

**DEVELOPMENT OF METRO LINK FROM
DELHI METRO SIKANDERPUR STATION
TO
NH-8 IN GURGAON**

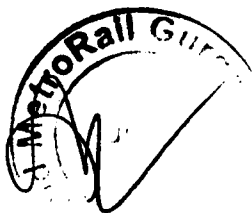
CONCESSION CONTRACT

December 9, 2009

**HARYANA URBAN DEVELOPMENT AUTHORITY
C-3, SECTOR-6, PANCHKULA**

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Haryana Urban Development Authority
Panchkula

CONCESSION CONTRACT

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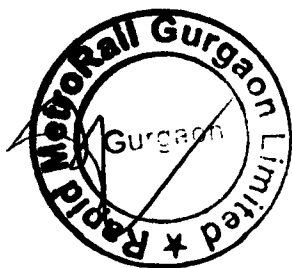
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हरियाणा HARYANA

CONCESSION CONTRACT

C 538795

This, Concession Contract hereinafter referred to as "Concession Contract" is entered into on this the 24th day of December, 2009 between

1. **HARYANA URBAN DEVELOPMENT AUTHORITY**, an apex body set up by Government of Haryana under HUDA Act, 1977 and having its principal office at C-3, Sector-6, Panchkula (hereinafter referred to as "HUDA" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns) of One Part,

AND

2. **Rapid MetroRail Gurgaon Limited**, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Ambience Corporate Towers, 2nd Floor, Ambience Island, National Highway#8, Gurgaon, Haryana, India 122001 (hereinafter referred to as the "Concessionaire" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes) of the Other Part.

RECITALS

Whereas

- A. HUDA is developing Metro link from Delhi Metro Sikanderpur Station on MG Road to NH-8 (hereinafter called the "Project").



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- B. HUDA has decided to develop the Project by engaging Concessionaire for financing, design, construction, procurement, installation, commissioning, operation and maintenance of all systems (including but not limited to Via-duct, Stations, Depot, Rolling Stock, Over Head Electrification, Track, Signalling and Telecommunication, depot and other facilities) required for successful Project.
- C. Following a process of Request for Qualification and Request for Proposal (RFQ_RFP) and after submission of bids by bidders and evaluation thereof, HUDA has accepted the bid of "MetroRail Gurgaon" consortium ("Consortium") comprising ITNL ENSO Rail Systems Limited (IERS), ILFS Transportation Network Limited (ITNL) and DLF Metro Limited and who have executed an "Consortium Agreement" dated 1st December 2008 among themselves, and have identified IERS as the Lead member of Consortium and HUDA has issued its Letter of Award No. HUDA.CCF-Acct-I-2009/25507 dated 16th July 2009 (LOA) in the name of Consortium accordingly requiring, inter alia, the execution of this Concession Contract within 60 (Sixty) days of the date thereof or any extension provided thereof.
- D. The Consortium has promoted and incorporated the Concessionaire under the Companies act, 1956 and has requested HUDA to accept the Concessionaire as the entity which shall undertake and fulfill and perform the obligations and exercise the rights of the Consortium under the LOA, including the obligation to enter into this Concession Contract. The Article of Association of the Concessionaire shall reflect the terms and conditions of the Concession Contract.
- E. HUDA has accepted the request of the Consortium and has accordingly agreed to enter into this Concession Contract with the Concessionaire for execution of the Project on BOT basis, subject to and on terms and conditions set forth hereinafter.
- F. It is deemed necessary and expedient to enter into this Concession Contract to record the terms of the said Concession Contract between the Parties.
- G. The following documents shall form part of the Concession Contract:
1. RFQ_RFP document issued by HUDA
 2. The LOA in favour of Consortium, issued vide letter no HUDA.CCF-Acct-I-2009/25507 dated 16.7.2009
 3. Concession Contract comprising of Sections I to VIII
 4. Schedules of Concession Contract comprising of Schedule A to I
 5. Offers of Consortium dated 9.12.2008 and 18.3.2009.

All of the forgoing documents, together with this Concession Contract are referred to herein as the **Contract documents**.



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**SECTION — I
PRELIMINARY**



A handwritten signature in black ink, likely belonging to the Chief Administrator.

**Chief Administrator
Haryana Urban Development Authority
Panchkula**

ARTICLE: I

DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Concession Contract shall unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed there to in the Schedule:

"Accounting Year" means the financial year commencing from 1 day of April of any calendar year and ending on 31st day of March of the next calendar year.

"Adjusted Equity" means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "Reference Date"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

- a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Effective Date and the Reference Date;
- b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "Base Adjusted Equity") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;
- c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.42% (zero point four two per cent) thereof at the commencement of each month following the 4th (fourth) anniversary of the Project Completion Date and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;

For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Base Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

"Affected Party" shall have the meaning set out in Sub-Article 21.1.

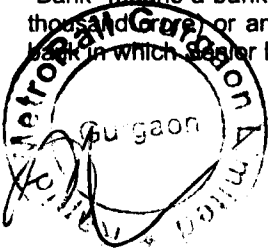
"Concession Contract" means this Concession Contract, its Recitals, the Schedules hereto, other annexure and amendments made thereto made in accordance with provisions contained in this Concession Contract and would include the Contract Documents.

"Applicable Laws" means all laws, promulgated or brought into force and effect by GoH/Gol or HUDA including rules, regulations and notifications made there under, and judgments, decrees, injunctions, writs and orders of any court/judicial or quasi judicial authorities, as may be applicable to this Concession Contract and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Concession Contract.

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof as in force from time to time.

"Associate" or "Affiliate" means in relation to either Party and/or Consortium Members, a person who controls, is controlled by, or is under the common control with such Party or Consortium Member. As used in this definition, the expression "control" means with respect to a person which is a corporation, the ownership, directly or indirectly, of more than 50% of the voting shares of such person. and with respect to a person which is not a corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise.

"Bank" means a bank incorporated in India and having minimum net worth of Rs. 1000 crore (Rupees one thousand crore) or any scheduled bank acceptable to Senior Lenders and HUDA but does not include a bank in which Senior Lenders have an interest.



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"Bank Rate" — means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act 1934 or any replacement of such Bank Rate for the time being in effect.

"Bid" means the documents in their entirety comprised in the RFQ-RFP document submitted by the Consortium in response to the tender notice dated 7th February 2009 in accordance with the provisions thereof.

"COD" means the commercial operations date of the Project after certification for safe operations by the Commissioner, Metro Rail Safety.

"Change of Scope" shall have the meaning ascribed thereto in Sub-Article 15.1.

"Commercial Lease" means an agreement to rent all or part of the Site to a third party for a business purpose.

"Commissioner of Metro Rail safety" shall mean as defined in Delhi Metro O&M Act, 2002 amended from time to time.

"Company" means the Company acting as the Concessionaire under this Concession Contract and incorporated by Consortium members

"Concession" shall have the meaning ascribed thereto in Article 3.

"Concession Fee" or "Connectivity Charge" shall have the meaning ascribed thereto in Article 8.

"Concession Period" means the period beginning from the Effective Date and ending on the Termination Date.

"Concessionaire" means the company, incorporated by Consortium members, identified as such in the Preamble and its successors and permitted substitutes expressly approved in writing by HUDA.

"Concessionaire's Works" means the design, financing, procurement, installation, commissioning operations and management of the Project Systems and the works of design, procurement and construction necessary to complete the required infrastructure / System for the safe and reliable commercial operation of the Project as described in Schedule C.

"Consortium" shall have the meaning set forth in Recital above.

"Consortium Member" means a companies identified in Recital as forming part of the Consortium.

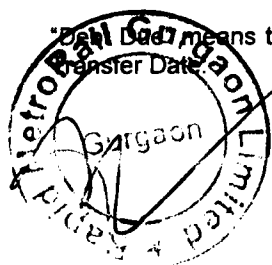
"Construction Period" means the period beginning from the Effective Date and ending on the COD.

"Contractor" means the person or persons, as the case may be, with whom the Concessionaire has entered into any EPC Contract, the O&M Contract the Fare Contract or any other agreement or contract for construction, operation and/or maintenance of the Project or matters incidental thereto or any other Contract Documents, but does not include a person who has entered into an agreement for providing financial assistance to the Concessionaire.

"Cure Period" means the period specified in this Concession Contract for curing any breach or default of any provision of this Concession Contract by the Party responsible for such breach or default and shall:

- a) Commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice.
- b) Not relieve any Party from liability to pay Damages or compensation under the provisions of the Concession Contract; and
- c) not in any way be extended by any period of Suspension under this Concession Contract provided that if the cure of any breach by the Concessionaire requires any reasonable approval by HUDA hereunder, the applicable Cure period shall be extended by the period taken by HUDA to accord their approval

"Damages" shall have the meaning ascribed thereto in Sub-Article 1.2(o).



"Debt Due" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date

A handwritten signature in black ink, likely belonging to the Chief Administrator.

- a) the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "Principal") but excluding any part of the Principal that had fallen due for repayment two years prior to the Termination Date;
- b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default; and
- c) any Subordinated Debt and all accrued interest thereon, which is included in the Financial Package and disbursed by Lenders for financing the Total Project Cost as per the Financing Documents.

"Debt Service Payment" means the sum of all principal and interest payments due and payable in an Accounting Year to the Lenders under the Financing Documents.

"Dispute" shall have the meaning set forth in Sub-Article 29.1(a).

"Dispute Resolution Procedure" means the procedure for Dispute resolution set forth in Article 29.

"Divestment Requirements" means the obligations of the Concessionaire for and in respect of the Termination of this Concession Contract as set forth in Article 24.

"HUDA Representative" means such person or persons as may be authorized in writing by HUDA to act on its behalf under this Concession Contract and shall include any person or persons having authority to exercise any rights or perform and fulfill any obligations of HUDA under this Concession Contract

"Document" or "Documentation" means documentation printed or in written form, tapes, discs, drawings, computer programmes, writings, reports, photographs, cassettes, or expressed in any other written, electronic, audio or visual form.

"Effective Date" means the date on which Financial Close is achieved.

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

"Financial Close" or "Financial Closure" means the date on which the Financing Documents providing for funding by the lenders have become effective and the Concessionaire has access to such funding under the Financing documents..

"Financing Package" or "Financial Proposal" or "Financing Document" means the financing package of the Project as approved by the Lenders for the purposes of funding of the Project.

"Force Majeure" or "Force Majeure Event" shall mean an act, event, condition or occurrence specified in Article 21.

"GOI" means the Government of India.

"GOH" means the Government of Haryana.

"Governmental Agency" means GOI, GOH, or any ministry, department, commission, board, authority, instrumentality or agency, under the control of GOI or GOH having jurisdiction over all or any part of the Project or the performance of all or any of the services, rights or obligations of the Concessionaire under or pursuant to this Concession Contract.

"Indemnified Party" and "Indemnifying Party" mean the Party entitled to be indemnified by the other Party (or Indemnifying other Party) pursuant to Article 28.

"Lead Member" means the company identified as such in Recital, forming part of Consortium.

"Lenders" means Senior Lender/s and /or Sub-ordinate Lender/s.



"Lenders' Representative" means the person(s) duly authorized by the Senior Lenders to deal with the Parties to the Concession Contract with regard to the issues arising out of and contained in this Concession Contract.

"Material Adverse Effect" means material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Concession Contract, leading to adversely affecting the Project.

"Material Breach" means a breach by either Party of any of its obligations in this Concession Contract which shall be deemed to have a Material Adverse Effect on the Project and which it shall have failed to cure within the Cure Period.

"Metro Link" or Project means the Metro Link from Sikanderpur on MG Road in Gurgaon to NH-8 and back and shall include the Project Assets to be designed, engineered and built on Site and to be operated and maintained during the Concession Period in accordance with the provisions of this Concession Contract.

"Non-Fare Revenue" shall have meaning as described in Article 7

"O&M Contract" means a contract that may be entered into between the Concessionaire and an O&M Contractor for the performance of all or part of the O&M obligations of the Project.

"O&M Contractor" means the person or entity if any, with whom the Concessionaire has entered into an O&M Contract for full or partial O&M obligations for and on behalf of the Concessionaire, in respect of the Project.

"O&M Expense" means expenses incurred by or on behalf of the Concessionaire duly certified by its Statutory Auditors or by HUDA, as the case may be, for all regularly scheduled and reasonably anticipated O&M during Operations Period, including, without limitation

- (a) cost of salaries and other employee compensation and contract fee payable to the O&M Contractor, if any
- (b) cost of materials, supplies, utilities and other services
- (c) premium for insurance
- (d) all taxes, duties, cess and fees of any type due and payable for O&M obligations
- (e) all repair, replacement, reconstruction, improvement and maintenance cost, and
- (f) all other expenditures required to be incurred under Applicable Law, Applicable Permits or this Concession Contract.

"Operations Period" means the period commencing from COD and ending on the Termination Date.

"Party" or "Parties" means the parties to this Concession Contract, i.e. Authority and Concessionaire and "Party" shall mean any of the parties to this Concession Contract individually

"Performance Security" shall have the meaning as set forth in Sub-Article 5.1

"Project Assets" means all physical and other assets relating to and forming part of the Project and Site including:

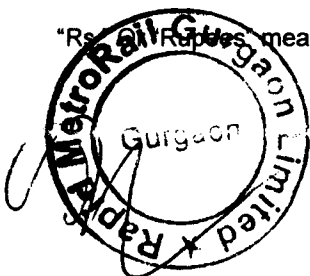
- (i) rights over the Site in the form of license, right of way, property development rights, or otherwise,
- (ii) the Concessionaire's Works as described in Schedule C,
- (iii) the rights of the Concessionaire under the Project Agreements,
- (iv) financial assets, including receivable, security deposits, security etc.
- (v) insurance proceeds, and
- (vi) applicable Permits and authorizations relating to or in respect to Project, but does not include additional Facilities.

"Project Completion" shall have the meaning ascribed thereto in Sub-Article 14.1.

"Project Completion Schedule" means the progressive Project milestone set forth in Schedule 'E' for the realization of the Project complete in all respects by the Scheduled Project Completion Date.

"Project Systems" means the Concessionaire works as described in Schedule "C".

"Rupee" means the lawful currency of the Republic of India.




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"Right of Way" means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the rail system in accordance with this Concession Contract.

"SBI PLR" means the prime lending rate per annum for loans with 1(one year maturity as fixed from time to time by the State Bank of India and in the absence of such rate any other arrangement that substitutes such prime lending rate as mutually agreed between the Parties.

"Scheduled Project Completion Date" shall have the meaning set forth in Sub-Article 14.3.

"Senior Debt" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be,:

- a) the principal amount of debt provided by lenders or the Concessionaire for meeting the Concessionaire's Capital Cost.
- b) all accrued interest on the debt referred to in Sub-clause (a) above.

"Senior Lenders" means the financial institutions, banks, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all Or any part of the Concessionaire's Works and who hold pari passu first charge on the assets, rights, title and interest of the Concessionaire.

"Share Holder Agreement" is the Agreement between various Shareholders of the Company.

"Site" means Project Site as mentioned in Schedule "A"

"Statutory Auditors" means an independent and reputable firm of Chartered Accountants duly licensed to practice in India acting as the Statutory Auditors of the Concessionaire under the provisions of the Companies Act, 1956 including any statutory modification or re-enactment or replacement thereof, for the time being in force, and appointed in accordance With Sub-Article 20.2.

"Subordinated Debt" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be,:

- a) the principal amount of debt provided by lenders for meeting the Concessionaire's Capital Cost and subordinated to the financial assistance provided by the Senior Lenders; and
- b) all accrued interest on the debt referred to in Sub-clause (a)

"Sub-Ordinate Lenders" means the financial institutions, banks, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all Or any part of the Concessionaire's Works and who hold part passu second charge on the assets, rights, title and interest of the Concessionaire.

"Substitution Agreement" means the agreement referred to in Article 24 and to be entered into among the Concessionaire, HUDA and the Senior Lenders and Sub-ordinate Lenders in the form set forth in Schedule 'G' providing, inter alia, for the substitution of the Concessionaire by any other person including HUDA subject to and in accordance with the provisions of this Concession Contract and the Substitution Agreement.

"Taxes" means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central or local) charged, levied or imposed on the goods, materials, equipment and services incorporated in and forming part of the Project, or on the construction, operation and maintenance thereof or on the Project Assets, but excluding any interest, penalties and other sums in relation there to imposed on any account whatsoever

"Termination" means the expiry with normal efflux of time or termination of this Concession Contract and the Concession hereunder due to Concessionaire Event of Default, HUDA Event of Default .

"Termination Date" means the date on which this Concession Contract and the Concession hereunder expires pursuant to the provisions of this Concession Contract or is terminated by a Termination Notice.

"Termination Notice" means the communication issued in accordance with this Concession Contract by any one Party to the other Party terminating this Concession Contract.



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"Termination Payment" means the amounts payable by HUDA to the Concessionaire under this Concession Contract upon the Termination of this Concession Contract. For the avoidance of doubt it is expressly agreed that the amount payable shall be subject to the limitations specified in this Concession Contract

"Transfer Date" means the date on which this Concession Contract and the Concession hereunder expires pursuant to the provisions of this Concession Contract or is Terminated by a Termination Notice;

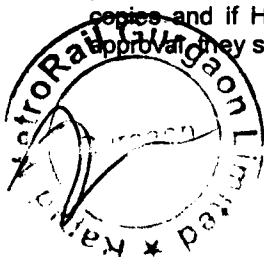
"User" means a person who uses the Project line or any part of the Project on payment of the Fare

"Vesting Certificate" shall have the meaning attributed to it in Sub-Article 25.5.

