requirement shall be worked out and monitored on monthly basis for every route and/or the area basis.

Annexure D**Jurisdictional Composition of Transport Department in U.P**

| | Zone | Region | District | | |
|--------------|---------------------------------|----------------------------|---------------------|-------------|-------------|
| 1- | Lucknow | 1- Lucknow | 1- Lucknow | | |
| | | | 2- Sitapur | | |
| | | | 3- Hardoi | | |
| | | | 4- Lakhimpur | | |
| | | | 5- Unnao | | |
| | | | 6- Raibareilly | | |
| | | 2- Faizabad | 1- Faizabad | | |
| | | | 2- Barabanki | | |
| | | | 3- Sultanpur | | |
| | | | 4- Ambedkar Nagar | | |
| | | 3- Basti | 1- Basti | | |
| | | | 2- Santkabeer Nagar | | |
| | | | 3- Sidharth Nagar | | |
| | | 4- Devipatan (Gonda) | 1- Devipatan | | |
| | | | 2- Balrampur | | |
| | | | 3-Shrawasti | | |
| 4- Bahraich | | | | | |
| 2 | Kanpur | 1- Kanpur | 1- Kanpur Nagar | | |
| | | | 2- Kanpur Dehat | | |
| | | | 3- Etawa | | |
| | | | 4- Farukhabad | | |
| | | | 5- Kannauj | | |
| | | | 6- Oraiya | | |
| | | 2- Allahabad | 1- Allahabad | | |
| | | | 2- Fatehpur | | |
| | | | 3- Pratapgarh | | |
| | | | 4- Kaushambi | | |
| | | 3- Chitrakoot Dham (Banda) | 1- Banda | | |
| | | | 2- Chitrakoot | | |
| | | | 3- Hamirpur | | |
| | | | 4- Mahoba | | |
| | | 3 | Varanasi | 1- Varanasi | 1- Varanasi |
| | | | | | 2- Jaunpur |
| 3- Gazipur | | | | | |
| 4- Chandauli | | | | | |
| 2- Mirzapur | 1- Mirzapur | | | | |
| | 2- Sonbhadra | | | | |
| | 3- Sant Ravidas Nagar (Bhadohi) | | | | |
| 3- Gorakhpur | 1- Gorakhpur | | | | |
| | 2- Kusunagar | | | | |
| | 3- Maharajganj | | | | |
| | 4- Deoria | | | | |

| | | | |
|---------------|-----------------------------|--------------|------------------------------------|
| | | 4- Azamgarh | 1- Azamgarh 2- Ballia 3- Mao |
| 4 | Bareilly | 1- Bareilly | 1- Bareilly |
| | | | 2- Shahjahanpur |
| | | 2- Moradabad | 3- Pilibhit |
| | | | 4- Badau |
| 5- | Meerut | 1- Meerut | 1- Meerut |
| | | | 2- Bagpat |
| | | 2- Ghaziabad | 1- Ghaziabad |
| | | | 2- Bulandshahar |
| 3- Saharanpur | 3-Gautambudha Nagar (Noida_ | | |
| | 1- Saharanpur | | |
| 6- | Agra | 1- Agra | 2- Muzaffarnagar |
| | | | 1- Agra |
| | | | 2- Mathura |
| | | | 3- Mainpuri |
| | | 2- Aligarh | 4- Firozabad |
| | | | 1- Aligarh |
| | | | 2- Eta |
| | | | 3- Hathras |
| | | 3- Jhansi | 4- Man. Kanshiram Nagar |
| | | | 1- Jhansi |
| | | | 2- Jalaun (orai) |
| | | | 3- Lalitpur |

Annexure-E**Format for
Performance Guarantee****PROFORMA OF BANK GUARANTEE FOR PERFORMANCE GUARANTEE
(ON BANK'S LETTER HEAD WITH ADHESIVE STAMP)**

To

Transport Commissioner
Uttar Pradesh
Parivahan Bhawan, Tehri Kothi, MG Marg,
Lucknow-226001.

KNOW ALL MEN by these presents that we _____ of _____ (Name and address of Bank) having our registered office at _____ (hereinafter called "the bank") are bound unto, Transport Commissioner, UP (hereinafter called "the Owner") in the sum of Rs. -----lakhs (Rupees -----lakhs only) for which payment will and truly to be made to the said Owner, the Bank binds itself, its successors and assigns by these present. Whereas a Letter of Acceptance No. _____ dated _____ has been issued by **STA to** ----- (NAME OF BUS PROVIDER) (Hereinafter called "the Bus Provider") for execution of the PaRTS Project on Build, Own, Operate and Maintain (BOOM) basis. **AND WHEREAS** the Bus Provider is required to furnish a Bank Guarantee for the sum of Rs. -----lakhs (Rupees -----lakhs only) towards Performance Guarantee for the said PaRTS Project.

AND WHEREAS _____ (Name of Bank) have, at the request of the Bus Provider, agreed to give this guarantee as hereinafter contained without demur.

2. We further agree as follows:

- (a) That the guarantee hereinbefore contained shall not be affected by any change in the constitution of our Bank or in the constitution of the Bus Provider.
- (b) That any account settled between the Owner and the Bus Provider shall be conclusive evidence against us of the amount due hereunder and shall not be questioned by us.
- (c) That this guarantee commences from the date hereof and shall remain in force for a period of ----- years extendable by -----year and -----days
- (d) That the expression 'the Bus Provider' and 'the Bank' herein used shall, unless such an interpretation is repugnant to the subject or context, include their respective successor and assigns.

3. The Conditions on this obligation are:

- (i) If the Bus Provider fails or refuses to enter into the Bus Provider Agreement within the time limit specified in the Letter of Acceptance.
- (ii) If the Bus Provider fails to perform its obligations under the Bus Provider Agreement to be entered into between TC and the Bus Provider pursuant to issuance of Letter of Acceptance by STA to Bus Provider.

We undertake to immediately pay to the Owner at Lucknow in UTTAR PRADESH the above amount upon receipt of his first written demand, without the Owner having to substantiate his demand provided that in his demand the Owner will note that the amount claimed by him is due to him owing to the occurrence of any one or more of the conditions (i) & (ii) mentioned above, specifying the occurred condition or conditions.

SIGNATURE OF THE WITNESS

NAME OF THE WITNESS

ADDRESS OF THE WITNESS

SIGNATURE OF _____

AUTHORISED OFFICIAL OF THE BANK

NAME OF OFFICIAL -----

DESIGNATION -----

STAMP/SEAL OF THE BANK

Annexure-F

Format for Agreement

This Bus Provider **Agreement** is mutually agreed and entered into on this ____ day of _____(Month),⁶ Two Thousand and nine at Lucknow, Uttar Pradesh,

BETWEEN

Government of UP (GoUP) acting through the Transport Commissioner, Government of UP (TC, GoUP) hereinafter referred to as “**the Contracting Authority**” or “**TC**” which expression shall unless repugnant to the context include its successors and assigns, OF THE ONE PART,

AND

_____, a company /cooperative society /JV,⁷ having its registered office at _____,⁸ hereinafter referred to as “**Bus Provider**” which expression shall unless repugnant to the context include its successors and permitted assigns, OF THE OTHER PART.

WHEREAS,

- A. GoUP committed to securing and promoting an efficient, adequate, economical and properly coordinated system of mass passenger road transport for the public in the entire state of Uttar Pradesh.
- B. With a view to achieve the aim & objective stated above, GoUP is desirous of augmenting the bus fleet and operating it on a public private participation (ppp) system in the above area,
- C. Accordingly, on the advice of GoUP, STA had invited Bids under a three stage process from Bidders for selection and induction of bus providers and prescribed the terms and conditions for the selection of a Successful Bidder(s) under its Request for Qualification cum Proposal (RFQ cum RFP), inter-alia, to provide and operate the said buses at his cost for the above purpose on” Buy, Own, Operate and Maintain” (BOOM) basis for the Passenger Road Transport System (PaRTS) Project in the State of Uttar Pradesh subject to and on the terms and conditions contained in the said RFQ cum RFP.
- D. After evaluating several Bids, STA has accepted the Bid submitted by M/s _____¹⁰, (the “Bus Provider”) with _____¹¹ as its lead member (“Lead Member”)7 for undertaking, inter alia, the work for and in relation to the PaRTS Project. The said Lead Member has also got the requisite authority to act as such from other members of the Consortium by way of Affidavit(s) executed by the said other members in favor of the Lead Member.
- E. Accordingly, a Letter of Acceptance No. _____ dated _____¹² was issued to the Bus Provider(s) by the STA.
- F. TC, pursuant to the decision of the STA, to obligate the parties as per RFQ- cum-RFP document has decided for requiring, inter alia, the execution of this Bus Provider Agreement and submission of Performance Guarantee for the performance of its obligations under this Bus Provider Agreement.
- G. Pursuant thereto, the Bus Provider has submitted Performance Guarantee of Rs. One crore by way of _____¹³ to enter into this Bus Provider Agreement for the PaRTS

Project on BOOM basis and has requested TC/DA to accept the Bus Provider as the entity which shall undertake, fulfill and perform the obligations and exercise the rights of the Bus Provider under the Letter of Acceptance, including the obligation to enter into this Bus Provider Agreement for the PaRTS Project. A copy of the said Performance Guarantee is annexed as Schedule 3 hereto.

- H. The Bus Provider has also furnished a legal opinion from a legal counsel on its behalf representing that it is duly authorized to enter into this Bus Provider Agreement and fulfill its obligations under this Bus Provider .
- I. Now therefore TC is entering into this Agreement with the Bus Provider pursuant to the Letter of Acceptance for the PaRTS Project.
- J. It is deemed necessary and expedient to enter into this Bus Provider Agreement to record the terms of the said Bus Provider Agreement between the Parties.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

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 ascribed to them hereunder:

“Appointed Date” shall mean the date of this Agreement.

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

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

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

“Letter of Acceptance” means the letter issued by STA to the Successful Bidder which shall amount to grant of permit under the Motor Vehicles Act. This letter will authorized to operator to undertake the PaRTS Project in conformity with the terms and conditions set forth in the RFQ cum RFP.

“Quality of Service” shall have the meaning ascribed to it in RFQ-cum-RFP document under Annexure-C

“RFQ cum RFP” and / or **“RFQ cum RFP Document Package”** means the Request for Qualification cum Proposal documents for the PaRTS Project annexed hereto as Schedule 1.

“Scope of Services” shall have the meaning ascribed to it in RFQ-cum-RFP document under chapter-G.

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

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

“Year” – For all legal effects, and in particular for the construction of the contractual provisions where there is a reference to a given number of Bus Provider years, a “year” is understood as the twelve month consecutive period counted from the Appointed Date.¹³

Note:- Other term(s), not defined herein above but defined either in Motor Vehicles Act, 1988 or in the RFQ-cum-RFP document or elsewhere in this bus provider Agreement shall have the meaning(s) ascribed to such term(s) therein and shall be deemed to have been included in this Section.