1.2 Interpretation:

In this Concession Contract, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enactment or consolidated so far as such modification or reenactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) references to Indian law shall include the laws, acts, ordinances, rules, regulations, or bye laws which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or reenacted
- (c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firma, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity) and shall include successors and assigns;
- (d) the table of contents, headings and subheadings in this Concession Contract are for convenience of reference only and shall not be used in and shall not affect the, construction or interpretation of this Concession Contract;
- (e) the words "include" and "including" are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;
- (f) references to "construction" includes, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction,
- (g) any reference to time shall mean a reference to Indian Standard Time;
- (h) any reference to day shall mean a reference to a calendar day,;
- (i) any reference to month shall mean a reference to a calendar month
- (j) Any reference to Lakhs means hundred thousand (100,000) and crore means ten million (10,000,000);
- (k) the Schedules to this Concession Contract form an integral part of this Concession Contract and will be in full force and effect as though they were expressly set out in the body of this Concession Contract;
- (l) any reference at any time to any Concession Contract, deed, instrument, license or document of any description shall be construed as reference to that Concession Contract, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Article shall not operate so as to increase liabilities or obligations of HUDA hereunder or pursuant hereto in any manner whatsoever;
- (m) references to Recitals, Articles, , Sub-Articles, Paragraphs, or Schedules in this Concession Contract shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, Articles, Sub-Articles, paragraphs, and Schedules of or to this Concession Contract;
- (n) any Concession Contract, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Concession Contract from or by any Party shall be valid and effectual Only if it is in writing under the hands of duly authorized representative of such Party, as the case may be, in this behalf and not otherwise
- (o) the damages payable by either Party to the other of them as set forth in this Concession Contract, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty or liquidated damages (the "Damages");
- (p) unless otherwise expressly provided in this Concession Contract any Documentation required to be provided or furnished by the Concessionaire to HUDA shall be provided free of cost and in three copies and if HUDA is required to return any such Documentation with their comments and/or approval they shall be entitled to retain two copies thereof.




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- (q) any word or expression used in this Concession Contract shall unless otherwise defined or construed in this Concession Contract shall be construed as per the General Clauses Act, 1897 .

1.3 Measurements and Arithmetic Conventions

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

1.4 Priority of Contract documents and errors/discrepancies

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

- (i) This Concession Contract; and
- (ii) All other agreements and documents forming part thereof;

i.e. the Concession Contract at 1.4 (i) shall prevail over the agreements and documents at 1.4(ii) above.

1.4.1 Subject to 1.4 above in case of ambiguities or discrepancies within this Concession Contract, the following shall apply:

- (i) between two or more Articles of this Concession Contract, the provisions of a specific Article relevant to the issue under consideration shall prevail;
- (ii) between the articles of this Concession Contract and the Schedules, the Articles shall prevail;
- (iii) between Schedules and Annexure, the Schedules shall prevail;
- (iv) between the written description on the Drawings and Specifications/Standards, the latter shall prevail;
- (v) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;
- (vi) between any value written in numerals and that in words, the latter shall prevail.



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**Chief Administrator
Haryana Urban Development Authority
Panchkula**

ARTICLE 2

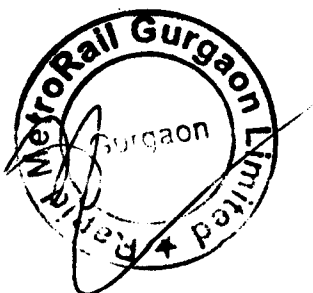
SCOPE

- i) The Project shall be executed on the Site, which is described in Schedule "A" of this Concession Contract.
- ii) The scope of the Project shall include performance and execution by the Concessionaire of all design, engineering, financing, procurement, construction, installation, commissioning and testing of the Concessionaires Works as described in Schedule "C" of this Concession Contract, together with the subsequent operation and maintenance of the entire Project.
- iii) The Scope of the Project shall also include performance and fulfillment of all other obligations of the Concessionaire in accordance with the provisions of this Concession Contract and matters incidental thereto or necessary for the performance of any or all obligations of the Concessionaire under this Concession Contract.



Chief Administrator
Haryana Urban Development Authority
Panchkula

**SECTION -II
THE CONCESSION**



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**Chief Administrator
Haryana Urban Development Authority
Panchkula**

ARTICLE 3
GRANT AND ACCEPTANCE OF CONCESSION

3.1 Subject to and in accordance with the terms and conditions set forth in this Concession Contract, HUDA hereby grants to the Concessionaire and the Concessionaire hereby accepts the Concession for a period of 99 (Ninety Nine) years commencing from the Effective Date, including the exclusive right, license and authority during the subsistence of this Concession Contract to implement the Project and the Concession.

3.2. The Government of Haryana/the Authority shall:

- (i) Provide GOH/HUDA land for technical and operational facilities of the Project, if available, at the prevailing collector rate applicable for raw land for that sector plus external development charges of Urban Estate Gurgaon as per Lease Concession Contract given in Schedule B.
- (ii) (a) Allow construction on the central verge of the road. The total area of the central verge used for the Project shall be allotted on lease hold basis and the annual lease shall be worked out @ 9% p.a. on the prevalent collector rate applicable for raw land of the sector plus external development charges of Urban Estate, Gurgaon. The title of such land shall remain vested in the Government/HUDA all the time.
- (b) On the same pattern, land for stations will be provided by the Government of Haryana/ HUDA. The approx. dimensions and areas of proposed stations will be 90x56 mtrs. i.e. about 5040 sq.mtrs. The maximum area upto 250 sq.mtrs. of the total covered area of the station shall be allowed for small retail shops, on such terms and conditions which are in conformity with the provisions of the Concession Agreement.
- (c) On the same pattern, land for temporary construction depot/yard of about 10 to 12 acres will be provided in Sec.52A, Gurgaon.
- (d) No land will be provided by Government of Haryana /HUDA for parking.
- (e) If land falling in the route alignment of the Project is with the private ownership, the same will be purchased by the Concessionaire. If the Concessionaire is not able to purchase the land, inspite of all prudent attempts, the HUDA will acquire the said private land and hand over on lease to the Concessionaire at its cost provided the private land is vacant.
- (f) The lease period of the land to be given for the Project will for 99years.
- (g) The lease rent will be increased @ 15% after 5 years.
- (h) The expiry of lease period of 99 years, the complete Project along with structures will revert back to HUDA/GOH in good working condition, and for further allotment for which the same bidding process will be followed and the first right of refusal will be given to the Concessionaire, on the terms and conditions as preferred by highest bidder. In case the Concessionaire refuses to accept the offer, the same will be offered to the next highest bidder.

In case the lessee decide to discontinue the Project permanently of its own or otherwise before the expiry of the lease period, in that case the whole of the Project along with structures will revert back to HUDA/ Govt. and no compensation of whatsoever nature will be paid to the Concessionaire on this account. However the Lenders will have first charge on the Project assets as per Article 24

- (iii) Allow the successful Applicant to levy, collect and appropriate revenues from passenger fares, advertisements and property development within the Project as per the provisions of this Concession Contract. Passenger fares shall not be more than the Delhi Metro Rail Corporation Limited fares for the corresponding zone slab.
- (iv) Have no objection if the Concessionaire explores the possibility of availing the viability gap funding from Govt. of India.



3.3 The Concession Period shall commence on the Effective Date and shall end on the Termination Date

3.4 No Other Business


The Concessionaire will not engage in any business or activity other than the business or activity related to, conducted for the purpose of the Project, the ancillary activities and such other businesses or activities which are expressly permitted here-in-under.

3.5 Co-operation

Without modifying or expanding the obligations and rights of the Parties in this Concession Contract or creating additional obligations to those already set forth herein, HUDA and Concessionaire acknowledge that this Concession Contract is a "Public-Private-Partnership" in which both Parties have the objectives of greater efficiency, achieving the optimal allocation of risks and ensuring that the Project is completed within the target date and providing the benefits to the users.

Through out the Concession Period, HUDA and the Concessionaire will cooperate with each other with a view to furthering the purpose and objectives of this Concession Contract, including establishment of such committees, groups and lines of communications as may be reasonably requested by the either Party.




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 4
CONDITIONS PRECEDENT

4.1 Save and except as provided in Articles 4, 5 and 17, the respective rights and obligations of the Parties under this Concession Contract are subject to the satisfaction in full of the following conditions precedent specified in this clause 4.1:

4.1.1 The conditions precedent required to be satisfied by the HUDA before Effective date and shall be deemed to have been fulfilled when the HUDA shall have:

- (a) Provided GOH/HUDA land for technical & operational facilities of the Project, if available, as per the provisions of this Concession Contract.
- (b) Allowed construction on the central verge of Vishwakarma Road / other sector roads owned by GOH/HUDA as per the provisions of this Concession Contract.
- (c) Provided land for temporary construction depot/yard of about 10-12 acres in sector 52A Gurgaon or some other alternative site as per the provisions of this Concession Contract.

4.1.2 The conditions precedent required to be satisfied by the Concessionaire prior to the Effective Date shall be deemed to have been fulfilled when the Concessionaire shall have:

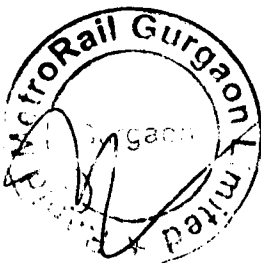
- (a) Provided performance security to the HUDA
- (b) Executed and procured execution of Escrow Agreement
- (c) Executed and procured execution of Substitution Agreement
- (d) Executed and procured execution of Shareholder Agreement
- (e) Executed the financing agreements and delivered to the HUDA 3 (three) true copies thereof, duly attested by a Director of the Concessionaire
- (f) Obtained land from private owners, if any as per schedule A.
- (g) Delivered to the HUDA 3 (three) true copies of the Financial Package duly attested by a Director of the Concessionaire
- (h) Delivered to the HUDA, a legal opinion from the legal counsel of the Concessionaire with respect to the authority of the concessionaire to enter into this Concession Contract and enforceability of the provisions thereof.

Provided that upon request in writing by the Concessionaire, HUDA may, in its discretion, waive any of the conditions precedent set forth in this clause 4.1.2

4.2 Obligation to Satisfy the Conditions Precedent.

4.2.1 Each Party shall make all reasonable endeavors to satisfy the Conditions Precedent within 6 (six) months of signing of Concession contract or as extended mutually thereafter and shall provide the other Party with such reasonable assistance as may be required to assist that Party in satisfying the Conditions Precedent for which the Party is responsible.

4.2.2 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.




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Haryana Urban Development Authority
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ARTICLE 5
PERFORMANCE SECURITY

- 9.1 At the time of signing of this Concession Contract the Concessionaire shall, submit a Performance Security of Rs. 25 Crores (Indian Rupees Twenty Five Crores) in the form of an irrevocable without demur Bank Guarantee, drawn on a schedule Bank in India/ Indian branch of foreign Bank in favour of HUDA valid for 30 months from signing of concession Contract and thereafter, to be extended from time to time as required, before the expiry of its term.
- 5.2 The Performance Security shall be valid till the COD and released by HUDA to the Concessionaire at the COD
- 5.4 On submission of Performance Security by the Concessionaire, HUDA shall return the Rs. 5 Crore (Indian Rupees Five Crore only) Earnest Money submitted by the Concessionaire in the form of Bank Guarantee at the time of bid submission.




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Haryana Urban Development Authority
Panchkula

ARTICLE 6

FARE

- 6.1 During the Operation Period the Concessionaire shall have the sole and exclusive right to levy, collect and appropriate revenues from passenger fares, advertisements and property development within the Project.
- 6.2 Passenger fares shall not be more than the Delhi Metro fares for the corresponding zone slab and shall be revised as and when Delhi Metro fares are revised.
For clarification, since the total route length of the system is 4.9 kms as per Schedule A, fare not more than corresponding 4-6 km zone slab of Delhi Metro will be charged from Passengers using the system.
- 6.4 In the event that any person uses the Rail System without payment of fare due or uses the Project site, Project Asset or the Metro Rail System in contravention to rules and regulations, the Concessionaire shall, subject to applicable law and applicable permits, be entitled to determine and collect from such person the Fare due and a penal sum not exceeding Delhi Metro charge for the same penalty




Chief Administrator
Haryana Urban Development Authority
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ARTICLE -7
Non-fare Revenue

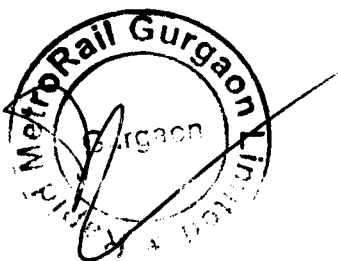
- 7.1 In addition to the right to charge and collect Fares, as set forth in Article 6, the Concessionaire shall be entitled to participate in property development as per the provisions of this Concession Contract and advertisement at Project site which may yield additional revenues to the Concessionaire, subject to the provisions of this Article 7. All such Revenue collected by the Concessionaire pursuant hereto shall be deposited in the Escrow Account and appropriated in accordance with the provisions of Article 18

7.1.1 Advertisements

The Concessionaire shall be entitled, subject to all Laws and Regulations and to obtaining all necessary Consents, to display visual advertisements inside the rolling stock, the stations, or along the route. Without derogating from the aforesaid, should the Concessionaire wish to display advertisements, including stations, elevated alignment sections and/or tunnels, the Concessionaire shall bear full and sole responsibility for reaching all necessary Concession Contracts and obtaining all necessary Consents in relation thereto, including the consent of the Municipalities and any other Relevant Authority.

7.1.2 Property Development

The Concessionaire is allowed right and/or license to utilize the land over, under and within the stations for property development/ commercial exploitation during the concession period, subject to a limit of 250 sq meters per station.




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE -8
CONCESSION FEE AND OTHER PAYMENTS BY THE CONCESSIONAIRE

8.1 Land Lease charge

Annual Lease charges for the land belonging to HUDA shall be paid by the Concessionaire at the following rate, as per the separate lease agreement to be signed between the Concessionaire and HUDA.

- (i) Annual Lease charge shall be 9% of sum of collector rate for raw land and EDC.
- (ii) The collector rate for raw land shall be Rs 1 Crore / acre. The EDC shall be Rs 62.47 Lacs / acre for the calendar year 2009. If due to any reason, Concession Contract is not signed in calendar year 2009, and is signed in 2010 then EDC will be increased by 10% from 2009 rate.
- (iii) The Lease charge shall increase by 15% after every 5 years.
For avoidance of doubt, annual lease charge for first five years of Lease Agreement, shall be Rs 14.63 Lacs / acre. Lease charge for the Sixth year after Lease Agreement shall be Rs. 16.82 Lacs / acre
- (iv) The actual area used for the alignment shall be calculated jointly by HUDA and Concessionaire at the time of handing over the Site.

8.2 Connectivity charges:

The connectivity charges to be paid by the Concessionaire shall be as follows:

- i) Rs. 5.00 Crores (Rupees Five Crores only) within 60 days of signing of the Concession Contract
- ii) Rs. 40.00 Crores (Rupees Forty Crores only) per year from the beginning of 17th year of signing of the Concession Contract till 35th year i.e. for 19 years totaling to Rs. 760.00 Crores (Rupees Seven Hundred and Sixty Crores only), within 30 days of the beginning of the year.

8.3 Annual Percentage Revenue Sharing:

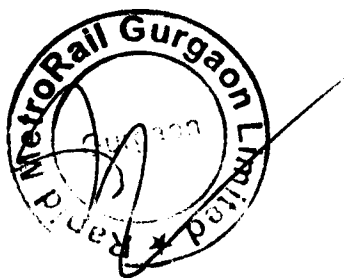
Stating from COD, the Concessionaire further agrees to apportion its Annual Revenue from Advertisement and property development to HUDA, within 30 days of close of Financial Year, as follows:

- i) Up to 16 years from date of start of revenue generation – 5% (Five Percent)
- ii) From the beginning of the 17th year till end of 21st year – 6% (Six Percent)
- iii) From the beginning of the 22nd year till end of 26th year – 7% (Seven Percent)
- iv) From the beginning of the 27th year till end of 31st year – 8% (Eight Percent)
- v) From the beginning of the 32nd year till end of 36th year – 9% (Nine Percent)
- vi) From the beginning of the 37th year till end of concession period – 10% (Ten Percent)




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SECTION -III
OBLIGATIONS AND UNDERTAKINGS

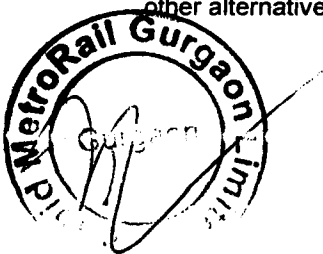



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Haryana Urban Development Authority
Panchkula

ARTICLE 9
OBLIGATIONS OF HUDA

9.1 Obligations of the HUDA:

- 9.1.1** The HUDA shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Concession Contract or arising hereunder.
- 9.1.2** The HUDA agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Concession Contract and the Applicable laws, the following:
- (a) upon written request from the Concessionaire and subject to the Concessionaire complying with the Applicable Laws, assist and provide all reasonable support to the Concessionaire in obtaining Applicable Permits;
 - (b) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms which are generally available to commercial customers.;
 - (c) enable access to the Site, free from Encumbrances, from public roads and highways in accordance with this Concession Contract;
 - (d) provide Site as per schedule A and in accordance with the provisions of this Concession Contract thereafter permit peaceful use thereof by the Concessionaire as licensee under and in accordance with the provisions of this Concession Contract without any let or hindrance from HUDA or persons claiming through or under it; HUDA shall also provide land owned by other GOH agencies as per Schedule A, if available, and handover to Concessionaire on same terms and conditions as applicable for HUDA owned land.
 - (e) subject to and in accordance with the Applicable Law assist the Concessionaire in getting the government and police assistance to regulate the traffic on the Site.
 - (f) not do any act, deed or thing that may in any manner be violative of any of the provisions of this Concession Contract and.
 - (g) support, cooperate with and facilitate the Concessionaire in the implementation and operation of the Project in accordance with the provisions of this Concession Contract
 - (h) Provide Government/HUDA land for technical and operational facilities of the Project, if available, at the prevailing collector rate applicable for raw land for that sector plus external development charges of Urban Estate Gurgaon.
 - (i) Allow construction on the central verge of sector roads / other roads as per the provisions of this Concession Contract. The total area of the central verge used for the Project shall be allotted on lease hold basis and the annual lease shall be as per Article 8.1. The title of such land shall remain vested in the Government / HUDA all the time.
 - (j) On the same pattern as mentioned in Article 8.1, land for stations will be provided by the Government of Haryana/ HUDA. The approx. dimensions and areas of proposed stations will be 90x56 mtrs. i.e. about 5040 sq.mtrs. The maximum area upto 250 sq.mtrs. of the total covered area of the station shall be allowed for small retail shops.
 - (k) On the same pattern as mentioned in Article 8.1, land for temporary construction depot/yard of about 10 to 12 acres will be provided in Sector 52A, Gurgaon/or some other alternative site.