1.2 Principles of Interpretation

In case of ambiguities or discrepancies in this Agreement, the following shall apply:

- (i) Between two Articles of this Agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles.
- (ii) Between the Articles and the Schedules, the Articles shall prevail;
- (iii) Between the written description on the drawings and the System Requirements / Specifications, the latter shall prevail
- (iv) Between any value written in numerals and that in words, the latter shall prevail
- (v) In the event of any discrepancy / conflict in the terms of the above referred documents or interpretation thereof, the decision of STA shall prevail.

1.3 Agreement

This agreement comprises with this bus provider agreement and all Schedules hereunder:-

- (a) **Schedule 1** - Request for Qualification cum Proposal (RFQ cum RFP) document in its entirety including all its Sections, Appendices and Annexures thereto. Terms and conditions of this Agreement shall supersede any contrary terms and conditions of the RFQ cum RFP and any Appendices and / or Schedule(s) thereto.
- (b) **Schedule 2** - Letter of Acceptance
- (c) **Schedule 3**—Performance Guarantee/Bank Guarantee

ARTICLE 2

BUS PROVIDER CONTRACT

2.1 Grant of Bus Provider Contract

Subject to and in accordance with the terms and conditions set forth in this Agreement, TC hereby grants and authorizes the Bus Provider to exercise and/or enjoy the following rights as set forth in this Agreement:

RIGHTS OF BUS PROVIDER

- i. Bus provider shall have the right to buy, own, operate, and maintain the buses of stipulated specifications for the PaRTS Project at his cost and collect revenue from users as per tariffs fixed by GoUP and as per terms and conditions given in the RFQ cum RFP. The detailed rights of the bus provider are given in the RFQ cum RFP Document
- (ii) It shall be Bus Provider's responsibility to comply with the applicable laws, rules, Guidelines as applicable for this purpose or orders issued by the Competent Authority with respect to the above.

2.2 Bus Provider contract Period

The Bus Provider contract hereby awarded is for a period of 30 (thirty) years commencing from the Appointed Date and ending on the Expiry Date ("the Bus Provider Contract Period") during which the Bus Provider is authorized to "Buy, Own, Operate and Maintain" buses as per stipulated specifications at his cost on BOOM basis in the PaRTS Project, in accordance with the provisions hereof. Provided, that in the event of Termination, the Bus Provider contract Period shall mean and be limited to the period commencing from the Appointed Date and ending with the Termination Date.

2.3 Acceptance of Bus Provider contract

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

ARTICLE 3

ACCESS TO PREMISES

3.1 Rights, Title and Use of the Premises, if any, arranged by DA for parking of buses of the bus provider provided by him for the PaRTS Project

- (a) The Bus Provider may be allowed the use of the Premises, if any, arranged by DA in accordance with the provisions of this Agreement.
- (b) The Premises shall be and continue to be the property of DA.

- (c) The Bus Provider shall not part with or create any Encumbrance on the whole or any part of the Premises save and except as set forth and permitted under an Agreement signed with DA as and when such a premises is arranged.
- (d) Bus Provider shall take the prior written consent of DA for making any changes/alterations / constructions to, at or on the Premises for purposes of this and the aforesaid Agreement.
- (e) The Bus Provider shall at all times during the subsistence of this Agreement maintain the Premises and shall not, without the prior written approval of DA, use the Premises for any purpose other than for the purpose of the PaRTS Project as defined by the DA in the agreement signed then and purposes incidental or ancillary thereto.
- (f) Bus Provider shall ensure that its use of the Premises herein shall not result in an adverse effect there to. In the event of an adverse effect being caused to the Premises it shall be the Bus Provider's responsibility to restore the said Premises at Bus Provider's cost and expenses.
- (g) The above efforts are mainly for facilitation and shall not be construed as any assurance from the TC or GoUP.

ARTICLE 4

MONITORING COMMITTEES

4 (a) Constitution of the Monitoring Committees

To oversee and monitor the work performed by Bus Provider under the PaRTS Project, GoUP shall constitute Monitoring Committees at the Regional Headquarters of the State of Uttar Pradesh under the chairmanship of the Commissioner of concerned revenue division with following members:

- (i) District Magistrate of the Regional Headquarter District – Member
- (ii) All Police Heads of the districts within the jurisdiction of the region - Members
- (iii) Regional Transport Officer of the concerned region - Convener

(b) Functions, Role and Frequency of Monitoring Committees Meetings

- (i) All the Monitoring Committees will perform their work under the direction and supervision of State Transport Authority, Uttar Pradesh.
- (ii) The Monitoring Committees shall carry out such functions and exercise such powers as are determined by STA from time to time including without limitation examining the reports submitted by bus provider(s).
- (iii) The Monitoring Committees are expected to hold meetings at least once every month to review the progress made/operational performance etc in relation to the PaRTS Project during the agreement period.
- (iv) The Regional Transport Officer of the concern region shall with the approval of the Chairman prepare a list of item to be considered in the meeting and shall

issue to each member of the committee before the meeting and prepare a minutes to send the report to the Transport Commissioner, UP.

- (v) GoUP reserves right to change, in its sole discretion, at any point of time during the Bus Provider agreement Period, the constitution of the Monitoring Committees either by removing /replacing any of the members of the Monitoring Committees which are appointed by GoUP or by nominating any further persons.

ARTICLE 5

BUS PROVIDER'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations mentioned in the RFQ cum RFP, the Bus Provider shall have the following obligations:

5.1 Performance Guarantee

- (a) The Bus Provider has, for due and punctual performance of its obligations hereunder relating to the PaRTS Project, delivered to TC, simultaneously with the execution of this Agreement, a performance guarantee from _____¹⁷, for a sum of Rs. 1,00,00,000/- (Rupees one crores only) in the form of a

¹⁸To include name of the Bank

_____ ¹⁹ in favor of "Transport Commissioner, UP" payable at Lucknow. A copy of the said Performance Guarantee is Schedule 3 hereto and other terms in accordance with the RFQ-cum-RFP Document

- (b) The Performance Guarantee is irrevocable and the Performance Guarantee is valid for the entire Bus Provider Period and an additional period of 180 (one hundred and eighty) days thereafter.

5.2 Fresh Performance Guarantee

In the event of the encashment of the Performance Guarantee by TC during the Bus Provider contact/agreement Period pursuant to an encashment notice, the Bus Provider shall within 30 (thirty) days of the encashment notice furnish to TC a fresh Performance Guarantee in such sum as required by TC failing which TC shall be entitled to terminate this Agreement. The provisions set forth in Clause Article 5.1 above shall apply mutatis mutandis to such fresh Performance Guarantee.

5.3 Financing Arrangement

The Bus Provider shall at its cost, expense and risk make such financing arrangements as would be necessary to implement the contract for the PaRTS Project and to meet all of its obligations under this Agreement, in a timely manner.

5.4 Project Implementation

- (i) The Bus Provider shall adhere to the Project Implementation Requirements/Bus provisioning and other related activities' schedule including without limitation adherence to the timelines stipulated for the same and complete the procurement and commissioning of requisite number of buses as per the

stipulated specifications for the PaRTS Project and make it operational upon the terms and in the manner stipulated in this Agreement.

- (ii) The Bus Provider shall undertake any and all actions in relation to the bus provider contract for the PaRTS Project by itself and shall remain solely responsible to meet the bus procurement and operation and maintenance schedules hereunder.
- (iii) The Bus Provider shall, before commencement of various actions related to the bus provider contract under the PaRTS Project, have requisite organization and designate and appoint suitable officers / representatives as it may deem appropriate to supervise all his activities as a bus provider for the PaRTS Project, to deal with this matter and to be responsible for all necessary exchange of information required pursuant to this Agreement. Bus Provider shall promptly notify the names of these officers / representatives to TC.
- (iv) For the purposes of determining that any and all activities in relation to the bus provider contract for the PaRTS Project are being undertaken in accordance with the Project Implementation Requirements/schedules, the Bus Provider shall with due diligence carry out all necessary and periodical reviews/checks/inspection and quality assurance of buses and other items/facilities from time to time as required under the Project Implementation Requirements/ as per a defined Quality Check and Acceptance Test Plan ("Tests") for the buses. The Bus Provider shall maintain proper record of such checks/inspections/Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the results of the above actions.
- (v) All actions/activities in relation to the bus provider contract for the PaRTS Project including without limitation all inspection/checks/Tests shall be carried out in accordance with Project Implementation Requirements/ schedules and all other provisions of this Agreement.
- (vi) TC, may, by written notice, require the Bus Provider to suspend forthwith the whole or any part of any action/activity/works in relation to the bus provider contract for the PaRTS Project, if in TC's reasonable opinion the same is being carried on in a manner that is not in conformity with the provisions of this Agreement.
- (vii) Bus Provider shall submit periodic reports including standard reports and exceptional reports in relation to the progress of implementation of the bus provider contract for the PaRTS Project in terms of this Agreement. The format for reporting requirements shall be set out by TC and handed over to successful bus provider after issue of the letter of acceptance of the bid and it is the Bus Provider's responsibility to furnish such periodic reports to TC and monitoring committees.

5.5 Project Implementation: Operation and Maintenance

- (a) The Bus Provider shall operate and maintain the buses provided for the PaRTS Project in accordance with the Project Requirements and other operation schedules on trips/routes/in areas as from time to time in terms of the RFQ cum RFP. The bus provider shall maintain the buses in highest state of operational roadworthiness and fitness through out the period of the contract,
- (b) The Bus Provider shall, during the entire period of the PaRTS Project

- (i) have requisite organization and designate and appoint suitable officers /representatives as it may deem appropriate to supervise the bus provider 's activities in the PaRTS Project , to deal with his matter and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - (ii) conduct all inspections, maintain follow ups of the progress of fabrication of buses, organize their acceptance/necessary tests to ascertain their compliance with the stipulated with Project Requirements.
 - (iii) suspend forthwith the whole or any part of the activity(s) under the PaRTS Project upon receiving a written notice from TC, who may require the Bus Provider to suspend the activities in whole or part if in the reasonable opinion of TC, the operations are being carried on in a manner that is not in conformity with the Project Requirements.
- (c) In the event the Bus Provider has failed to procure/own/operate/maintain the buses and or carry out all other activities for the PaRTS Project in accordance with the Project Requirements, and such failure has not been remedied despite a notice("Notice to Remedy") to that effect issued by TC. TC may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to take such actions including suspension of the bus(es) and or the contract and/or replacement of the bus provider by another bus provider for the PaRTS Project at the risk and cost of the Bus Provider. The Bus Provider shall reimburse 150% of the costs incurred by TC on account of such actions within 7 (seven) days of receipt of TC's claim therefor.
- (d) In addition to any other provisions of this Agreement, the Bus Provider shall be deemed to be in material breach of Project Implementation Requirements if TC in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Bus Provider:
- (i) there has been failure / undue delay in carrying out scheduled / planned induction/ implementation / operation / maintenance of the buses and other related infrastructure / facilities under his control or the scheduled / planned maintenance has not been carried out in accordance with the bus maintenance requirements prescribed by the bus manufacturer and/or there have been defaults / deficiencies in the quality of services provided
 - (ii) the maintenance of the buses / facilities provided for the PaRTS Project or any part thereof and or provisioning of services has deteriorated to a level which is below the acceptance level prescribed by the Project Requirements;
 - (iii) the buses or any part thereof is not safe for operations;
 - (iv) there has been a serious or persistent let up in adhering to the Project Requirements and thereby there has been persistent breach of Project Implementation Requirements. For avoidance of doubt, persistent breach shall mean: (a) any breach of Project Implementation Requirements by the Bus Provider which has not been remedied by the Bus Provider despite a Notice to Remedy in respect thereof issued by TC; (b) recurrence of a breach by the Bus Provider, during the pendency of Notice to Remedy by TC requiring the Bus Provider to remedy a breach, and; (c) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.
- (e) Upon occurrence of a material breach of Project Implementation Requirements, TC shall, without prejudice to and notwithstanding any other consequences

provided there for under this Agreement, be entitled to terminate this Agreement.