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Haryana Urban Development Authority
Panchkula

- (i) If land falling in the route alignment of the Project is with the private ownership, the same will be purchased/or leased out by the Concessionaire. If the Concessionaire is not able to purchase the land, inspite of all the prudent attempts, the HUDA will acquire the said private land and hand over to the Concessionaire at his cost on lease, provided the said private land is vacant.

9.2 The Government of Haryana/HUDA will not:

- (i) Provide any financial support in the form of equity or grant during construction of the Project or any subsidy during operation and maintenance of the Project
- (ii) Stand guarantee for raising finance during construction and operation
- (iii) Provide exemption from payment of taxes and duties
- (iv) Provide any rebate on the electric charges/water charges etc., consumed during construction and operation.

9.3 ENABLING ACT

Metro Railways (Construction of Works) Act, 1978 and Delhi Metro Railway (Operation & Maintenance) Act, 2002 and as amended from time to time shall be applicable for the project and the concessionaire shall take all approvals from the competent authority as per above Acts'.




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 10
OBLIGATIONS OF THE CONCESSIONAIRE

- 10.1 The Concessionaire shall at its own cost and expense observe, undertake, comply with and perform, in addition to and not in derogation of its obligations elsewhere set out in this Concession Contract, the following:
- i) Shall design and implement the Project in accordance with the Offer submitted dated 18.03.2009 and 9.12.2008.
 - ii) Execute the Project at his cost, duly following all safety and environment norms.
 - iii) Obtain all approvals, clearance and sanctions of appropriate agencies including permission for setting up a metro system, under the Applicable Laws.
 - iv) Arrange for finance at its own strength.
 - v) Get the system inspected by Commissioner of Safety and obtain requisite sanction for opening of the system to general public.
 - vi) Operate and maintain the Project through trained operation and maintenance personnel.
 - vii) Keep the system and the approaches neat and tidy at all times.
 - viii) Implement the Project in 2½ years from the Effective Date.
 - ix) Civil work shall be properly coordinated with on-going work on construction of subways, flyovers and other utility services along and across the sector-road by interfacing with the contractor.
 - xi) Shall arrange land for the implementation of the Project.
 - xii) Shall arrange power supply during execution and during operation & maintenance.
 - xiii) Shall have no objection in case Metro Link is further extended to Sector 55-56 in South side and Udyog Vihar and Sector-21, Dwarka on the North side or any other direction and shall not demand any cost for using this line for further extension. The route alignment of the Project will be got checked from expert agency i.e Delhi Metro Rail Corporation Ltd. so as to ensure the feasibility of extension of the line to Sec-55-56 on the south side and Udyog Vihar and Sec-21 Dwarka on the north side.
 - xiv) Submit a performance security of Rs.25 Crores (Indian Rupees Twenty Five Crores) in the form of an Irrevocable without demur Bank Guarantee, drawn on a scheduled bank in India/ Indian branch of foreign bank in favour of HUDA payable at Panchkula at the time of signing the Concession Contract. The performance security shall remain valid till COD.
 - xv) Shall pay following amount to provide Connectivity at Sikanderpur Metro Station in the schedule given below:
 - i) Rs. 5.00 crores at the time of signing of the Concession Contract.
 - ii) Rs. 40.00 crores per year within 10 days from the start of the year, from the beginning of 17th year of the signing of the Concession Contract till 35th year i.e. for 19 years totalling to Rs. 760.00 crores.
 - xvi) submit to HUDA certified true copies of Shareholder agreement
 - xvii) not enter into any Project Agreement or any agreement relating to the Project, the term of which extends beyond the Termination Date without HUDA's consent;
 - xviii) remove promptly from the Site all surplus construction machinery and material, waste material (including, without limitation, hazardous material and waste water), rubbish and other debris (including without limitation accident debris) and shall keep the Site in a neat and clean

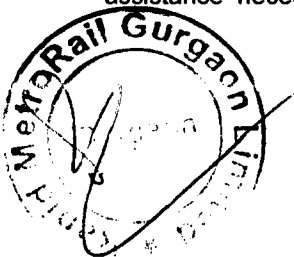



Chief Administrator
Haryana Urban Development Authority
Panchkula

condition and in conformity with the Applicable Laws and Applicable Permits;

- xix) provide to HUDA reports on quarterly basis during the Construction Period and the operations Period, regarding the construction progress and Operation and Maintenance of the Project.
- xx) acquire such land, as the Concessionaire may deem appropriate for the Additional Facilities and to indemnify and save harmless and defend GOH and HUDA from and against all proceedings, claims, demands, costs, expenses, losses and damages arising out of or relating to the securing of rights to use such land by the Concessionaire
- xxi) appoint, supervise, monitor and control the activities of Contractors under their respective Project Agreements as may be necessary;
- xxii) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of the Concessionaire's obligations under this Concession Contract;
- xxiii) comply with all Applicable Permits and Applicable Laws in the performance of the Concessionaire's obligations under this Concession Contract including those being performed by any of the Contractors;
- xxiv) develop, implement and administer a safety, health and environment program for the Project, the users thereof, and the Contractors personnel engaged in the provision of any services under any of the Project Agreements including correction of safety violations and deficiencies, and taking of all other actions necessary to comply with applicable Laws;
- xxv) take all reasonable precautions for the prevention of accidents on or about the Project and provide assistance and emergency medical aid to accident victims;
- xxvi) not to place or create and nor permit any Contractor or other person claiming through or under the Concessionaire to create or place any Encumbrance or security interest over all or any part of Site or the Project Assets, or on any rights of the Concessionaire therein or under this Concession Contract, save and except as expressly set forth in this Concession Contract;
- xxvii) be responsible for safety, soundness and durability of the Project including all structures forming part thereof;
- xxviii) not claim or demand possession or control of any roads, structures or real estate which do not form part of the Metro link;
- xxix) after receiving vacant possession of the Site or part thereof, ensure that such Site remains free from all encroachments and take all steps necessary to remove such encroachments, if any
- xxx) make such official payment to police department or any Government Agency as may be required for the provision of such services as are not provided in the normal course or are available on payment
- xxxi) Submit to HUDA all contract documents related to property development and advertisement
- xxxii) The Concessionaire shall obtain fire clearance and completion certificate from the State / Local bodies as per rules for station / depot. However exemption granted to Delhi Metro from taking prior building approval shall be applicable for this Project also, however post factor approval would be sought and taken. However all required approvals shall be taken before the COD.

10.2 The Concessionaire shall, at all times, afford access to the Site to the authorized representatives of HUDA, Lenders, and to the persons duly authorized by any Governmental Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions with minimum




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disruption to the construction, operation and maintenance of the Project consistent with the purpose for which such persons have gained such access to the Site.


10.3 Change in Ownership Structure of the Concessionaire

10.3.1 The Concessionaire shall not undertake any Change in Ownership of the Project till COD.

10.3.2 However IERS, the Lead member of the Consortium shall not be allowed to dilute its stake in the Company for a period of 5 years after the COD except with the prior written approval of HUDA and except as permitted under the Concession Contract.

10.3.3 Any new shareholders of the Concessionaire shall assume full responsibility under this Contract including that of payments due to HUDA and repayment of any residual loan of the Project.




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 11
REPRESENTATIONS AND WARRANTIES

11.1 Representations and Warranties of HUDA.

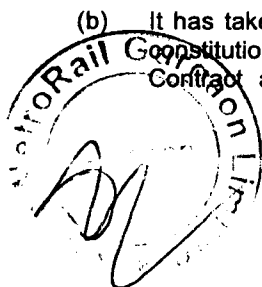
HUDA represents and warrants to the Concessionaire that:

- (a) It has full power and authority to execute, deliver and perform its obligations under this Concession Contract and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Concession Contract, exercise its rights and perform its obligations, under this Concession Contract.
- (b) It has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Concession Contract except the Enabling Act, which is yet to be enacted.
- (c) It has the financial standing and capacity to perform its obligations under the Concession Contract
- (d) This Concession Contract constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof
- (e) HUDA is subject to the laws of India with respect to this Concession Contract and it hereby expressly and irrevocably waives any sovereign immunity in any jurisdiction in regard to matters set forth in this Concession Contract.
- (f) It has complied with Applicable Laws in all material respects.
- (g) All information provide by it in the Tender Notice and RFQ-RFP in connection with the Project is to the best of knowledge or belief, true and accurate in all material respects, however the correctness of the same is not warranted.
- (h) Upon the Concessionaire paying the Connectivity charges, lease charges and annual share of non-fare revenue and performing the covenants herein, it shall not at any time during the term hereof, interfere with the peaceful exercise of the rights and discharge of the obligations by the Concessionaire, in accordance with this Concession Contract
- (i) To the extent HUDA has knowledge, there are no facts or information related to the Project and Disclosed Data relating to that which HUDA has intentionally not disclosed to the Concessionaire and which, if learned by the Concessionaire, might reasonably be expected to materially affect the Concessionaire's evaluation of the risks the Concessionaire is assuming pursuant to this Concession Contract or might reasonably be expected to deter the Concessionaire from completing the transactions contemplated by this Concession Contract on the terms of this Concession Contract

11.2 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to HUDA that:

- (a) It is duly organized, validly existing and in good standing under the laws of India and has taken the full power and authority to execute and perform its obligations under this Concession Contract and to carry out the transactions contemplated hereby
- (b) It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution and delivery of this Concession Contract and to validly exercise its rights and perform its obligations under this



- (c) It has the financial standing and capacity to undertake the Project in accordance with the terms of this Concession Contract
- (d) This Concession Contract constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof and its obligations under this Concession Contract will be legally valid, binding and enforceable obligations against it in accordance with the terms thereof.
- (e) It is subject to laws of India with respect to this Concession Contract and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Concession Contract on matters arising there under including any obligations, liability or responsibility hereunder.
- (f) All the information furnished in the Bid is, and shall be, true and correct as on the date of this Concession Contract till Effective Date and further till COD and thereafter and the Balance Sheet and Profit and Loss Account of the Concessionaire for each of its Accounting Years after the Effective Date furnished to HUDA shall give true and fair view of the affairs of the Concessionaire;
- (g) It shall furnish a copy of the audited accounts of the Concessionaire within 120 (one hundred twenty) days of the close of its each Accounting Year after the Effective Date and any material change subsequent to the date of such accounts shall be notified to HUDA by the Concessionaire within 30 (thirty) days of its occurrence and warrants that the accounts and the information furnished as aforesaid shall be true and correct
- (h) The execution, delivery and performance of this Concession Contract will not conflict with, result in the breach of, constitute a default under or accelerate performance under any of the terms of the Memorandum and Articles of Association of the Concessionaire or any Member of the Consortium or any Applicable Laws or any covenant, contract, Concession Contract, arrangement, understanding, decree or order to which, it or any Consortium Member is a Party or by which it or any Consortium Members or any of its or their properties or assets is bound or affected
- (i) There are no actions, suits, proceedings, or investigations pending or, to the Concessionaire's knowledge, threatened against it or any Consortium Member at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may result in the breach of this Concession Contract or which individually or in the aggregate may result in any material impairment of its or any Consortium Members ability to perform any of its or their obligations under this Concession Contract or Consortium Agreement.
- (j) 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 Governmental Agency which may result in any Material Adverse Effect or impairment of the Concessionaire's ability to perform its obligations and duties under this Concession Contract
- (k) It has complied with all Applicable Laws in all material aspects 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 on its financial condition or its ability to perform its obligations and duties under this Concession Contract
- (l) Each Consortium Member was and is duly organised and existing under the laws of the jurisdiction of its incorporation and has full power and authority to consent to and has validly consented to and requested HUDA to enter into this Concession Contract with the Concessionaire pursuant to the LOA and has agreed to and unconditionally accepted the terms and conditions set forth in this Concession Contract
- (m) All rights and interests of the Concessionaire in and to the Project shall pass to and vest in HUDA on the Termination Date free and clear of all liens, claims, and Encumbrances without any further act or deed on the part of the Concessionaire or HUDA and that none of Project Assets including material, supplies or equipment forming part thereof shall be acquired by the Concessionaire subject to any



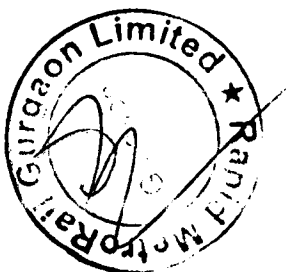

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HUDA and that none of Project Assets including material, supplies or equipment forming part thereof shall be acquired by the Concessionaire subject to any Concession Contract under which a security interest or other lien or Encumbrance is retained by any person save and except as expressly provided in this Concession Contract

- (n) No representation or warranty by the Concessionaire contained herein or in any other document furnished by it to HUDA, or to any Governmental 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.
- (o) The Consortium members and their Associates have the financial standing and resources to fund the required equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Concession Contract
- (p) Each Consortium Member is duly recognized and validly existing under the laws of the jurisdiction of its incorporation, and has requested HUDA to enter into this Concession Contract with the Concessionaire pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Concession Contract.
- (q) No representation or warranty by it contained herein or in any other document furnished by it to HUDA or to any other Government department in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or omit to state a material fact necessary to make such representation or warranty not misleading
- (r) No sums in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Concession Contract or for influencing or attempting to influence any officer or employee of HUDA in connection therewith.

11.3 Disclosure

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



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ARTICLE 12 DISCLAIMER


- 12.1 The Concessionaire acknowledges that prior to the execution of this Concession Contract, the Concessionaire has after a complete and careful examination made an independent evaluation of the passenger demand, of the market for services and/or facilities, of the Specifications and Standards, and of the Site, of the Scope of the Project, Tender Notice, local conditions, physical qualities of ground, subsoil and geology and all the information provided by HUDA or gathered otherwise, and has determined to the Concessionaire's satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder.
- 12.2 Save as provided in Article 11.1, HUDA makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and /or completeness of the information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against HUDA in this regard
- 12.3 Save as Article 11.1 (i), HUDA gives no warranty or guaranty of whatever nature in respect of Disclosed Data or data provided to the Concessionaire and specifically (but without limitation), HUDA does not warrant that the Disclosed data represents all of the information in its possession or power (either during conduct of the Concessioning process for the Project or at a time of this Concession Contract) relevant or material to or in connection with the Project or the obligations of the Concessionaire under this Concession Contract or any of the Project Documents.
- 12.4 HUDA shall not be liable to the Concessionaire in respect of any failure to disclose or make available to the Concessionaire (whether before, on or after execution of this Concession Contract) any information, documents, data or any failure to review or update the Disclosed Data, nor any failure at any stage to inform the Concessionaire of any inaccuracy, error, omission, defects or inadequacy in the Disclosed Data. .
- 12.5 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Sub-Article 12.1 above and hereby confirms that HUDA shall not be liable for the same in any manner whatsoever to the Concessionaire, the Consortium Members or their Associates or to any person claiming through or under any of them
- 12.6 Except as otherwise provided in this Concession Contract, all risks relating to the Project shall be borne by the Concessionaire and HUDA shall not be liable in any manner for said risks or the consequences thereof.




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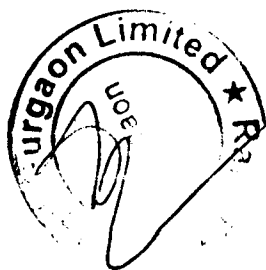
**SECTION - IV
DEVELOPMENT AND OPERATIONS**




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ARTICLE 13
Use and Development of the Site

- 13.1 HUDA hereby grants to the Concessionaire access to the Site for carrying out such surveys, investigations and/or tests as the Concessionaire may deem necessary. Such surveys, investigations and/or tests are to be carried out at the Concessionaire's cost, expense and risk and without causing disruption to the HUDA Works.
- 13.2 HUDA hereby grants to the Concessionaire for the Concession Period the access to the Site (as described in Schedule "A") and to survey, design, engineer, procure, construct, operate and maintain the Project, in accordance with this Concession Contract. Such right and license of the Concessionaire to the use the Site shall be subject to:
- (a) Any existing utilities on, under or above the Site are kept in continuous satisfactory use, if necessary by the use of suitable temporary or permanent diversions with the authority of the controlling body of that utility; the entire cost of which shall be borne by the Concessionaire.
 - (b) Any existing roads or right of ways are kept in continuous satisfactory use, if necessary, by the use of suitable temporary or permanent diversions with the authority of the controlling body of that road or right of way. For any diversion or construction, of temporary roads, HUDA will assist the Concessionaire in acquiring the right of way, the entire cost of which shall be borne by the Concessionaire.
 - (c) HUDA retains the right to cross the Project above and/or outside the scheduled fixed and moving dimensions of the Project without in any way adversely affecting the development and or operation of the Project. This may include flyovers and subways.
 - (d) It is expressly agreed that trees on the Site are property of the Government and that Concessionaire will preserve all the trees and if any such tree is required to be necessarily cut the same shall be done only with prior approval of concerned Government Authority and under information to HUDA.
- 13.3 The license and the right to use the Site shall be granted for the purpose of carrying out the functions placed upon and exercising the rights granted to the Concessionaire under the Concession Contract, and not for any other purposes
- 13.4 The Concessionaire shall bear all costs and charges for special and temporary rights of way required by it in connection with access to the Site. The Concessionaire shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Project and the performance of its obligations under this Concession Contract.
- 13.5 The Site, as described in Schedule A, shall be made available to the Concessionaire pursuant hereto by HUDA free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to HUDA on account of any costs, expenses and charges for the use of such Site for the duration of the Concession Period save and except as otherwise expressly provided in this Concession Contract

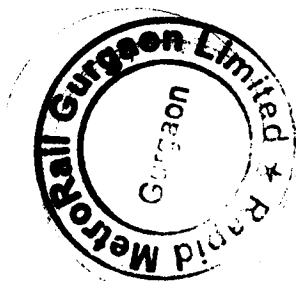


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ARTICLE 14
COMMERCIAL OPERATION

- 14.1 The Project shall be deemed to be complete and open to general public after the system has been inspected by Commissioner of Metro Safety and accorded requisite sanction for opening of the system to general public (the "COD").
- 14.2 The Concessionaire shall implement the Project in accordance with the provisions of this Concession Contract and achieve COD within 30 (thirty) months from the Effective Date ("Scheduled Project Completion Date").
- 14.3 If the Project completion is not achieved for reasons attributable to HUDA or GOH the Project completion time will be extended, for and by such period.
- 14.4 If the Project completion is not achieved for reasons beyond the control of concessionaire, cure period of 6 months will be provided to complete the Project. A further extra 6 months cure period will be provided, if concessionaire is not able to complete the Project in the first cure period due to reasons beyond the control of Concessionaire.
- 14.5 In the event COD is not achieved within 1 year of Schedule Project Completion date i.e. after the expiry of two cure periods provided as per clause 14.4 above, and delay is not on account of Force Majeure or Government / HUDA's fault and there is no reasonable explanation provided by the Concessionaire that is satisfactory to HUDA (at its sole discretion), HUDA shall have right to levy Liquidated damages on Concessionaire equivalent to 0.1% (zero point one percent) of the amount of Performance Security for delay of each day until COD is achieved. Provided further that total liability of Concessionaire under this article for delay in respect of COD shall not exceed 10% of amount of Performance Security.
- 14.6 HUDA may decide to terminate the Project or provide extra cure period, with the levy of damages as per clause 14.5 above, if concessionaire is not able to complete the Project even after the two cure periods of 6 months each provided as per article 14.4 above.