5.6 General Obligations

5.6.1 The Bus Provider shall at its own cost and expense:

- (a) Buy, own, operate and maintain the buses provided to the PaRTS Project at his cost and in accordance with the provisions hereof;
- (b) Comply with Applicable Laws in relation to the above task in the mass passenger public transport system of the PaRTS Project at all times during the Bus Provider Period;
- (c) Make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the PaRTS Project and Bus Provider hereby indemnifies TC against any claims, damages, expenses or losses in this regard and agrees that in no case and for no purpose shall TC be treated as an employer in this regard;
- (d) Be responsible for all the health, security, environment and safety aspects of the bus provider staff / services for the PaRTS Project at all times during the Bus Provider Period.
- (e) Be responsible for payment of all statutory levies including ESIC /PF Contribution, etc. in respect of the staff engaged by Bus Provider for operation & maintenance of the buses and other items/assets for the PaRTS Project. Notwithstanding the generality of the foregoing, any and all payments to be made to any contractors, sub-contractors or any other personnel engaged by Bus Provider and any and all payments to be further made by such contractors, sub-contractors to any party / personnel in relation to the bus provider contract of the PaRTS Project shall be the sole responsibility of Bus Provider and TC shall neither incur any liability in this respect nor entertain any claims in this respect.

5.6.2 The Bus Provider shall ensure optimum utilization of the Premises, if any provided at any time during the contract period, and shall not use the same for any purpose unconnected or which is not incidental to the PaRTS Project or related activities.

5.7 No Breach of Obligations

The Bus Provider shall not be considered to be in breach of its obligations under this agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Agreement is affected by or on account of any of the following:

- (i) Force Majeure Event, subject to Article 8.3;
- (ii) Compliance with the instructions of the TC or DA.

5.8 Confidentiality Obligations of Bus Provider

(a) Confidential Information

- (i) Bus Provider shall treat as confidential any information which is clearly described as confidential otherwise and marked as "Confidential information" or "Proprietary to TC." Notwithstanding the generality of the foregoing, Confidential Information shall include any proprietary or confidential information of TC relating to the PaRTS Project or services provided under the Bus Provider Agreement in relation thereto and information relating to TC's activities or operations.
- (ii) Bus Provider shall not without TC's prior written consent use, copy or remove any Confidential Information from TC's premises, except to the extent necessary to carry out Bus Provider's obligations hereunder. Upon completion or termination of each assignment hereunder, Bus Provider shall return to TC all documents or other materials containing TC's Confidential Information and shall destroy all copies thereof.

(b) Confidentiality Exceptions

Confidential Information shall not include information which:

- (i) Is or becomes generally available to the public without any act or omission of Bus Provider;
- (ii) Was in Bus Provider's possession prior to the time it was received from TC or came into Bus Provider's possession thereafter, in each case lawfully obtained from a source other than TC and not subject to any obligation of confidentiality or restriction on use;
- (iii) Is required to be disclosed by court order or operation of law; in such event, Bus Provider shall so notify TC before such disclosure; or
- (iv) Is independently developed by or for Bus Provider by persons not having exposure to TC's Confidential Information

(c) Period of Confidentiality

Bus Provider's obligations of confidentiality regarding TC's Confidential Information shall terminate three years after the expiry or earlier termination of the Bus Provider Agreement.

ARTICLE 6

TC's OBLIGATIONS

6- In addition to and not in derogation or substitution of any of its other obligations under this Agreement, TC under his obligations will grant in a timely manner all such approvals, permissions and authorizations which the Bus Provider may require or is obliged to seek from TC under this Agreement, in connection with implementation of the PaRTS Project and the performance of its obligations. .

ARTICLE 7

CONTRIBUTION / ROYALTY PAYABLE BY THE BUS PROVIDER

7.1 Contribution/Royalty Payable by the Bus Provider

- a) Contribution/Royalty payable to the bus provider towards Passenger Amenities Fund (PAF) shall be(To be filled up as :per quotation and rates as finalized for the successful bidder)
- b) Contribution or royalty amount to be revised after every two years in line with the whole sale price index / cost living index (WPI/CLI)

7.2 Payment Terms

- a) Payment of contribution/royalty towards PAF by the Bus Provider (as per the Agreement) to TC shall be made in lumpsum once in a year. Similarly, payment of any other dues such as Liquidity Damages, fines / penalties for delays / defaults / deficiencies in fulfillment of bus providers' obligations besides interest on non / short / delayed payments.
- b) The aforesaid lumpsum payments by Bus Provider to TC shall be made within 7(seven days), of the due date (appointed date) and failure to do so will attract an interest of 18% per annum (1.5% per month) on the entire amount of the outstanding amount .Bus provider shall also pay all fines, penalties, liquidated damages etc if any as per the scheduled dates prescribed by the TC & PO for making of the payments by the bus provider.
- c) Any and all payment(s) of contribution/ liquidated damages/penalties etc by the Bus Provider shall be by way of a Pay Order / cheque of a Scheduled Bank drawn in favour of the Transport Commissioner, U.P., Lucknow and payable at par at Lucknow, Uttar Pradesh or in cash at the counter available in the TC office. When-ever feasible the payments would be effected through the ECS and/or any other mechanism followed by the banks for which the bus provider / TC shall have to complete necessary formalities as required by the bankers.
- d) Any and all applicable taxes, uses and charges, including without limitation any and all Service Tax in the performance of the services under the Agreement shall be borne by Bus Provider.

ARTICLE 8

FORCE MAJEURE AND CHANGE IN LAW

8.1 Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be "Affected Party" and thereby which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and which results in a material adverse effect shall constitute a Force Majeure Event:

- (a) earthquake, flood, inundation and landslide, cyclone
- (b) fire caused by reasons not attributable to the Bus Provider
- (c) acts of terrorism

- (d) strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Bus Provider
- (e) action of a Government Agency having a material adverse effect including but not limited to
 - (i) acts of compulsory acquisition or takeover by any Government Agency of the Premises or any part thereof or of the Bus Provider's rights in relation to the PaRTS Project,
 - (ii) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Bus Provider in any proceedings which is non-collusive and duly prosecuted by the Bus Provider, and
 - (iii) any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than Bus Provider's breach or failure in complying with the PaRTS Project requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Bus Provider is bound.
- (f) early determination of this Agreement by TC for reasons of national emergency or national security.
- (g) War, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionising radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions.

8.2 Notice of Force Majeure Event

- (a) As soon as practicable and in any case within 7 (seven) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party of the same setting out, inter alia, the following in reasonable detail:
 - (i) the nature and extent of the Force Majeure Event;
 - (ii) the estimated Force Majeure Period;
 - (iii) the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
 - (iv) the measures which the Affected Party has taken or proposes to take to alleviate / mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
 - (v) any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.
- (b) As soon as practicable and in any case within 5 (five) days of notification by the Affected Party in accordance with the preceding clause (a), the Parties shall meet, hold discussions in good faith in order to:
 - (i) assess the impact of the underlying Force Majeure Event,
 - (ii) to determine the likely duration of Force Majeure Period and,
 - (iii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations the performance of which shall have been affected by the underlying Force Majeure Event.
- (c) The Affected Party shall during the Force Majeure Period provide to the other Party and the Independent monitor weekly reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the other Party may reasonably require.

8.3 Performance of Obligations

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

- (a) due notice of the Force Majeure Event has been given as required by the preceding Clause 8.2;
- (b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- (c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or likely to be caused to the PaRTS Project and /or the Premises as a result of the Force Majeure Event and to restore the PaRTS Project and Premises, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;

8.4 Termination due to Force Majeure Event

(a) Termination

- (i) If a Force Majeure Event, excluding events described under Clauses 8.1(f) and 8.1(g) continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 (One hundred and Twenty) days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 (One Hundred and Twenty) days, be entitled to terminate this Agreement. Notwithstanding anything inconsistent contained in this Agreement, if a Force Majeure Event is an event described under Clauses 8.1(f), and the same subsists for a period exceeding 365 (Three Hundred and Sixty Five) days, then either Party shall be entitled to terminate this Agreement. Provided that TC may at its sole discretion have the option to terminate this Agreement any time after the occurrence of any Force Majeure Event described under Section 8.1.

(b) Termination Notice

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

(c) Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that the Premises etc (as then existing) are handed over by Bus Provider to TC/DA peacefully and free from all Encumbrance on the Termination Date.

8.5 Liability for other losses, damages etc.

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

8.6 Change in Law

The Agreement shall be in force and binding on both the parties hereto till the expiry of the Bus Provider Period and no change in law or other circumstances shall affect the respective rights and obligations of the Parties. No claim of whatsoever nature shall be made by one party on to the other on account of any such change in law or other circumstances.

ARTICLE 9**EVENTS OF DEFAULT AND TERMINATION****9.1 Termination for Default**

- (a) Without prejudice to any other rights available to TC for breach of contract or otherwise TC may in its sole discretion terminate the Agreement in whole or in part by issuing a Notice of Termination to Bus Provider in writing if:
- (i) Bus Provider fails to perform any of Bus Provider's obligations set forth in the Agreement; and / or
 - (ii) Bus Provider fails to adhere to the timelines set forth in the Agreement for performance of Bus Provider's obligations there-under; and / or
 - (iii) Bus Provider fails to comply with the applicable laws, rules, regulations,
- (b) In any of the above mentioned conditions, TC shall have the right to
- Invoke the Performance Guarantee and / or take any other action including provisioning of buses to the PaRTS Project through another Agreement with any replacement Bus Provider selected by STA in its sole discretion at the risk and cost of the bus provider
 - Take over the entire infrastructure developed by Bus Provider for the PaRTS Project or any part thereof and / or negotiate with Bus Provider to transfer the said infrastructure or part thereof to a replacement Bus Provider selected by STA, in TC's sole discretion.
- (c) If Bus Provider, having been notified, fails to remedy the defect(s) within a Time frame specified in the performance level standards section of the RFQ cum RFP, TC may proceed to take such remedial action as may be necessary, at Bus Provider's risk and cost and without prejudice to any other rights which TC may have against the Bus Provider under the Agreement.