ARTICLE 15
CHANGE OF SCOPE

- 15.1 Any change in scope would be dealt with as per mutually agreed Terms and Conditions between HUDA and the Concessionaire.




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ARTICLE 16
OPERATION AND MAINTENANCE

16.1 During the operation period, the concessionaire shall operate and maintain the Project by itself, or through O&M contractor/s in accordance with this Concession Contract and would provide services including:

- (a) provide suitably trained personnel for O&M activities at all times
- (b) permitting safe smooth and uninterrupted train service during normal operating condition
- (c) charging collecting and retaining the Fare in accordance with this Concession Contract
- (d) undertake routine maintenance including prompt repairs of any wear or damage found
- (e) carry out periodic preventive maintenance to Project Assets including but not limited to track, rolling stock and operating system
- (f) undertake major maintenance such as track replacement, repairs to structure, signalling and communication system, overhauling of rolling stock, traction system, other equipment, etc
- (g) preventing with the assistance of concerned law enforcement agencies unauthorized entry and exit from the Project
- (h) preventing with the assistance of the concerned law enforcement agency encroachment on the Project and preserve the right of way of the Project
- (i) maintain a public relation unit following best practice model to interface with and attend to suggestions from users of the Project, the media, Government agencies, and other external agencies
- (j) adherence to the safety, health and environmental standards and requirements
- (k) Operation and maintenance of all Project Assets diligently and efficiently and with the best industry practice
- (l) maintaining punctuality and reliability in operating the rail system
- (m) maintaining a high standard of cleanliness and hygiene on the rail system




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SECTION - V
FINANCING ARRANGEMENTS




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ARTICLE 17
FINANCIAL CLOSE

- 17.1 The Concessionaire shall provide to HUDA a copy of the Financing Package furnished by it to the prospective Lenders. As and when such Financing Package is agreed with the Lenders, with or without modifications, and such Concession Contract is confirmed by the signing of the agreed Financing Package by both the Concessionaire and the Lenders, a copy of the same shall be furnished by the Concessionaire to HUDA forthwith.
- 17.2 If the Financial Close shall not occur within 6 (six) months of signing of this Concession Contract, a cure period of 6 (six) months shall be provided. However if Concessionaire fails to achieve financial closure even after expiry of cure period, all rights, privileges, claims and entitlements, if any, of the Concessionaire under or arising out of this Concession Contract shall be deemed to have been waived by and to have ceased with the concurrence of the Concessionaire, and the Concession Contract shall be deemed to have been terminated by mutual Concession Contract of the Parties.
- 17.3 Upon Termination of this Concession Contract under Sub-Article 17.2, HUDA shall be entitled to encash the Performance Security and appropriate the proceeds thereof as Damages.




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ARTICLE 18

ESCROW ACCOUNT

18.1 Opening of Escrow Account and Deposits into Escrow Account

On Financial Close, (in any case not later than 30 days of financial close) the Concessionaire shall open and establish the Escrow Account with a Bank (the "Escrow Bank") and all funds constituting the Financing Package for meeting the Concessionaire's capital costs shall be credited to such Escrow Account During Operations Period all Fare and Non-Fare Revenues collected by the Concessionaire shall be exclusively deposited therein, separately.

18.2 Disbursements from Escrow Account

18.2.1 The Concessionaire shall give, at the time of the opening of the Escrow Account, irrevocable instructions by way of an Escrow Agreement substantially in form set forth in Schedule 'F' (the "Escrow Agreement") to the Escrow Bank instructing, inter alia, that the deposits into the Escrow Account shall, be appropriated in the following order every month and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out there from in the month when due unless otherwise expressly provided in the instruction letter:

- (j) All taxes due and payable by the Concessionaire
- (ii) All Lease charges payable to HUDA as per Lease Agreement
- (iii) All expenses in connection with and relevant to the Concessionaire's Works by way of payment to the EPC Contractor and such other persons as may be specified in the Financing Documents
- (iv) O&M Expenses subject to the ceiling, if any set forth in the Financial Documents
- (v) Connectivity charges and Revenue Share due to HUDA from the Concessionaire under this Concession Contract
- (vi) Monthly proportionate provision of debt service payments due to Senior Lenders in an accounting year and payment of Debt Service Payments to Senior Lenders in the month when due
- (vii) Debt service payment in respect of Subordinate Debt;
- (viii) Any reserve of requirements required to be settled in terms of financial document.
- (ix) Balance in accordance with the instructions of the Concessionaire.

18.2.2 The Concessionaire shall not in any manner modify the order of payment specified in Sub-Article 18.2.1 except with the prior written approval of HUDA

18.3 Notwithstanding anything to the contrary contained in the Escrow Agreement and subject to the provisions contained in Sub-Articles 25.5 and Article 27, upon Termination of this Concession Contract, all amounts standing to the credit of the Project Escrow Account shall be appropriated and dealt with in the following Order:

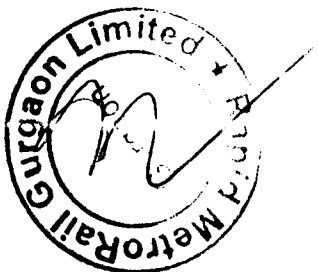
- (a) all Taxes due and payable by the Concessionaire
- (b) all Connectivity charges / non-fare revenue share due and payable to HUDA under this Concession Contract
- (c) all accrued Debt Service Payment




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- (d) any payments and Damages due and payable by the Concessionaire to HUDA pursuant to this Concession Contract, including Termination claims
- (e) all accrued O&M Expenses;
- (f) any other payments required to be made under this Concession Contract; and
- (g) balance, if any, on the instructions of the Concessionaire.

18.4 The instructions contained in the Escrow Concession Contract shall remain in full force and effect until the obligations set forth in Sub-Article 18.3 have been discharged.



ARTICLE 19 INSURANCE

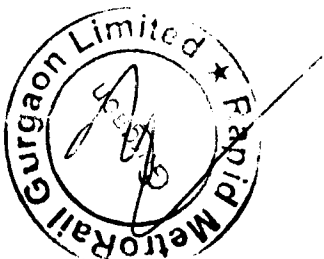
- 19.1 Throughout the Concession period the concessionaire shall effect and maintain, or cause to be effected and maintained such insurances and up to such maximum sums as may cover the risks of the Parties as associated with the Project and/or as may be required under and in accordance with the Financing documents , applicable laws and as the concessionaire may consider necessary or desirable.
- 19.2 Without prejudice to the provisions contained in clause 19.1 above, the Concessionaire shall, during the operations period, procure and maintain insurance cover including but not limited to the following:
- (i) Loss, damage or destruction of the Project assets, including assets handed over by the Government to the concessionaire at replacement value
 - (ii) Comprehensive third party liability insurance including injury to or death of personnel of the Government or others who may enter the rail system
 - (iii) The Concessionaire's general liability arising out of the Concession
 - (iv) Liability to third parties for goods or property damage
 - (v) Workmen compensation insurance
 - (vi) Any other insurance that may be necessary to protect the Concessionaire and its employees including all Force Majeure events that are insurable and not otherwise not covered in (i) to (v) above
- 19.3 Unless otherwise required by the financing documents the proceeds from all insurance claims except those covering life and injury shall be paid to the Concessionaire by credit to the Escrow account and notwithstanding anything contained in Article 18, apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Metro Link.
- 19.4 In case of Termination of the Concession Contract for what so ever reason it may be, the concessionaire will assign all the insurance covers, benefit accruing there from and the insurance claims to HUDA




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**ARTICLE 20
ACCOUNTS AND AUDIT**

- 20.1 The Concessionaire shall maintain full accounts of all Fares and Non-Fare Revenues derived/collected by it from and on account of use of the Metro link and of O&M Expenses and other costs paid out of the Project Escrow Account and shall provide copies of the said accounts duly audited and certified by the Concessionaire's Statutory Auditors within 120 (one hundred twenty) days of the close of each Accounting Year to which they pertain, during the subsistence of this Concession Contract. Such audited accounts shall form the basis of various payments by either Party under this Concession Contract. The Concessionaire shall also furnish, within one week of its publication, a certified copy of the audited accounts and annual report published by the Concessionaire under the Applicable Laws.
- 20.2 The Concessionaire shall appoint and have during the subsistence of this Concession Contract as its Statutory Auditors a firm of Chartered Accountants duly licensed to practice in India. The fees and expenses of the Statutory Auditors shall be borne by the Concessionaire.
- 20.3 On or before the thirtieth day of May each Year, the Concessionaire shall provide for the preceding Accounting Year a statement duly audited by its Statutory Auditors giving summarized information on (i) Fares charged and the amount of Fares received, (ii) Non-Fare Revenues, and (iii) such other information as HUDA may reasonably require.
- 20.4 Notwithstanding anything to the contrary contained in this Concession Contract HUDA shall have the right but not the obligation to appoint at its cost another firm of chartered accountants to audit and verify all those matters, expense, costs, realizations and things which the Statutory Auditors of the Concessionaire, are required to do, undertake or certify pursuant to this Concession Contract.
- 20.5 HUDA shall have the right to appoint for the duration of the Operations Period as Concurrent Auditor a firm of Chartered Accountants ("Concurrent Auditor") who shall undertake concurrent audit of the Concessionaire during the Operations Period. The charges and expenses of such Concurrent Auditor shall be borne by the HUDA.
- 20.6 In the event of their being any difference between the finding of the Additional Auditor or the Concurrent Auditor, as the case may be, and the certification provided by the Statutory Auditors of the Concessionaire, such Auditors shall meet to resolve such differences and if they are unable to resolve the same such disputed certification shall be resolved by recourse to the Dispute Resolution Procedure.




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SECTION – VI
FORCE MAJEURE




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**ARTICLE 21
FORCE MAJEURE**

- 21.1 Force Majeure" shall mean any event or circumstance or combination of events or circumstances that has a Material Adverse Effect on either Party (the "Affected Party") but only if and to the extent that such events and circumstances in all probability are not within the Affected Party's reasonable control
- 21.2 The Following circumstances and events shall constitute an event or circumstance of Force Majeure to the extent that they or their consequences satisfy the above requirements:
- a) the effect of natural elements or other acts of God, including but not limited to any storm, flood, drought, lightening, earthquake, cyclone or other natural disaster
 - b) fire, accident, breakage of facilities or equipment, structural collapse or explosion which the Party claiming to have been subject to Force Majeure demonstrates to have been attributable to a cause other than
 - i. inherent defects of any equipment, or
 - ii. circumstances within the reasonable control of the Affected Party or its contractors
 - c) epidemic or quarantine
 - d) acts of war (whether declared or undeclared), sabotage, terrorism or acts of public enemy (, civil disturbances, revolution, rebel ion or insurrection, exercise of military or usurped power or any attempt at usurpation of power;
 - e) radioactive contamination or ionization radiation
 - f) events of strikes, work to rule actions, go-slows or similar labour related problems caused in whole or in part by agitation or unrest except where such events which are site specific or attributable to the Party claiming relief.

21.3 Duty to Report

- 21.3.1 A Party claiming to be affected by an event of Force Majeure shall notify the other Party in writing of the occurrence of the event of Force Majeure as soon as reasonably practicable and in any event, within 15(Fifteen) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the probable material effect that the event of Force Majeure is likely to have on the performance of its obligations under this Concession Contract

- 21.3.2 Any notice pursuant to this Article 21.3.1 shall include full particulars of

- a) the nature and extent of the event of Force Majeure which is the subject of any claim for relief under this Article 21 with evidence in support thereof;
- b) the estimated duration and the effect or probable effect which such event of Force Majeure is having or will have on the Affected Party's performance of its obligations under this Concession Contract; and
- c) the measures which the Affected Party is taking or proposes to take, to alleviate




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the impact of such event Force Majeure ; and any other information the Affected Party wishes to present in support of its claim.

21.3.3 For so long as the Affected Party continues to claim to be affected by such event of Force Majeure, it shall continue to provide to the other Party, written reports every week, containing information as required by this Article 21 and such other information as the other Party may reasonably request the Affected Party to provide.

21.3.4 Any party claiming to have been affected by an event of Force Majeure shall not be entitled to any relief unless it has complied with all the provisions of Articles 21.3.1, 21.3.2, and 21.3.3 above

21.4 Excuse from Performance of Obligations

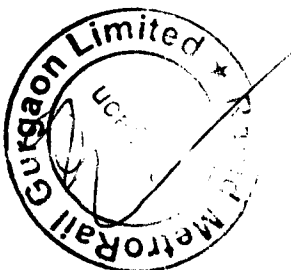
An Affected Party who is rendered wholly or partially unable to perform its obligations under this Concession Contract shall be excused from performance of such of its obligations as are directly and materially adversely affected by the event of Force Majeure, provided however that

- a) an obligation to make any payment or meet any financial obligation shall not be excused on account of an event of Force Majeure, and
- b) the suspension of performance of its obligations by the Affected Party shall be of no greater scope and of no longer duration than is reasonably necessitated by the event of Force Majeure, and
- c) the Affected Party shall continue to make all reasonable efforts to mitigate or limit the damage to the other Party arising out of or as a result of the existence or occurrence of such event of Force Majeure and to cure the same with due diligence; and
- d) when the Affected Party is able to resume performance of its obligations under this Concession Contract, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder.
- e) any Insurance Proceeds shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure event unless otherwise required by the Lenders.

21.5 No Liability for Other Losses, Damages, etc.

Save and except as expressly provided in this Article 21, neither Party 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 the occurrence or existence of any event of Force Majeure or the exercise by it of any right pursuant to this Article 21

21.6 In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force majeure Event, such disputes shall be finally settled in accordance with the dispute resolution procedure, provided however that the burden as to the occurrence or existence of such Force Majeure event shall be upon the Party claiming relief and / or excuse of such Force Majeure Event



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SECTION - VII
SUSPENSION AND TERMINATION




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ARTICLE 22
MATERIAL BREACH AND SUSPENSION

- 22.1 If the Concessionaire shall be in Material Breach of this Concession Contract, HUDA, shall be entitled in its sole discretion and without prejudice to its other rights and remedies under this Concession Contract including its right of Termination hereunder, to (i) suspend all or any of the rights of the Concessionaire under this Concession Contract including the Concessionaire's right to collect and appropriate all Fares and Non-Fare Revenues, and (ii) exercise the rights of the Concessionaire under this Concession Contract itself or authorise any other person to exercise the same during such suspension. Such suspension by HUDA shall be by a communication in writing to the Concessionaire and shall be effective forthwith upon the issue thereof to the Concessionaire. Any Fares and/or Non-Fare Revenues collected by or on behalf of HUDA during such suspension shall be deposited in the Escrow Account to the exclusion of the Concessionaire. Provided, however, that the period of such suspension under this Article 22 shall not exceed 120 (one hundred twenty) days, provided that upon written request from the Concessionaire and the Lenders to HUDA it may increase to 180 days.
- 22.2 Subject to Sub-Article 22.1, HUDA shall have the right to utilize the proceeds of Fares and Non-Fare Revenues for meeting the costs incurred by HUDA to remedy and rectify the cause of such suspension and for defraying the O&M Expenses incurred during such suspension period. Provided, however, that if the Concessionaire is making diligent efforts to remedy and rectify such cause, then HUDA shall allow the Concessionaire reasonable time and opportunity for such remedy or rectification.
- 22.3 The suspension of the rights of the Concessionaire by HUDA pursuant to Sub- Article 22.1 above shall be revoked by HUDA forthwith upon the Concessionaire having remedied the Material Breach during such suspension period to the satisfaction of HUDA unless in the meantime this Concession Contract has been terminated by HUDA in accordance with Article 24
- 22.4 At any time during the period of suspension under this Article 22, the Concessionaire may in writing notify to HUDA that it does not intend to cure the breach or default that had caused such suspension. Within 7 (seven) days of receipt of such notice, HUDA may terminate this Concession Contract as if a Material Breach of this Concession Contract had occurred on account of a Concessionaire Event of Default.



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Haryana Urban Development Authority
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ARTICLE 23
COMPENSATION FOR BREACH OF CONCESSION CONTRACT

- 23.1 In the event of Concessionaire being in Material Breach of this Concession Contract and such breach is Cured before Termination, the Concessionaire shall pay to HUDA as compensation, all direct additional costs suffered or incurred by HUDA arising out of such breach by the Concessionaire, in one lump sum within 30 (thirty) days of receiving the demand or at the Concessionaire's option in 3 (three) equal semi-annual installments with interest an annualised rate of SBI PLR plus 2% (two per cent).
- 23.2 In the event of HUDA being in Material Breach of this Concession Contract and such breach is cured before Termination, HUDA shall pay to the Concessionaire as compensation, all direct additional costs suffered or incurred by the Concessionaire arising out of such breach by HUDA, in one lump sum within 30 (thirty) days of receiving the demand or at HUDA's option in 3 (three) equal semi-annual installments with interest an annualised rate of SBI PLR plus 2% (two per cent).




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ARTICLE 24 TERMINATION

24.1 Termination for the Concessionaire Event of Default

24.1.1 Concessionaire Event of Default

The following events shall constitute an event of default by the Concessionaire (a "Concessionaire Event of Default") unless such Concessionaire Event of Default has occurred as a result of HUDA Event of Default or a Force Majeure Event

- (i) The Concessionaire fails to achieve Financial Close in accordance with the provisions of Article 17
- (ii) The Concessionaire fails to complete the Project within scheduled completion date and cure period provided as per Article 14
- (iii) The Concessionaire is in Material Breach of this Concession Contract
- (iv) The Concessionaire commits default in complying with any of the terms and conditions of this Concession Contract, save and except those defaults specifically identified or in respect of which Cure Period has been expressly provided in this Concession Contract, and fails to remedy or rectify the same within the period provided in a notice in this behalf from HUDA which shall:
 - (a) require the Concessionaire to remedy the breach or breaches referred to in such notice within 1 (one) month (or such longer period as may be agreed by the HUDA at its absolute discretion); or
 - (b) permit the Concessionaire to put forward within 15 days of such notice a reasonable program for the remedying of the breach or breaches, such program to specify in reasonable detail the manner in which such breach or breaches is or are proposed to be remedied and the latest date by which it is proposed that such breach or all such breaches shall be remedied
- (v) The Concessionaire creates any Encumbrance, charges or lien in favour of any person save and except as otherwise expressly permitted under Article 27;
- (vi) A resolution is passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire;
- (vii) The Concessionaire is adjudged bankrupt or insolvent or if a trustee or receiver is appointed for the Concessionaire or for any of its property that has a material bearing on the Project;
- (viii) Any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction provided that, as part of such amalgamation or reconstruction, the property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Concession Contract and the Project Agreements, and provided that:



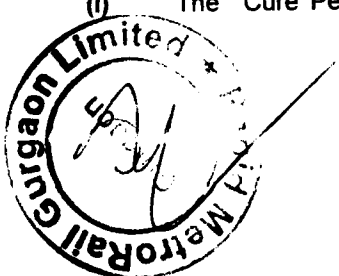
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- (a) the amalgamated or reconstructed entity has the technical capability and operating experience necessary for the performance of its obligations under this Concession Contract and the Project Agreements
- (b) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Concession Contract and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire has at the Financial Close
- (c) each of the Project Agreements remains in full force and effect
- (xi) The Concessionaire is in Material Breach of this Concession Contract or any of the Project agreements resulting in Concessionaire's incapacity to perform under this Concession Contract to the satisfaction of HUDA.
- (xii) An event of default of the Concessionaire under any of the Financing Documents has occurred or any of the Senior Lenders has recalled its loan under any of the Financing Documents;
- (xiii) The Concessionaire abandons the operations of the Metro link for more than 15 (fifteen) consecutive days without the prior consent of HUDA, provided that the Concessionaire shall be deemed not to have abandoned such operation if such abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations by HUDA.
- (xiv) The Concessionaire repudiates this Concession Contract or otherwise evidences an intention not to be bound by this Concession Contract;
- (xv) The Concessionaire suffers an execution being levied on any of its assets/ equipment causing a Material Adverse Effect on the Project and allows it to be continued for a period of 15 (fifteen) days; or
- (xvi) The Concessionaire has delayed any payment that has fallen due under this Concession Contract if such delay exceeds 90 (ninety) days
- (xvii) The Concessionaire has failed to take approval from competent authorities as per Metro railways (construction of Works) Act 1978 and Delhi Metro Railway (Operation & Maintenance) Act 2002 as amended from time to time.

24.1.2 Save and except as otherwise provided in Sub-Article 24.2, and without prejudice to any other right or remedy which HUDA may have in respect thereof under this Concession Contract, upon the occurrence of any breach or default by the Concessionaire under this Concession Contract including any Concessionaire Event of Default, HUDA shall be entitled to terminate this Concession Contract by a communication in writing (the "Termination Notice") to the Concessionaire if the Concessionaire has failed to cure such breach or default within the period provided for the same in this Concession Contract provided that before issuing the Termination Notice, HUDA shall by a notice in writing inform the Concessionaire of its intention to issue the Termination Notice (the "Preliminary Notice") and grant 15 (fifteen) days time to the Concessionaire to make its representation, if any, against such intended Termination Notice and shall after the expiry of said 15 (fifteen) day period whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

24.1.3 Subject to Sub-Article 24.2, the following shall apply in respect of cure of any of the defaults and/or breaches of this Concession Contract

- (i) The Cure Period shall commence from the date on which a notice in writing is




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- (i) The Cure Period shall commence from the date on which a notice in writing is delivered by HUDA to the Concessionaire asking the latter to cure the breach or default specified in such notice
- (ii) The Cure Period provided in this Concession Contract shall not relieve the Concessionaire from liability for Damages caused by its breach or default, if any
- (iii) The Cure Period shall not in any way be extended by any period of suspension under this Concession Contract
- (iv) If the cure of any breach by the Concessionaire requires any reasonable action by Concessionaire that must be approved by HUDA hereunder the applicable Cure Period (and any liability of the Concessionaire for damages incurred) shall be extended by the period taken by HUDA to accord their required approval

24.2 Notwithstanding anything to the contrary contained in this Concession Contract, in the event of the Concessionaire being in default under any of the provisions hereof expressly providing for Termination under or in accordance with this Sub-Article 24.1, HUDA shall be entitled to terminate this Concession Contract forthwith by issuing a Termination Notice to the Concessionaire and upon issue of such Termination Notice by HUDA this Concession Contract shall stand terminated forthwith.

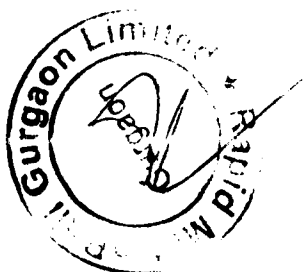
24.3 Notwithstanding anything to the contrary contained in this Concession Contract, in the event of a Termination Notice being issued by HUDA, the Lenders may exercise the rights of step-in or substitution as provided in the Substitution Concession Contract to be entered into among the Concessionaire, HUDA and Lenders in the form set forth in Schedule "G". Provided, however, that in the event of such step-in or substitution, HUDA shall allow an additional Cure Period of 90 (ninety) days prior to Termination to enable the substituting entity to cure any breach or default subsisting on the day of such step-in or substitution. On the exercise of the rights substitution in accordance with the Substitution Concession Contract and with this Sub-Article 24.3, the entity substituting the Concessionaire shall thereafter be deemed to be the Concessionaire under this Concession Contract and shall enjoy all rights and be responsible for all obligations under this Concession Contract as if it were the Concessionaire

24.4 Upon Termination by HUDA on account of occurrence of Concessionaire Event of Default during the Operations Period, the HUDA shall take over the complete system (all Project Assets). HUDA shall pay to the Lenders of the Project, as per financial documents, an amount equal to 80% of debt due, as termination payment. No termination payment shall be due or payable on account of Concessionaire's default occurring prior to COD

24.5 Termination for HUDA Event of Default.

24.5.1 The Concessionaire may after giving 90 (ninety) days notice in writing to HUDA terminate this Concession Contract upon the occurrence and continuation of any of the following events (each a "HUDA Event of Default"), unless any such HUDA Event of Default has occurred as a result of Concessionaire Event of Default or due to a Force Majeure Event

- (i) HUDA is in breach of this Concession Contract and such breach has a Material Adverse Effect on the Concessionaire and HUDA has failed to cure such breach or take effective steps for curing such breach within 90 (ninety) days of receipt of notice in this behalf from the Concessionaire



- (ii) HUDA repudiates this Concession Contract or otherwise evidences an irrevocable intention not to be bound by this Concession Contract
- (iii) GoH or any other Haryana Governmental Agency have by an act of commission or omission created circumstances that have a Material Adverse Effect on the performance of its obligations by the Concessionaire and have failed to cure the same within 90 (ninety) days of receipt of notice by HUDA in this behalf from the Concessionaire
- (iv) due to any change in Law or Act, or due to enactment of any new Law or Act, HUDA or any other Government agency takes over the Project or rights of the Concessionaire or of its Contractor

24.5.2 Upon Termination by the Concessionaire on account of an HUDA Event of Default, HUDA shall take over the complete system (all Project Assets) and the Concessionaire shall be entitled to receive from HUDA by way of Termination Payment a sum equal to

- (a) Debt due
- (b) 110% of the Adjusted Equity

24.6 Upon Termination of this Concession Contract for any reason whatsoever, HUDA shall:

- (a) take possession and control of Metro link forthwith
- (b) take possession and control forthwith of any material, construction plant, implements, stores, equipments etc. on or about the Site
- (c) restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Site or any part of the Metro link; and/or
- (d) succeed upon election by HUDA without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreement as HUDA may in its discretion deem appropriate and shall upon such election be required to compensate such contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date HUDA elects to succeed to the interests of the Concessionaire as aforesaid. All sums claimed by such Contractors as being due and owing for work and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors and HUDA shall in no way or manner be liable or responsible for such sums.

24.7 **Termination Payments:** The Termination Payment pursuant to this Concession Contract shall become due and payable to the Concessionaire by HUDA within thirty days of a demand being made by the Concessionaire with the necessary particulars duly certified by the Statutory Auditors. If HUDA fails to disburse the full Termination Payment within 30 (thirty) days, the amount remaining unpaid shall be disbursed along with interest at an annualised rate of SBI PLR plus two per cent for the period of delay on such amount.

24.8 **Mode of Payment:** Payment of compensation of costs by HUDA pursuant to this Article 24 shall be made by way of credit to the Escrow Account and such payment shall constitute valid discharge of HUDAs obligations for Termination Payment hereunder.




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- 24.9 Notwithstanding anything to the contrary contained in this Concession Contract, any Termination pursuant to the provisions of this Concession Contract 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. All rights and obligations of either Party under this Concession Contract, including without limitation Termination Payments and Divestment procedures, shall survive the Termination of this Concession Contract to the extent such survival is necessary for giving effect to such rights and obligations




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ARTICLE 25
DIVESTMENT OF RIGHTS AND INTERESTS

- 25.1 Upon Termination of this Concession Contract, the Concessionaire shall comply with the following
- (a) notify to HUDA forthwith the location and particulars of all Project Assets
 - (b) deliver forthwith actual or constructive possession of the Metro Link free and clear of all Encumbrances and execute such deeds, writings and documents as may be required by the HUDA for fully and effectively divesting the Concessionaire of all of the rights, title and interest of the Concessionaire in the Metro link and conveying the Metro link free of any charge or cost to HUDA; and
 - (C) comply with the Divestment Requirements set out in Sub-Article 25.2
- 25.2 Upon Termination of this Concession Contract, the Concessionaire shall comply and conform to the following Divestment Requirements in respect of the Metro Link
- (a) All Project Assets including the track, structure and equipment shall have been cured of all defects and deficiencies as necessary so that the Metro Link is compliant with the Specifications and Standards set forth in this Concession Contract
 - (b) All instruments, controls and alarms shall be in working condition
 - (c) The Concessionaire delivers relevant records and reports pertaining to the Metro Line and its design, engineering, construction, operation, and maintenance including all operation and maintenance records and programmes and manuals pertaining thereto and complete as built drawings on the Divestment Date
 - (d) The Concessionaire executes such deeds of conveyance, documents and other writings as the HUDA may reasonably require to convey, divest and assign all the rights, title and interest of the Concessionaire in the Metro link free from all Encumbrances absolutely and free of any charge or tax unto the HUDA or its Nominee; and
 - (e) The Concessionaire complies with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all the rights, title and interest of the Concessionaire in the Metro link free from all Encumbrances absolutely and free of any charge or tax to HUDA or its nominee
- 25.3 In order to assist HUDA, or a replacement to the Concessionaire appointed by the Lenders in accordance with the Substitution Agreement, with assuming operations in the event that the Concessionaire ceases to operate and maintain the Metro link for whatever reason, the Concessionaire will be responsible for preparing a Handover Package. The Handover Package must include details of all the matters listed in Schedule H. The Concessionaire must update the Handover Package regularly and in the same manner as a competent provider of similar service would do and promptly provide an electronic and 2 hardcopies of the updated Handover Package to HUDA. For each version of Handover Package provided to HUDA, the Concessionaire must provide written confirmation to HUDA that the Handover Package contains the information required under Schedule H. Where the Concessionaire decides that the Handover Package is not required to be updated in a 6 month period on the basis that it




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is already up to date, the Concessionaire must advise HUDA in writing within 20 business days after the end of each 6 month period that the Handover Package is up to date. The Concessionaire must also retain copies of the most recent version of the Handover Package and provide these to any new operator nominated by HUDA or appointed as the replacement by Lenders in accordance with the Substitution Agreement.

- 25.4 Not earlier than 3 (three) months before the expiry of the Concession Period but not later than 30 (thirty) days before such expiry, or in the event of earlier Termination of this Concession Contract, immediately upon but not later than 15 (fifteen) days from the date of issue of Termination Notice, HUDA shall verify, in the presence of a representative of the Concessionaire, compliance by the Concessionaire with the Divestment Requirements set forth in Sub-Article 25.2 in relation to the Metro link and, if required, cause appropriate tests to be carried out at the Concessionaire's cost for determining the compliance therewith. If any shortcomings in the Divestment Requirements are found by either Party, it shall notify the other of the same and the Concessionaire shall rectify the same at its cost.
- 25.5 Upon the Concessionaire conforming to all Divestment Requirements and handing over actual or constructive possession of the Metro link to HUDA or a person nominated by HUDA in this regard, HUDA shall issue a certificate substantially in the form set forth in Schedule "I" (the "Vesting Certificate") which will have the effect of constituting evidence of divestment of all rights, title and lien in the Metro link by the Concessionaire and their vesting in HUDA pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by HUDA. The divestment of all rights, title and lien in the Project shall be deemed to be complete on the date when the Vesting Certificate has been issued, it being expressly agreed that any defect or deficiency in any Divestment Requirement shall not in any manner be construed or interpreted as restricting the exercise of any rights by HUDA or its nominee on or in respect of the Project on the footing as if all Divestment Requirements have been complied with by the Concessionaire on the issue of Vesting Certificate.
- 25.6 Notwithstanding anything to the contrary contained in this Concession Contract, any Termination Payments made by HUDA as per Article 24, into the Escrow Account shall not be withdrawn there from for any purpose whatsoever until the Vesting Certificate has been issued by HUDA under this Article.




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SECTION - VIII
MISCELLANEOUS

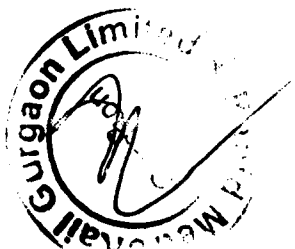



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ARTICLE 26

TRANSFER PROCEDURES ON EXPIRY OF THE CONCESSION

- 26.1 On the expiry of the Concession Period of 99 years, the complete Project with structures will revert back to HUDA/Govt in good working condition by Concessionaire for further allotment for which the same bidding process will be followed and the first right of refusal will be given to the existing Concessionaire as per the provisions of this Concession Contract. In case the existing Concessionaire refuses to accept the offer, the same will be offered to next highest bidder.
- 26.2 Not less than 30 months nor more than 36 months prior to the expiry of the Concession Period, the Concessionaire and HUDA shall jointly formulate transfer procedure to be used at the expiry of concession period.




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ARTICLE 27
ASSIGNMENTS AND CHARGES

- 27.1 Subject to Sub-Articles 27.3 and 27.4, this Concession Contract shall not be assigned by the Concessionaire save and except with prior consent in writing of HUDA, which consent HUDA shall be entitled to decline without assigning any reason whatsoever.
- 27.2 Subject to Sub-Article 27.3, the Concessionaire shall neither create nor permit to subsist any encumbrance over or otherwise transfer or dispose of all or any of its rights and benefits under this Concession Contract or any Project Agreements to which Concessionaire is a party except with prior consent in writing of HUDA, which consent HUDA shall be entitled to decline without assigning any reason whatsoever.
- 27.3 The restraint set forth in Sub-Articles 27.1 and 27.2 shall not apply to
- (a) liens arising by operation of law (or by an Concession Contract evidencing the same) in the ordinary course of business of the Project
 - (b) mortgages/pledges/hypothecation of goods/assets other than Project Assets, and those covered by the Substitution Agreement and their related documents of title arising or created in the ordinary course of business of the Metro Line and as security only for indebtedness to the Lenders under the Financing Documents and/or for working capital arrangements for the Metro link
 - (c) assignment of rights, title and interest to or in favor of the Lenders pursuant to and in accordance with the Substitution Concession Contract in respect of financing by the Lenders under the Financing Documents for the Project; and
 - (d) liens or encumbrances required by any Applicable Law
- 27.4 Notwithstanding anything to the contrary contained in this Concession Contract HUDA may assign any of its rights and benefits and/or obligations under this Concession Contract pursuant to any direction of GOH or by operation of law or in the course of its own business



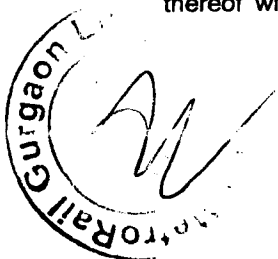
ARTICLE 28
LIABILITY AND INDEMNITY

28.1 General Indemnity

- (a) The Concessionaire will indemnify, defend and hold HUDA harmless against any and all proceedings, actions and, third party claims (other than a claim by HUDA or GOH for loss, damage and expense of whatever kind and nature arising out of the design, engineering, construction, procurement, Operation and Maintenance of the Project) but including and arising out of a breach by Concessionaire of any of its obligations under this Concession Contract except to the extent that any such claim has arisen due to HUDA Event of Default.
- (b) HUDA will, indemnify, defend and hold harmless the Concessionaire against any and all proceedings, actions, third party claims for loss, damage and expense of whatever kind and nature arising out of defect in title and/or the rights of HUDA in the land comprised in the Site adversely affecting the performance of the Concessionaire's obligations under this Concession Contract and/or arising out of acts done in discharge of their lawful functions by HUDA, its officers, servants, agents, subsidiaries and contractors ("HUDA Indemnified Persons") including HUDA Events of Default except to the extent that any such claim has arisen due to a negligent act or omission, breach of contract or breach of statutory duty on the part of the Concessionaire, its Subsidiaries, Affiliates, contractors, servants or agents including due to Concessionaire Event of Default.