9.2 Termination for Insolvency, Dissolution etc.

TC may at any time terminate the Agreement by giving written notice to Bus Provider without any compensation to Bus Provider, if Bus Provider becomes bankrupt or otherwise insolvent or in case of dissolution of firm or winding up of the company, provided that such termination will not prejudice any other rights of TC. Notwithstanding the generality of the foregoing, TC reserves the right to invoke the Performance Guarantee and / or take any other action including provisioning of buses to the PaRTS Project through another Agreement with any replacement Bus Provider selected by STA in its sole discretion at the risk and cost of the bus provider, take over the entire infrastructure developed by Bus Provider for the PaRTS Project or any part thereof and / or negotiate with Bus Provider to transfer the said infrastructure or part thereof to a replacement Bus Provider selected by STA, in TC's sole discretion.

9.3 Accrued Rights of Parties

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

ARTICLE 10

HANDOVER & DEFECT LIABILITY PERIOD

10.1 Handing Over of Project Assets

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

10.2 Joint Inspection and Removal of Deficiency

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

10.3 Recovery of Balance dues of TC/DA from the Bus Provider

The dues payable to TC by the Bus Provider on any account, if any, at the end of the Bus Provider Period shall be recovered by TC from the Performance Guarantee.

ARTICLE 11

DISPUTE RESOLUTION

11.1 AMICABLE RESOLUTION

- (a) Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including non-completion of the PaRTS Project between the Parties and so notified in writing by either Party to the other (the "Dispute") in the first instance shall be attempted to be resolved amicably by the Parties and failing such resolution of the same, in accordance with the procedure set forth in sub-article (b) below.
- (b) Either Party may require the Dispute to be referred to the GoUP for amicable settlement. Upon such reference, both the Parties and the GoUP or his nominee shall meet at the earliest mutual convenience and in any event within 15 (fifteen) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably resolved within 15 (fifteen) days of such meeting, either Party may refer the Dispute to arbitration in accordance with the provisions of Article 11.2 below.

11.2 Arbitration

- (a) **Arbitrator**
Any Dispute which is not resolved amicably as provided in Article 11.1 shall be finally settled by binding arbitration under an arbitrator appointed by GoUP.
- (b) **Place of Arbitration**
The place of arbitration shall be Lucknow, Uttar Pradesh.
- (c) **Language**
The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English or Hindi and, if oral hearings take place, English or Hindi shall be the language to be used in the hearings.
- (d) **Procedure**
The procedure to be followed within the arbitration and the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.
- (e) **Enforcement of Award**
Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto hereby waive, to the extent permitted by law, any rights to appeal or to review of such award by any Court or Tribunal. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceedings or their assets wherever they may be found and

that a judgment upon the arbitral award may be entered in any Court having jurisdiction thereof.

(f) Fees and Expenses

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

(g) Performance during Arbitration

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

ARTICLE 12

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of the Bus Provider

The Bus Provider represents and warrants to TC that:

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Agreement;
- (d) it has the financial standing and capacity to undertake the Bus Provider contract for the PaRTS Project;
- (e) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Bus Provider's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g) there are no actions, suits, proceedings or investigations pending or to the Bus Provider's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may constitute an event of default on the part of the Bus Provider or which individually or in the aggregate may result in material adverse effect;

- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material adverse effect;
- (i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material adverse effect;
- (j) no representation or warranty by the Bus Provider contained herein or in any other document furnished by it to TC or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (k) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Bus Provider to any person to procure the contract.
- (l) Without prejudice to any express provision contained in this Agreement, the Bus Provider acknowledges that prior to the execution of this Agreement, the Bus Provider has after a complete and careful examination made an independent evaluation of all aspects of the PaRTS Project, and the information provided by TC, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Bus Provider in the course of performance of its obligations hereunder.
- (m) The Bus Provider also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that TC shall not be liable for the same in any manner whatsoever to the Bus Provider.

12.2 Representations and Warranties of TC

TC represents and warrants to the Bus Provider that:

- (a) STA has full power and authority to grant the contract;
- (b) TC has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (c) This Agreement constitutes TC's legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

12.3 Obligation to Notify Change

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

12.4 Indemnification

Bus Provider shall at all times, i.e. during the subsistence of the Bus Provider Agreement and any time thereafter, defend, indemnify and hold GoUP/TC harmless from and against all claims (including without limitation claims for infringement of

intellectual property, breach of contract, death or injury to a person or injury to property, or other tort claims) and expenses (including court costs) arising out of or relating to the breach by Bus Provider of any covenant, representation or warranty or from any act or omission of the Bus Provider or his agents, employees or sub contractors. TC will notify Bus Provider of any such claim, suit or proceeding and will assist Bus Provider (at Bus Provider's expense) in the defense of the same

ARTICLE 13

MISCELLANEOUS

13.1 Charges

- (a) The Bus Provider shall not create nor permit to subsist any Encumbrance over the Premises
- (b) Restraint set forth in clauses (a) above shall not apply to liens/ encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Bus Provider;

13.2 Interest and Right of Set Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at 18% (eighteen) per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off. Provided the stipulation regarding interest for delayed payments contained in this Article shall neither be deemed or construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

13.3 Liquidated Damages

In the event of delay in induction of buses by the Bus Provider in relation to the schedule of supplies stipulated in the Agreement for the PaRTS Project, or any subsequent amendment thereto, TC shall recover from Bus Provider liquidated damages (and not by way of penalty) @ Rs.1,000/- (Rupees one thousand) per bus per day of delay. Further, Liquidity Damages shall also be recovered for delays / non-provisioning of any or all of the following within the prescribed time schedule as per details in **RFQ-cum-RFP Document**

- To ensure providing adequate rural services, the bus fleets will have to cover (i.e. pickup & drop passengers at) an average of 30 revenue villages per bus per day. It is to be ensured that 40% of the total fleet kilometerage will have to be on rural routes (which are structured within the revenue district) comprising Other Diistrict Roads (ODR) so that remote village are also serviced.
- Bus repair workshops / arrangement for repair and maintenance of buses as per RFQ-cum-RFP Document
- Control rooms

- Parking Spaces
- Fleet mix ratio comprising of minimum 60% ordinary fare buses while upto 40% buses may be super deluxe, deluxe and semi deluxe
- Age profile of buses as per RFQ –cum-RFP document.