28.2 Without limiting the generality of Sub-Article 28.1 the Concessionaire shall fully indemnify, save harmless and defend HUDA including its officers, servants, agents and subsidiaries from and against any and all loss and damages arising out of or with respect to (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits, (b) payments of taxes relating to the Concessionaire contractors, suppliers and representatives, income or other taxes required to be paid by the Concessionaire without reimbursement hereunder, or (c) non-payment of amounts due as a result of material or services furnished to the Concessionaire or any of its Contractors which are payable by the Concessionaire or any of its contractors.

28.3 Without limiting the generality of the provisions of this Article 28, the Concessionaire shall fully indemnify, save harmless and defend the HUDA indemnified Person from and against any and all damages which the HUDA Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any material, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit claim or proceedings, the Concessionaire's Works, or any part, thereof or comprised therein is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for HUDA a license, at no cost to HUDA, authoring continued use of the infringing work. If the Concessionaire is unable to secure such license within a reasonable time, the Concessionaire shall, at its own expense and without impairing the specifications and standards either replace the affected work, or part, or process thereof with non-infringing work or parts or process, or modify the same so that it




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becomes non-infringing

- 28.4 In the event that either Party receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 28 (the "Indemnified Party") it shall notify the other Party ("Indemnifying Party") within 14 (fourteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim it may conduct the proceedings in the name of the Indemnified Party subject the Indemnified Party being secured against any costs involved to its reasonable satisfaction

28.5 Defense of Claims

- 28.5.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder and their reasonable costs and expenses shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the person indemnified in respect of loss to the full extent provided by this Article 28, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding liabilities, payments and obligations at its expense and through counsel of its choice provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnified Party unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure, the loss to be indemnified hereunder to the extent so compromised or settled.

- 28.5.2 If the Indemnifying Party has exercised its rights under Sub-Article 28.4, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

- 28.5.3 If the Indemnifying Party exercises its rights under Sub-Article 28.4 then the Indemnified Party shall nevertheless have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party, when and as incurred, unless

- (i) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or
- (ii) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defense of such action; or
- (iii) the Indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the Indemnified Party to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- (iii) The Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either

- (a) that there may be specific defences available to it which are different from or




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additional to those available to the Indemnifying Party; or

- (b) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Concession Contract

provided that if sub-Articles (ii), (iii) or (iv) shall be applicable, counsel for the Indemnified Party shall have the right to direct the defence of such claim, action, suit or proceeding on behalf of the Indemnified Party and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.




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ARTICLE 29
RIGHTS AND TITLE OVER THE SITE

- 29.1 The Concessionaire shall have exclusive rights to the use of the Site in accordance with the provisions of this Concession Contract and for this purpose it may regulate the entry and use of the Project by third parties.
- 29.2 The Concessionaire shall allow access to, and use of the Site for telegraph lines, electric lines or such other public purposes as HUDA may specify. Where such access or use causes any damage to the Project and consequent financial loss to the Concessionaire, it may seek compensation or damages from such user of the Site as per Applicable Laws.
- 29.4 The Concessionaire shall not sublet the whole or any part of the Site save and except as may be expressly set forth in this Concession Contract provided however that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project



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ARTICLE 30 DISPUTE RESOLUTION

30.1 Amicable Resolution

- (a) Save where expressly stated to the contrary in this Concession Contract, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Concession Contract including incompleteness of the 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 in accordance with the conciliation procedure set forth in Sub-Article (b) below.
- (b) In the event of any Dispute between the Parties, either Party may require such Dispute to be referred to the Chief Administrator of HUDA and the Chairman of the Board of Directors as representative of the Concessionaire for amicable settlement. Upon such reference, the said two representatives shall meet not later than 7 (seven) days of the date of such request to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the said period or the Dispute is not amicably settled within 30 (Thirty) days of such meeting between the said two representatives, either Party may refer the dispute to arbitration in accordance with the provisions of Sub-Article 30.2.
- (c) If the Dispute is not resolved as evidenced by the signing of the written terms of settlement within 30 (thirty) working days or such longer period as may be mutually agreed by the Parties then the provisions of Sub-Article 30.2 shall apply.

30.2 Arbitration

30.2.1 Dispute Due For Arbitration

Disputes or differences shall be due for arbitration only if all the conditions in Sub-Article 30.1 are fulfilled.

30.2.2 Settlement of Disputes

Except where otherwise provided in the Contract, all disputes, whatsoever arising between the parties, arising out of touching or relating to construction, measuring, operation or effect of the Contract or the breach thereof, shall be settled by arbitration as per Indian Arbitration and Conciliation Act, 1996 as amended or replaced by other enactment.

The arbitral tribunal shall consist of three arbitrators, one arbitrator appointed by each Party and one appointed jointly by such appointed arbitrators. The Parties would appoint their nominee arbitrator within a period of 30 days from the intimation of appointment of the nominee arbitrator by one Party to the other. Such appointed nominee arbitrators would also appoint the third arbitrator within a period of 30 days from the date when both of them have been appointed. In the event of failure to appoint arbitrators as aforesaid, the Arbitrators shall be appointed as per provisions of Arbitration and Conciliation Act, 1996 as amended or replaced by other enactment.

The language to be used in the arbitration shall be the English language exclusively, and the award shall be a reasoned one written in the English Language.

30.2.4 No Suspension of Work

The reference to arbitration shall proceed notwithstanding that Works shall not then be or be alleged to be complete, provided always that the obligations of the HUDA and the




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Concessionaire shall not be altered by reasons of arbitration being conducted during the progress of Works. Neither party shall be entitled to suspend the work to which the dispute relates on account of arbitration and payments to the Concessionaire shall continue to be made in terms of the Contract.

30.2.5 Rules Governing the Arbitration Proceedings

The arbitration proceedings shall be governed by Indian arbitration and Conciliation Act, 1996, as amended or replaced by other enactment from time to time and the venue will be Gurgaon.

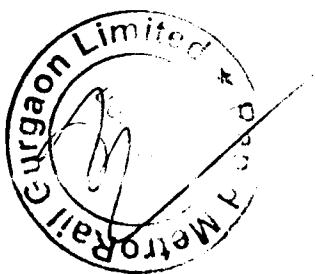
30.3 Arbitration Award to be binding

- 30.3.1 The Concessionaire and HUDA undertake to carry out any decision or award of the arbitrators (the "Award") without delay. Awards relating to any Dispute shall be final and binding on the Parties as from the date they are made.
- 30.3.2 The Concessionaire and HUDA agree that an Award may be enforced against the Concessionaire and/or HUDA, as the case may be and their respective assets wherever situated.
- 30.3.3 This Concession Contract and rights and obligations of the Parties shall remain in full force and effect pending the Award and the finalization of Award in any arbitration proceeding hereunder.



ARTICLE 31
DOCUMENTS AVAILABILITY FOR PUBLIC INSPECTION

- 31.1 The Concessionaire shall make available for inspection by members of public free of charge during normal business hours on all working days copies of this Concession Contract and the O&M Contract (if any) (hereinafter collectively referred to as "Public Documents") at the Concessionaire's office in the Site from the Effective Date until the Termination Date. The Concessionaire shall prominently display at the stations public notices about the availability of the Public Documents for inspection and shall make available upon request and payment in advance of copying charges on no profit no loss basis to members of public copies of the said Public Documents




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 32

REDRESSAL OF PUBLIC GRIEVANCES

- 32.1** The Concessionaire shall maintain a public relations office at each station and keep it open to public access at all times. At each such office, the Concessionaire shall open and maintain a register (the "Complaints Register") for recording of complaints by any person (the Complainant) at any time of the day. The availability of and access to such office and the Complaints Register shall be prominently displayed by the concessionaire at each station so as to bring it to the attention of all persons who are entering and exiting the Project area
- 32.1** The Complaints Register shall be securely bound and kept in proper custody at the public relations office. Each page of the Register shall be duly numbered and each complaint recorded therein shall also be duly numbered. Soon after a complaint is registered the Complainant shall be given a receipt by such office stating the date and complaint number, which the Complainant may refer to in any subsequent correspondence or claim. The Complaints Register shall have appropriate columns including but not limited to the complaint number and date, name and address of the Complainant, the complaint and the action Taken by the Concessionaire thereon.
- 32.3** The Concessionaire shall inspect the Complaints Register at reasonable intervals and take prompt steps for Redressal of the grievances stated in each complaint. The action so taken by the Concessionaire shall be briefly noted in the 'Action taken' column of the Complaints Register and a suitable reply shall also be sent to the Complainant by post under a certificate of posting
- 32.4** Within one week following the close of each calendar month, the Concessionaire shall send to HUDA a true photocopy of such pages of the Complaints Register on which any entries have been recorded of any Complaint on the Concessionaire during the course of such month. HUDA may in its discretion direct the concessionaire to take such further reasonable action as HUDA may deem appropriate for a fair and just Redressal of any grievance. Where HUDA is of the opinion that the Complainant is entitled to any further Redressal or compensation beyond what the Concessionaire is willing to provide, HUDA may refer the matter to the Consumer Redressal Forum having jurisdiction for its disposal in accordance with the provisions of the Consumer Protection Act, 1986




Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 33
GOVERNING LAW AND JURISDICTION

- 33.1 This Concession Contract shall be construed and interpreted in accordance with and governed by the laws of India and the Courts in Gurgaon, India shall have the sole and exclusive jurisdiction over all matters arising out of or relating to this Concession Contract



A handwritten signature in black ink, likely belonging to the Chief Administrator.

Chief Administrator
Haryana Urban Development Authority
Panchkula

**ARTICLE 34
MISCELLANEOUS**

34.1 Waiver

Waiver by either Party of any default by other Party in the observance and performance of any provision of or obligations of or under this Concession Contract

- (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Concession Contract
- (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (iii) shall not affect the validity or enforceability of this Concession Contract in any manner

Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Concession Contract or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

34.2 Survival

Termination of this Concession Contract (a) shall not relieve the Concessionaire or HUDA of any obligations hereunder which expressly or by implication survives Termination hereof, and (b) except as otherwise provided in any provision of this Concession Contract 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.

All obligations surviving the cancellation, expiration or Termination of this Concession Contract shall only survive for a period of 5 (five) years following the date of such Termination or expiry of this Concession Contract.

34.3 Entire Concession Contract:

This Concession Contract constitutes a complete and exclusive statement of the terms of the Concession Contract between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless expressly previously approved in writing by both the parties and executed by the person expressly authorised by the parties

34.4 Notices:

Any notice or other communication to be given by Party to the other Party under, or in connection with the matters contemplated by this Concession Contract shall be in writing and shall:

- (a) in the case of the Concessionaire, be given by letter delivered by hand to the address given and marked for the attention of the person set out opposite the corresponding signature below or to such other address marked for such other attention as the Concessionaire may from time to time designate by notice to HUDA, provided that notices or other communications to be given to an address outside Gurgaon may (if they are subsequently confirmed by sending a copy thereof by first class registered airmail or by courier) be sent by facsimile to the number as the Concessionaire may from time to time designate by notice to HUDA; and




Chief Administrator
Haryana Urban Development Authority
Panchkula

- (b) in the case of HUDA, be given by letter delivered by hand and be addressed to the Chief Administrator, HUDA. Copies of all notices shall also be sent by facsimile and by registered acknowledgement due pre-paid post or courier.

34.5 Severability

If for any reason whatever any provision of this Concession Contract 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 will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under this Concession Contract or otherwise.

34.6 Corrupt and Fraudulent Practices

The Concessionaire warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Concessionaire, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Concession Contract or for influencing or attempting to influence any officer or employee of HUDA or GOH in connection therewith.

34.7 Language

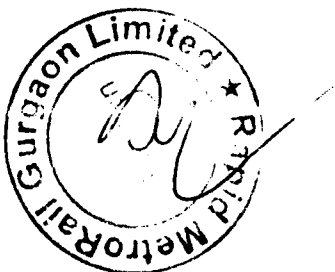
All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Concession Contract shall be in writing and in English language.

34.8 Confidentiality

Each party shall keep in strict confidence any information or document received by it or on its behalf from the other party in connection with the Project, and shall not disclose such information or document in any manner otherwise than as provided for in this sub-article.

Except and Only to the extent as otherwise reasonably required in order to exercise any rights afforded under this Concession Contract, each Party shall keep in strict confidence any information and document received by it or on its behalf in connection with the Project and shall not disclose such information or document in any manner, other than for the purpose performing of its obligations under this Concession Contract or as required under any Laws and Regulations, however the foregoing obligations of confidentiality shall not apply to

- (a) any information that is reasonably required by any Persons engaged in the fulfillment of the Concessionaire's or HUDA's obligations under this Concession Contract
- (b) any information which either Party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this sub-article
- (c) any information which is reasonably required to enable a determination to be made under Article 30 (Dispute Resolution)
- (d) any information the disclosure of which is required by any Applicable Laws or other regulations (including any order of a court of competent jurisdiction), or by




Chief Administrator
Haryana Urban Development Authority
Panchkula

Governmental Agency

- (e) any information required by the Lenders or the Lender's Representative or insurance advisers or insurers, but only to such extent necessary to enable their decisions to be taken

34.9 Exclusion of Implied Warranties etc.

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

34.10 Counterparts

This Concession Contract may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Concession Contract

NOW THEREFORE IN CONSIDERATION OF THE FOREGOING AND THE RESPECTIVE COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY AGREE AND THIS CONCESSION CONTRACT WITNESSTH AS FOLLOWS

SIGNED, SEALED AND DELIVETRED

For and on behalf of

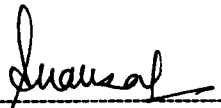
HUDA
(Haryana urban Development Authority)

by



(D.P.S. Nagal, IAS)
Chief Administrator
Haryana Urban Development Authority
Panchkula

Witness



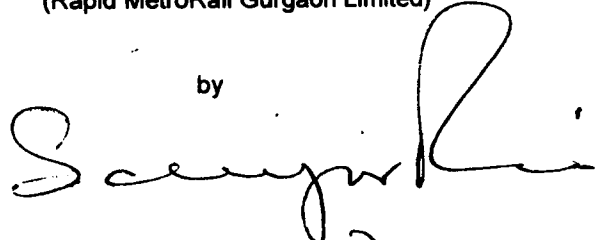
(S.C. KANSAL)
Chief Controller of Finance
Haryana Urban Dev. Authority
Panchkula

SIGNED, SEALED AND DELIVETRED

For and on behalf of

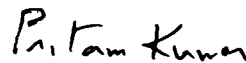
CONCESSIONIARE
(Rapid MetroRail Gurgaon Limited)

by



(SANJAY RAI)
For Rapid MetroRail Gurgaon Limited

Authorized Signatory
Witness



END OF DOCUMENT



SCHEDULE-A

SITE OF THE PROJECT

1. The site of the Project is located at Gurgaon. The complete alignment is shown in attached drawing number MG-GA-ALT-26-A
2. The location of stations and chainage is shown in attached drawing number MG-GA-ALT-26-A




Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE B

LAND LEASE AGREEMENT

This LAND LEASE AGREEMENT, hereinafter referred to as, "Agreement", is entered into on this the day of, 2009 between

1. **HARYANA URBAN DEVELOPMENT AUTHORITY (HUDA)**, a statutory body set up by Government of Haryana under HUDA Act, 1977 and having its principal office at C-3, Sector-6, Panchkula (hereinafter referred to as "LESSOR" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns) of One Part,

AND

2. **Rapid MetroRail Gurgaon Limited (RMGL)**, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Ambience Corporate Towers, 2nd Floor, Ambience Island, National Highway#8, Gurgaon, Haryana, India 122001 (hereinafter referred to as the "LESSEE" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes) of the Other Part.

HUDA and RMGL, hereinafter collectively referred to as "Parties" and individually as "Party"

RECITALS

Whereas

- A. LESSOR is developing Metro link from Delhi Metro Sikanderpur Station on MG Road to NH-8 on BOOT basis, (hereinafter called the "Project") on the Site defined in Schedule A.
- B. LESSOR has awarded the contract to the Concessionaire for financing, design, construction, procurement, installation and operation of the Metro Link as per the Concession Contract dated hereinafter known as "Concession Contract".
- C. As per the Concession Contract. LESSOR has to provide land for construction of Metro link as per Scheduled A.
- D. LESSOR is absolute owner of the portion of the land described in Scheduled A and hereinafter referred to as "Site", and has agreed to grant on lease to LESSEE, and LESSEE has agreed to accept the lease of the Site, on and subject to terms and conditions and provisions set forth hereinafter.

NOW THEREFORE, in consideration the foregoing and based on the respective representations, warranties, covenants and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITION

In this Agreement (including the recitals hereof and the schedules hereto), the following words and expressions shall have, where the context so permits, the meaning assigned to them respectively below:

"Metro Rail" means the rail link between Sikanderpur and NH-8 being developed by RMGL,

"Concession Contract" means the agreement dated signed between HUDA and RMGL for development of Metro Link between Sikanderpur and NH-8 in Gurgaon




Chief Administrator
Haryana Urban Development Authority
Panchkula

"Environmental law" means all laws including without limitation, national, state and local statutes, regulations, rules, orders, notices, directives, approvals, permits including any conditions attached to the foregoing and in so far as they have the force of law, guidance and codes of practices and relate to harm or damage or protection of environment

"Project" means development, design, financing, construction, operation and management of Metro Link between Sikanderpur and NH-8 in Gurgaon, as described in Schedule A of the Concession Contract.

2. GRANT OF LEASE AND POSSESSION

- 2.1 Subject to the provisions of this Agreement, LESSOR agrees to grant on lease to LESSEE and LESSEE agrees to accept on lease from the LESSOR, free from encumbrances and/or encroachments of the said portion and pieces and parcels of land as described and identified in Schedule A hereto i.e. Site, together with all and singular rights, liberties, privileges, benefits, right of way, passages whatsoever to the Site or part thereof and to hold, possess, use and enjoy site and/or any part thereof, in accordance with provisions of this Agreement within 30 days of this Agreement..
- 2.2 The Parties would execute this Lease Deed in respect of Site defined in Schedule A, in whole or in parts, on receipt of requirement notice from the Concessionaire and on satisfaction of HUDA, that the said land is required for construction activity of the Project"

3. TERM AND TERMINATION

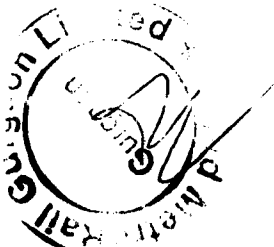
- 3.1 This Agreement, shall have a term of 99 years from the signing of this Agreement.
- 3.2 In the event the Concession Contract is terminated by HUDA or any other Government authority or is terminated due to any other reason, this Agreement will also terminate automatically.

4. USE OF SITE

- 4.1 LESSOR hereby grants permission to LESSEE for carrying out following activities in accordance with the provisions of Concession Contract:
- A. Implementing the Project
 - B. Real Estate development
 - C. Advertisements at the Site
 - D. Any other purpose which is conducive or incidental to the implementation, operation, maintenance and management of the Project, but in accordance with the Concession Contract.
- 4.2 LESSEE may grant sub-lease or license to service providers for carrying out some of the above activities in accordance with the Concession Contract.

5. LEASE RENT

- 5.1 In consideration of LESSOR leasing the Site to LESSEE and granting the rights, privileges and benefits set forth in this Agreement, LESSEE shall pay to LESSOR, Land Lease charges as per Article 8.1 of the Concession Contract.
- 5.2 The Lease rent shall be payable at the end of each financial year, and must be paid within 60 days of end of the financial year.
- 5.3 The Lease rent shall be paid after deduction of income tax / any other tax applicable.
- 5.4 If the Lessee fails to pay lease rent as aforesaid, the lessee shall be liable to pay interest thereon at the rate of 2



percent points above SBI Prime Lending Rate from the date lease rent becomes due and payable.

- 5.5 If the Lessee fails to pay lease rent for more than 90 days, after it has fallen due, it would amount to "Concessionaire Event of Default" and shall be dealt with as per Article 24 of the Concession Contract.

6. LESSOR's OBLIGATIONS

- 6.1 LESSOR agrees, undertakes and warrants that subject to the terms hereof as also subject to compliance of the conditions of Concession Contract, the LESSEE shall be entitled to possess, use, hold and enjoy the Site and every part thereof during the term of the lease without any interruption by LESSOR
- 6.2 LESSOR agrees and covenants with LESSEE that LESSOR shall not create any Encumbrances on the Site or otherwise part with any of its rights, title or interest in or to the Site during the term of lease, except in accordance with the provisions of the Concession Contract.

7. LESSEE's OBLIGATIONS

- 7.1 LESSEE shall use the Site for the purpose agreed in this Agreement, and also in compliance with the provisions of the Concession Contract.
- 7.2 LESSEE shall regularly pay the Lease rent in accordance with this Agreement.
- 7.3 LESSEE shall keep the Site in good condition.

8. MISCELLANEOUS

- 8.1 All expenses related to stamp duty and registration of this Agreement shall be borne by the Lessee.

9. Indemnification and Liability

- 9.1 LESSOR shall fully indemnify, defend and hold harmless LESSEE and their directors, employees and agents from and against any liability which may arise out of any breach by LESSOR of any of its obligations, covenants, warranties, agreements set forth in this Agreement.
- 9.2 LESSEE shall fully indemnify, defend and hold harmless LESSOR and their directors, employees and agents from and against any liability which may arise out of any breach by LESSEE of any of its obligations, covenants, warranties, agreements set forth in this Agreement.
- 9.3 In no event shall any Party be liable to the other Party for any special, indirect, incidental or consequential loss or damage, including but not limited to business interruption, loss of business opportunity, loss of use of capital revenue and cost of money, arising at any time from any cause whatsoever in connection with this Agreement.

10. Law

The Agreement shall be governed by laws of India and all Parties shall submit themselves to the jurisdiction of the Courts in Gurgaon solely and exclusively and High Court of Punjab and Haryana solely and exclusively .

11. Dispute Resolution

Any and all disputes or differences between LESSOR and LESSEE arising out of or in connection with this agreement or its performance shall, so far as it is possible, be settled amicably through consultation.

Failing an amicable resolution as aforesaid, such dispute or difference shall be resolved by arbitration in accordance with the provisions of the Dispute Resolution Mechanism as provided for in the Concession Contract..



Chief Administrator
Haryana Urban Development Authority
Panchkula

12. ASSIGNMENTS

Neither Party shall without the written consent of other party, assign their rights and obligations under this Agreement to any holding, subsidiary, affiliate, group company. Any assignment in favour of any person, except as mentioned to herein, would be governed by the provisions of the assignment as detailed in the Concession Contract.

13. Amendments

Any amendments to this Agreement shall be in writing and signed by the authorized representatives of the Parties.

14. This Agreement is drawn in two copies with equal strength and status. A counterpart original copy is held by each Party.

15. Coming into force

This Agreement shall come into force on signing by all Parties.

LESSOR

LESSEE




Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE C

CONCESSIONAIRE'S WORKS

- 1.0 The Concessionaire's scope of work includes Designing, installation, construction , repairs, rectification and operation of following works:
- 1.1 Structural part of all stations and associated structures
 - 1.2 Viaduct structures
 - 1.3 Architectural Works including architectural finishes
 - 1.4 Landscaping of each station environs
 - 1.5 Signage at each station and station environs
 - 1.6 Track work
 - 1.7 Rolling Stock
 - 1.8 Signaling & Train Control System
 - 1.9 Fare Collection System
 - 1.10 Lifts & Escalators
 - 1.11 Other facilities used for operation and maintenance of the Project/Metro Link.

All other facilities and equipment provided by the Concessionaire, designated contractors, considered necessary for the good operation and maintenance of the Project/Metro Link.

Concessionaire shall be responsible for business operation, train operation, maintenance of all facilities and handling of emergency situation relating to the Project/Metro Link during the concessionaire period.

All other activities and functions which are necessary for construction and operation of the Project/Metro Link as per the requirements of Concession Contract.



SCHEDULE D
PERFORMANCE SECURITY
(Refer Article 5 of the Concession Agreement)

(To be stamped in accordance with the Stamp Act of the State in which the Issuing Bank is located)

To:
HARYAN URBAN DEVELOPMENT AUTHORITY (HUDA),
PANCHKULA,
HARYANA

WHEREAS RAPID METRORAIL GURGAON Ltd having its registered office at, 2nd Floor, Ambience Corporate Towers, Ambience Island, NH-8, Gurgaon- 122 001(hereinafter called "the Concessionaire") has undertaken, in pursuance of Concession Contract datedto develop Metro Link from Sikanderpur station to NH-8 in Gurgaon including Civil works, Track work, Power Supply, Signaling, Communications, rolling stock and Safety Systems for the whole of the alignment and to Operate and Maintain the Metro Line, as expressed or reasonably implied in the Concession Agreement. (*hereinafter referred to as "Works"*)

AND WHEREAS it has been stipulated in the said Concession Contract that the Concessionaire shall furnish a Bank Guarantee drawn on a scheduled bank in India or Indian branch of foreign bank in favour of HUDA for an amount of Rs.250 million as security for compliance and performance of his obligations in accordance with the Concession.

In consideration of the premises we _____ (Name of the Bank) having Head Office at _____ (hereinafter referred to as the "the Guarantor / Bank", which expression shall unless repugnant to the context of meaning thereof, include its successors, and assigns) do hereby unconditionally, irrevocably and without demur / guarantee and undertake to pay immediately on demand any or, all monies payable by the Concessionaire to the extent of Rs.250 million as aforesaid at any time on first demand without any demur, reservation, context, recourse or protest and or without any reference to the Concessionaire. Any such demand made by HUDA on the Bank shall be conclusive and binding notwithstanding any difference between HUDA and the Concessionaire or any dispute pending before any Court, Tribunal, Arbitrator or any other authority (*hereinafter referred to as "the Guaranteed Amount"*)

2) We hereby waive the necessity of your demanding the said debt from the Concessionaire before presenting us with the demand.

3) We further agree that no change or addition to or other modification of the terms of the Concession Contract or of the Works to be performed there under or of any of the contract documents which may be made between you and the Concessionaire shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

4) We lastly undertake not to revoke this guarantee during its currency except with your previous consent in writing and agree that any change in the constitution of the Guarantor / Bank shall not discharge the liability of the Guarantor.

5) This guarantee shall be valid for 30 (Thirty) months from the date of execution of this Guarantee and shall be extended from time to time as per Concession Contract. The pendency of any dispute or arbitration or other proceedings shall not affect this guarantee in any manner whatsoever.

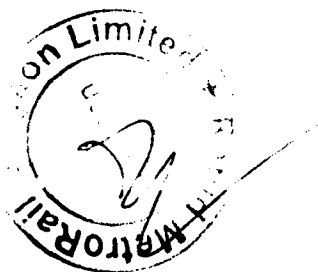
6) Notwithstanding to what is stated above this guarantee shall be valid upto..... and the Guarantor is liable to pay an amount only upto Rs.....

SIGNATURE AND SEAL OF THE GUARANTOR

NAME OF BANK _____

ADDRESS _____

DATE _____




Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE E

PROJECT IMPLEMENTATION SCHEDULE

Subject to the provisions of the Concession Agreement, various milestone/key dates for completion are given below.

- | | |
|---------------------------------|---|
| 1. Signing of Agreement | within 60 days of LOA or any extension provided thereof |
| 2. Financial Close | within 180 days of signing of Concession Agreement or such extensions as permitted under the Concession Contract |
| 3. Start of Construction | within 30 days of Financial Closure |
| 4. COD | within 30 months of financial closure |



A handwritten signature in black ink, likely belonging to the Chief Administrator.

Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE F
(Ref Article 18)

Form of ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the "Agreement") is made on the day of 2009 by and among:

1. Haryana Urban Development Authority, a statutory body set up by Government of Haryana under HUDA Act, 1977 and having its principal office at C-3, Sector-6, Panchkula (hereinafter referred to as "**HUDA**" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns)
2. Rapid MetroRail Gurgaon Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Ambience Corporate Tower, 2nd Floor, Ambience Island, National Highway # 8, Gurgaon, Haryana India 122001 (hereinafter referred to as the "**Company**" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes)
3.and having its registered office atas Senior Lenders Representative (hereinafter referred as "**LENDERS REPRESENTATIVE**" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes)
4.and having its registered office at(hereinafter referred as "**ESCROW BANK**" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes)

WHEREAS:

The Company is undertaking a project for financing, design, procurement, installation, testing, and commissioning of all systems, and for the subsequent operation and maintenance of the completed Metro link from Sikanderpur to NH-8 in Gurgaon through a Concession in Build, Operate and Transfer (BOT) basis.

The Company has entered into a Concession Contract dated as of 2009 with HUDA (the "Concession Contract") wherein HUDA has granted Concession to Company for the work referred to above on BOT basis.

The Company has entered into Financing Documents with Senior Lenders wherein Senior Lenders (the "Senior Lenders") have agreed to lend and advance to the Company Rupee amounts aggregating and foreign currency amounts aggregating US Dollars in terms thereof;

One of the terms of the Concession Contract and the Financing Documents is that the Company is required to establish an Escrow Account, inter alia on terms and conditions stated therein and satisfactory to Senior Lenders

NOW IN CONSIDERATION FOR THE PREMISES IT IS AGREED BY THE PARTIES AS FOLLOWS:-

1. Definitions and Interpretation

- 1.1 **Definitions:** Each capitalised term used herein and not otherwise defined shall have the definition assigned to such term in the Concession Contract or the Substitution Agreement as the case may be;



Chief Administrator
Haryana Urban Development Authority
Panchkula

- "Account" means the Escrow Account to be opened by the Company in accordance with this Agreement;
- "Authorised Investment" means any authorised investments which Lenders Agent may, from time to time permit the Company to make in accordance with this Agreement;
- "Business Day" means any day on which banks are open for business in Gurgaon or in relation to any notice or communication to be made under this Agreement, a day on which banks are open for business in the place of receipt of such notice or communication;
- "Company Account" shall mean any bank account of the Company, other than the Escrow Account.
- "Enforcement Notice" means any enforcement procedure commenced by the Lenders Representative under any of the Security Documents;
- "Escrow Account" means an Escrow Account established in terms of and under this Agreement;
- "Event of Default" means an event of default as defined and detailed in the Financing Documents;
- "INR" means the lawful currency of India;
- "Payment Date" means in relation to any Permitted Payment, the date(s) specified for such payment;
- "Permitted Payment" means the Payments Agreed to in this Agreement excluding payment to the Company Accounts as more particularly given in Sub-Clause 3.3.1;
- "Required Balance" means on any Date in relation to the Sub-Account of the Escrow Account, an amount in INR/Dollars which if proportionately built over the months, would be sufficient to meet Permitted Payment on the Payment Date(s).
- "Security Documents" means all or any of the Documents executed, delivered or furnished to secure the Financial Assistance under the Financing Documents including but not limited to the Deed of Hypothecation, Mortgage Deed, Equitable Mortgage, Deed of Guarantee, Pledge Agreement, Undertakings, Negative Lien and other incidental or supplemental documents related thereto.
- "Sub-Accounts" means the Sub-Accounts of the Escrow Account, into which the monies due in relation to Permitted Payment would be credited every month and paid out if due and if not due in a month then appropriated proportionately in such month and retained in the Sub Account and paid out there from on the Payment date.
- "Year" means each twelve month period ending on March 31

1.2 Interpretation

In this Agreement:

- Unless the context otherwise requires, the singular includes the plural and vice versa;
- Headings and the use of bold typeface shall be ignored in its construction;
- A reference to a Clause, or Schedule is, unless indicated to the contrary, a reference to a clause or schedule to this Agreement;



- References to this Agreement shall be construed as references also to any separate or independent stipulation or agreement contained in it; ,
- The words "other", "or otherwise" and "whatsoever" shall not be construed to be as any limitation upon the generality of any preceding words or matters specifically referred to;
- References to the word "includes" or "including" are to be construed without limitation;
- References to a person shall include such person's successors and permitted assignees or transferees;
- All references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned from time to time.
- The words "herein", "hereto" and "hereunder" refer to this Agreement as a whole and not to the particular clause in which such word may be used;
- Words importing a particular gender include all genders:
- "person" includes any individual, partnership, firm, trust, body corporate, government, government body, authority, agency, unincorporated body of persons or association;
- any reference to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over the functions or responsibilities of such public organisation:
- references to "Party" means a party to this Agreement and references to "Parties" shall be construed accordingly; and
- references to any law shall include references to such law as it may, after the date of this Agreement, from time to time be amended, supplemented or re-enacted.

2 THE ACCOUNTS

2.1 Acceptance of Appointment of Escrow Agent

- (a) The Escrow Agent hereby agrees to act as such and to accept all payments and other amounts to be delivered to or held by the Escrow Agent pursuant to the terms of this Escrow Agreement. Escrow Agent shall hold and safeguard the Escrow Account during the term of this Escrow Agreement and shall treat the amount in the Escrow Account as monies deposited by Company/HUDA with the Escrow Agent, as agent for the benefit of the Lenders' Agent, or its nominee, successors or assigns, in trust in accordance with the provisions of this Escrow Agreement. In performing its functions and duties under this Escrow Agreement, the Escrow Agent shall act as agent for the Lenders' Agent.

The Company also hereby declares that all right, title and interest in and to the Escrow Account, the Authorised Investments and Permitted Payments made from the Escrow Accounts shall be vested in the Escrow Agent and held in trust for the Senior Lenders acting through Lenders' Agent, HUDA and the Company in accordance with the terms of this Agreement and as their respective interests are provided for herein. Amounts deposited in the Escrow Account from time to time shall be held by the Escrow Agent in trust and received and applied as provided in and in accordance with the Agreement and in accordance with the Concession Contract. No person other than the Lenders Representative, HUDA and the Company shall have any rights hereunder as the beneficiaries of or as third party beneficiaries under this Agreement.



- (b) The rights of Company/HUDA in the monies held in Escrow Account are set forth in their entirety in this Escrow Agreement and in Concession Contract and Company/HUDA shall have no other rights against or to the monies in the Escrow Account.

2.2 Establishment of Escrow Account

At least thirty (30) days prior to seeking any disbursement (including issue of guarantees or all forms of Financial Assistance), the Company shall establish the Escrow Account with the Escrow Agent.

2.3 Maintenance of the Account

The Escrow Agent shall maintain the Escrow Account in accordance with the terms of this Agreement and Concession Contract and its usual practices and applicable regulations and pay the maximum rate of interest payable to its customers on the balance in the said account from time to time.

2.4 Operating Procedures

The Escrow Agent and the Company shall agree (after consultation with the Lenders' Agent) on the detailed mandates, terms and conditions and operating procedures for the Escrow Account but in the event of any inconsistency between this Agreement and Concession Contract and such mandates, term and conditions or procedures, this Agreement and Concession Contract shall prevail.

3 Currency

- 3.1 The Escrow Account shall be established with the Branch of the Escrow Agent. The Escrow Account shall be denominated in INR.

3.2 Deposits

3.2.1 The Company

- A) agrees, confirms and undertakes that it shall deposit and/or credit the Escrow Account with:

- (i) all its receivables;
- (ii) all proceeds received pursuant to any insurance claims; and
- (iii) all monies received from any other sources in relation to and in respect of the Project;

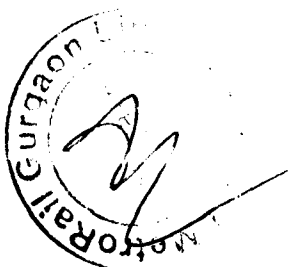
- B) may make other deposits of the Company's other funds into the Escrow Accounts at any time. Provided however that the terms of this Agreement shall apply to such other funds deposited in the Escrow Account by the Company.

HUDA agrees, confirms and undertakes that it shall deposit and/or credit the Escrow Account with:

- (i) Termination Payments as per provisions of the Concession Contract and/or Financing Documents.

- 3.2.2 The Escrow Agent shall ensure that all interest, if any, on the balances of the Escrow Accounts and interest on Authorised Investments made from the Escrow Accounts shall be credited to or deposited in the Escrow Account.