13.4 Governing Law and Jurisdiction

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

13.5 Waiver

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

13.6 Survival

Termination of this Agreement (a) shall not relieve the Bus Provider or TC of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

13.7 Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

13.8 Notices

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

If to TC:

Transport Commissioner, U.P.
Parivahan Bhawan, Tehri Kothi, MG Marg, Lucknow-226001
Phone: (0522) 2613978, Fax: 2629235, Email: transport.up@gmail.com

If to the Bus Provider :

The-----,
----- Limited,

Fax No. -----

Or such address, facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized courier or by mail (registered, return receipt requested) at that address, and (ii) in the case of any communication made by facsimile, when transmitted properly addressed to such facsimile number.

13.9 Severability

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

13.10 No Partnership

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

13.11 Language

All notices required to be given under this Agreement and all communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in Hindi or English language.

13.12 Ownership & Protection of Property And Intellectual Property Rights

13.12.1 Ownership & Protection of Property

- a) DA shall retain the title and ownership of any site allotted by DA to Bus Provider for purposes of carrying out Bus Provider’s obligations in relation to the PaRTS Project. Such title and ownership of DA in any such site shall not pass to Bus Provider.

- b) The ownership of any other infrastructure created by Bus Provider at the allotted sites for the PaRTS Project shall be with DA with effect from the date of the implementation. The possession of the infrastructure shall pass to DA on the expiry of the Bus Provider Agreement.
- c) TC shall own any and all data created out of the PaRTS Project at all the times, during and after the expiry / termination of the Bus Provider Agreement. Bus Provider shall not have any claim on and for such data and shall not for any reason withhold such data from TC.
- d) Bus Provider shall exercise all due caution to protect and maintain the data created out of this PaRTS Project.
- e) Bus Provider shall not share, sell or in any manner use the data created by Bus Provider out of this PaRTS Project otherwise than in accordance with the terms of the bus provider Agreement.
- f) Upon expiry or earlier termination of the Bus Provider Agreement, Bus Provider shall transfer the possession of any and all assets including without limitation any software etc. designed, created, implemented by Bus Provider at the allotted sites for the PaRTS Project to TC.

13.13 Intellectual Property Rights

- a) Bus Provider shall acknowledge and agree that any and all, software, and / or firmware developed by Bus Provider at the allotted sites in relation to the PaRTS Project and any modifications thereto or works derived there-from shall be the exclusive property of TC at all times and TC shall retain all right, title and interest in and to the same. Provided however that the Bus Provider shall have the right to possess and use the same during the Bus Provider Agreement Period for purposes of effective implementation, operation and maintenance of the PaRTS Project on specific approval of the same by TC.
- b) After the expiry or termination of the Bus Provider Agreement Bus Provider shall have no right, title or interest in or to any work including without limitation the designs, software, modifications or facilities developed at the allotted sites by Bus Provider under the PaRTS Project for any purpose whatsoever.
- c) For purposes of the Bus Provider Agreement the terms “software”, “software programs” shall include without limitation the specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided at the sites by the Bus Provider in relation to the PaRTS Project pursuant to the Bus Provider Agreement.
- d) TC may in its sole discretion allow the use of any and all buses used specifically in relation to the PaRTS Project by Bus Provider to a third party for the purpose of advertisements etc inside/outside the buses. Provided however that such permission shall be granted only after prior approval of STA in which event the parties shall arrive at an understanding which shall be set forth in writing in a Memorandum of Understanding (“MOU”) between TC and the Bus Provider before taking up such activity. The MOU shall clearly state the terms of / for such usage/activity, the responsibilities of Bus Provider and TC respectively as well as financial implications thereof, if any.

- e) TC may in its sole discretion allow the marketing of any and all product(s) developed specifically for TC in relation to the PaRTS Project by Bus Provider to a third party. Provided however that such permission shall be granted only after prior approval with STA in which event the parties shall arrive at an understanding which shall be set forth in writing in a Memorandum of Understanding ("MOU") between TC and the Bus Provider before taking up such activity. The MOU shall clearly state the terms of / for such marketing activity, the responsibilities of Bus Provider and TC respectively as well as financial implications thereof, if any.

13.14 Counterparts

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

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

SIGNED SEALED AND DELIVERED:

For and on behalf of TC by:

(Signature)
(Name)
(Designation)

**For and on behalf of BUS PROVIDER
by:**

(Signature)

In the presence of :

- 1)
- 2)

-
- ⁶ To be filled
- ⁷ To be stated in case of Consortium Joint Venture, the Lead Member would be required to sign the Agreement
- ⁸ To be filled
- ¹⁰ To be revisited when Bus Provider is identified – in case of Consortium / foreign investment etc.
- ¹¹ To be filled
- ¹² To be filled
- ¹³ Give details of Performance Guarantee
- ¹⁴ To be specified when Bus Provider is identified
- ¹⁷ To state here whether this is in the form of a demand draft / banker's cheque / bank guarantee
- ¹⁸ In the event the Performance Guarantee is in the form of a bank guarantee from a foreign bank the same should be counter guaranteed by a scheduled bank approved by RBI. If applicable, this fact has to be stated here
- ¹⁹ To be included if the Performance Guarantee is in the form of a Bank Guarantee