3.3 Withdrawals



3.3.1 The Escrow Agent shall withdraw amounts from the Escrow Accounts and appropriate in the following order every month in Schedule 1 and deposit in the relevant Sub-Account for payments and if not due in a month then appropriate proportionately in such month and retain in the Sub-Account and pay out therefrom on the Payment Date(s):

- (i) All taxes due and payable by the Concessionaire
- (ii) All Lease charges payable to HUDA as per Lease Agreement
- (iii) All expenses in connection with and relevant to the Concessionaire's Works by way of payment to the EPC Contractor and such other persons as may be specified in the Financing Documents
- (iv) O&M Expenses subject to the ceiling, if any set forth in the Financial Documents
- (v) Connectivity charges and Revenue Share due to HUDA from the Concessionaire under this Agreement
- (vi) Monthly proportionate provision of debt service payments due to Senior Lenders in an accounting year and payment of Debt Service Payments to Senior Lenders in the month when due
- (vii) Debt service Payments in respect of Subordinate Debt;
- (viii) Any reserve of requirements required to be settled in terms of financial document.
- (ix) Balance in accordance with the instructions of the Concessionaire.

The amounts specified in Clause 3.3.1 constitute the Permitted Payments.

3.3.2 Notwithstanding anything to the contrary contained in this Agreement upon Termination of the Concession Contract or the expiry of Concession Period for whatever reason, all amounts standing to the credit of the Escrow Account shall be appropriated and dealt with in the following order:

- (a) all Taxes due and payable by the Concessionaire
- (b) all Connectivity charges / non fare revenue share due and payable to HUDA under this Agreement;
- (c) all accrued Debt Service Payment
- (d) any payments and Damages due and payable by the Concessionaire to HUDA pursuant to this Agreement, including Termination claims;
- (e) all accrued O&M Expenses;
- (f) any other payments required to be made under this Agreement; and
- (g) balance, if any, on the instructions of the Concessionaire

3.4 Application of Insufficient Funds



As provided in Clause 3.3, the application of funds in the Escrow Account shall be in the serial order of priority set forth therein. If the funds available for payment to the Sub-Accounts are sufficient to pay a portion, but not all, of the amount required to be paid to any Sub-Account, the Escrow Agent shall apply such funds in the serial order of priority set forth in Clause 3.3, until exhaustion thereof.

4. Authorised Investments

4.1 Power to Invest

Subject to Clause 3.3, the Escrow Agent shall invest the amounts standing to the credit of any of the Sub Accounts in Authorised Investments on the instructions of the Company as approved by the Lenders Representative, from time to time, in accordance with the provisions of the Agreement. The Escrow Agent shall not be bound to and shall not make investments under the Indian Trusts Act, 1882 without prior approval of the Lenders Representative.

4.2 Procedure for Investments

4.2.1 All Authorised Investments shall be made and/or realised by the Escrow Agent on the instructions of the Company as approved by the Lenders Representative from time to time in accordance with the provisions of this Agreement.

4.2.2 All documents of title or other documentary evidence of ownership with respect to Authorised Investments made out of any Escrow Account will be held in the custody of the Escrow Agent.

4.3 Realisations

Upon the realisation of any investment made under this Clause, the proceeds of realisation shall immediately be credited to the relevant Sub-Account by the Escrow Agent or immediately invested in another Authorised Investment in accordance with the Company's instructions as approved by the Lenders Representative.

4.4 Mandatory Realisations

In the event that the Company becomes aware that any Authorised Investment has ceased to be an Authorised Investment, the Company shall immediately instruct the Escrow Agent on a best efforts basis to realise such Authorised Investment on its maturity date or earlier if possible under intimation to the Lenders Representative or HUDA.

4.5 Accounts include Investments

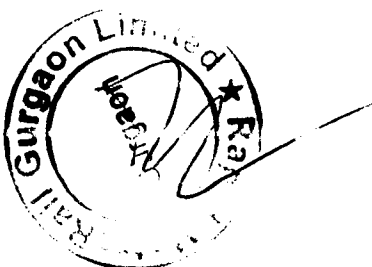
Any reference in this Agreement to the balance standing to the credit of the Escrow Account shall be deemed to include a reference to the amount of the Authorised Investments in which all or part of, such balance is for the time being invested.

4.6 Interest on Investments

Any interest or other income received on account of Authorised Investments shall be to the credit of the Escrow Account.

4.7 Enforcement Notice

Subject to Clause 3.3, on receipt of an Enforcement Notice from the Lenders Representative, the Escrow Agent shall realise the Authorised Investments, whether such investments have matured or not on a best effort basis, and apply the proceeds as directed by the Lenders Representative.



5. Withdrawals following Event of Default

- 5.1 If the Lenders Representative notifies the Escrow Agent that an Event of Default is likely to occur or has occurred, and is continuing then, until such time as the Lenders Representative has notified the Escrow Agent that the Event of Default has been cured or waived under the Financing Documents the Escrow Agent shall only make withdrawals from the Escrow Accounts which constitute Permitted Payment and shall not make any payments from the Escrow Account to the Company Accounts.

6. Escrow Agent Provisions

6.1 The Escrow Agent and the Senior Lenders

The Company hereby appoints the Escrow Agent to act as trustee for the Lenders Representative, HUDA and the Company in connection herewith and authorises the Escrow Agent to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Agent by the terms hereof together with all such rights powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Agent accepts such appointment pursuant to the terms hereof

6.2 Particular Duties of the Escrow Agent

The Escrow Agent:

- (A) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Company upon a certificate signed by or on behalf of the Company.
- (B) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or documents believed by it to be authentic;
- (C) shall, within five (5) Business Days after receipt, deliver a copy to the Lenders Representative of any notice or document received by the Escrow Agent in its capacity as the Escrow Agent from the Company or any other person hereunder or in connection herewith; and
- (D) shall, within five (5) Business Days after receipt, deliver a copy to the Company of any notice or document received by the Escrow Agent from the Lenders Representative in connection herewith.

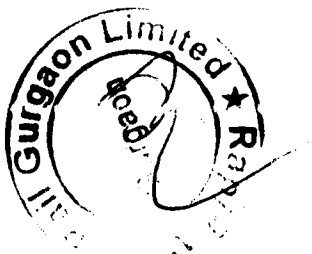
6.3 Segregation of Funds

Monies and other property received by the Escrow Agent under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Agent in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Agent.

6.4 Termination

- 6.4.1 This Agreement shall remain in full force and effect so long as amounts remain outstanding from the Company in respect of the Financial Assistance received by it from the Senior Lenders or its obligations to HUDA, unless terminated earlier by the mutual consent of the Parties or otherwise in accordance with the provisions of this Clause.

- 6.4.2 The Company may, by not less than 45 days prior notice to the Escrow Agent, HUDA and the Lenders Representative, terminate this Agreement and appoint a new Escrow Agent, provided that the new Escrow Agent is acceptable to the Lenders Representative and HUDA and arrangements are made satisfactory to the Lenders Representative and HUDA for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Agent.



6.5 Fees

The Company shall pay the Escrow Agent fees in an amount and at such times as may be agreed between the Escrow Agent and the Company.

7. Escrow Agreement Defaults

7.1 If the Company is in breach of any of its obligations under this Agreement and, following a notice of default from the Lenders' Representative, fails to remedy the same:

- (A) in the case of a failure to deposit funds received by the Company in the Escrow Account, by depositing the same in the Escrow Account within five Business Days of receipt of such notice;
- (B) In the case of a breach consisting of causing the Escrow Agent to transfer funds to any Company Account in breach of the terms of this Agreement, by depositing the relevant funds in the Escrow Account or any Sub-Account in which such transfer should have been made within five Business Days of receipt of such notice.
- (C) in the case of a breach of the Company's obligations under Clause 4, by instructing the Escrow Agent to realise any investment made in breach of Clause 4 within five (5) Business Days of receipt of such notice; or
- (D) in the case of any other breach, by remedying the same within five (5) Business Days to the satisfaction of the Lenders Representative.

7.2 The Company and the Escrow Agent agree and confirm that any default by the Company in the performance of its obligations under this Agreement resulting in the opinion of the Lenders Representative, in a breach of this Agreement, shall qualify as an Event of Default under the Financing Documents/Security Documents.

8. Miscellaneous

8.1 Closure of Accounts

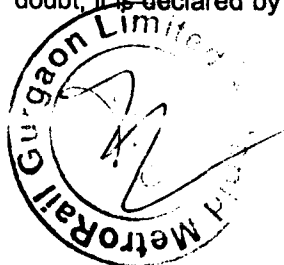
The Escrow Agent shall, at the request of the Company made on or after the payment by the Company of all outstanding amounts under the Financing Documents and Concession Contract and upon confirmation of receipt from Senior Lenders and HUDA, close the Escrow Accounts and pay any amounts outstanding to the credit thereof to the Company. However, in the case of all outstanding amounts having been paid under the Financing Documents only, prior to closure of the Escrow Accounts, HUDA and the Company shall enter into a separate agreement to give effect to the provisions of Clause 25 of the Concession Contract and such agreement shall be effective immediately after closure of Escrow Accounts. For clarification purpose, any amount standing to the credit of the Escrow Accounts at the time of closure of the Escrow Accounts shall be governed by the proposed new agreement.

8.2 Successors and Assignors

This Agreement shall be binding on and shall accrue to the benefit of the Parties and their respective successors and permitted assigns.

8.3 No Set Off

The Escrow Agent agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Accounts. For the avoidance of doubt, it is declared by the Escrow Agent that the monies and properties held by the Escrow Agent shall



not be considered as part of the assets of the Escrow Agent and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Agent be wholly excluded from the assets of the Escrow Agent in such bankruptcy or liquidation

8.4 Notices

8.4.1 All notices or other communication to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier, registered or certified mail or facsimile. The address for service of each Party and its facsimile number is set out under its name or, the signing pages hereto. All notices shall be effective upon actual receipt save that where a notice is received after 5.30 p.m. on a Business Day or on a day that is not a Business Day, such notice shall be deemed to be received on the first Business Day following the date of actual receipt. Without prejudice to the foregoing a Party giving or making a notice or communication by facsimile shall promptly deliver copy of such notice or communication personally, by courier or mail to the addressee of such notice or communication.

8.4.2 Any party may by notice change the addresses and/or addresses to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

8.5 Waiver

Failure by any Party at any time to enforce any provision of this Agreement or to require performance by other Parties of any provision of this Agreement shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part of it or the right of the relevant Party to enforce any provision in accordance with its terms.

8.6 Severability

If any condition, Clause or provision of this Agreement not being of a fundamental nature, is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected thereby.

8.7 Amendments

No amendment to this Agreement shall be binding unless in writing and signed by the duly authorised representatives of the Parties.

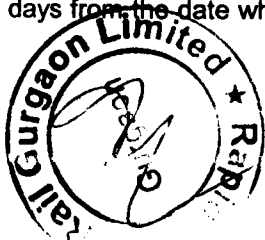
8.8 Governing Law

This Agreement shall be governed by and construed in accordance with Indian law and, subject to Clause 8.9 below, the courts at Haryana shall have jurisdiction over all matters arising out of or relating to this Agreement.

8.9 Arbitration

Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to a Board of Arbitrators comprising of one nominee of each Party to the dispute. Such arbitration shall be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as amended or replaced by other enactment.

The arbitral tribunal shall consist of four arbitrators, one arbitrator appointed by each Party and one appointed jointly by such appointed arbitrators. The Parties would appoint their nominee arbitrator within a period of 30 days from the intimation of appointment of the nominee arbitrator by one Party to the other. Such appointed nominee arbitrators would also appoint the fifth arbitrator within a period of 30 days from the date when both of them have been appointed. In the event of failure to appoint arbitrators



as aforesaid, the Arbitrators shall be appointed as per provisions of Arbitration and Conciliation Act, 1996 as amended or replaced by other enactment.

The Arbitrators shall issue a reasoned award and the venue of such arbitration shall be Gurgaon. The Parties undertake to carry out any award of the arbitrators without delay. Awards relating to any dispute shall be final and binding on the Parties as from the date they are made and the Parties hereby waive the right to appeal or review such Award by any court of Tribunal of competent jurisdiction in so far as such waiver can be validly made. This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding hereunder.

8.10 Regulatory Approvals

The Escrow Agent shall use its best efforts to procure and shall thereafter maintain and comply with all regulatory approvals required for it to establish and operate the Escrow Accounts. The Escrow Agent represents and warrants that it is not aware of any reason why such regulatory approvals will not be ordinarily granted to the Escrow Agent.

8.11 Notification of Balances

Seven Business Days prior to each Payment Date (and for this purpose the Escrow Agent shall be entitled to rely on an affirmation by the Company and/or the Lenders Representative as to the relevant Payment Dates), the Escrow Agent shall notify the Lenders Representative of the balance of the Escrow Account as at the close of business on the immediately preceding Business Day.

IN WITNESS whereof the Company has caused its Common Seal to be affixed hereto and to a triplicate hereof on the date first above written and the Escrow Agent, HUDA and the Lenders Representative have caused the said triplicate to be executed by the hand of an authorised official.

SIGNED AND DELIVERED BY

.....

Escrow Agent

SIGNED AND DELIVERED BY

.....

Lenders Representative

SIGNED AND DELIVERED BY

.....

HUDA

SIGNED AND DELIVERED BY

.....

COMPANY



A handwritten signature in black ink, likely belonging to the Chief Administrator of the Haryana Urban Development Authority.

Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE - G

Form of SUBSTITUTION AGREEMENT as per Article 24

THIS SUBSTITUTION AGREEMENT is made at Panchkula on this the _____ day of _____, 20__.

BETWEEN

5. Haryana Urban Development Authority, a statutory body set up by Government of Haryana under HUDA Act, 1977 and having its principal office at C-3, Sector-6, Panchkula (hereinafter referred to as "HUDA" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns) of One Part,

AND

2. Rapid MetroRail Gurgaon Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Ambience Corporate Tower, 2nd Floor, Ambience Island, National Highway # 8, Gurgaon, Haryana India 122001 (hereinafter referred to as the "Concessionaire" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes) of the Other Part.

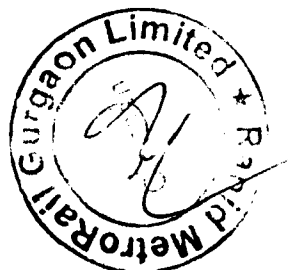
WHEREAS

- A. By the Concession Contract dated entered into between HUDA and the Concessionaire, HUDA has granted to the Concessionaire the Concession for financing, design, procurement, completion and equipping of stations and the installation of all systems (including but not limited to Rolling Stock, Over Head Electrification, Track, Signaling and Telecommunication, Depot and other facilities required for a successful Metro link from Sikanderpur to NH-8 in Gurgaon (hereinafter the "Project") on Build, Operate and Transfer (BOT) basis and for its subsequent Operation and Maintenance, all subject to and on the terms, conditions and covenants set forth in the said Concession Contract or forming part thereof.
- B. With a view to help facilitate obtaining of financing for the said Project by the Concessionaire so as to enable the Concessionaire to build, operate and maintain the same pursuant to and in accordance with the Concession Contract, the Parties have agreed subject to the terms and conditions of the Concession Contract and the Financing Documents, that the Senior Lenders shall have the right to substitute the Concessionaire by a Selectee for the residual period of the Concession on the terms, conditions and covenants mentioned herein below.
- C. As a condition to making any disbursement pursuant to the Financing Documents, the Senior Lenders have required and it is deemed necessary and expedient to record the terms, conditions and covenants of the above agreement between the Parties.

NOW THEREFORE THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1 – DEFINITIONS

- 1.1 For the purpose of this Agreement, the following terms shall have the meaning hereinafter respectively assigned to them:
- 1.1.1 "Concession" means the bundle of rights, obligations and covenants of the Concessionaire under and as set forth in the Concession Contract.



A handwritten signature in black ink, likely belonging to the Chief Administrator of HUDA.

Chief Administrator
Haryana Urban Development Authority
Panchkula

- 1.1.2 "Concession Contract" means the Concession Contract dated entered into between HUDA and the Concessionaire granting the Concession to the Concessionaire in respect of the Project and includes without limitation any amendments thereto made in accordance with the provisions contained in this behalf therein.
- 1.1.3 "Event of Default" means occurrence of any of the following events:
- (i) A Material Breach by the Concessionaire of the Concession Contract, or the occurrence of a Concessionaire Event of Default as defined in the Concession Contract.
 - (ii) A material default in payment by the Concessionaire to all or any of the Senior Lenders under the Financing Documents of any two instalments, either of principal or interest or both, due and payable by it on account of Lenders Dues.
 - (iii) Any event of default under or breach of any of the terms of any of the Financing Documents or Project Agreements concerning the Project which in the sole opinion of the Lenders' Agent is material or major and which may seriously affect the ability of the Concessionaire to meet its payment obligations to the Senior Lenders under the Financing Documents or to design engineer, construct, complete, operate and maintain the Project pursuant to and in accordance with the Concession Contract.
- 1.1.4 "Financial Assistance" means the loans, advances and other funding assistance including any syndicated/ participation facility provided by the Senior Lenders as set forth in Schedule II hereto for financing the whole or any part of the cost of the Concessionaire's Works,
- 1.1.5 "Financing Documents" means the documents executed to be executed by the Concessionaire or entered/to be entered into by the Concessionaire with the Senior Lenders and/or the Lenders' Agent in respect of the Financial Assistance and include loan agreements, guarantees, notes, debenture, bonds and other security agreements and other documents relating to the Financial Assistance and brief particulars whereof are set forth in Schedule II hereto in relation to each Senior Lender.
- 1.1.6 "Lenders' Agent" means [xxx] and having its principal office at xxxxx and any replacement thereof appointed by all the Senior Lenders, inter alia, on the condition that as security for the Financial Assistance they shall have the right to seek transfer and assignment of the Concession Contract including the Concession in accordance with the provisions of this Agreement.
- 1.1.7 "Lenders Certificate" shall have the meaning ascribed thereto in Clause 2.2(b).
- 1.1.8 "Lenders Dues" means the aggregate of all monies owned by the Concessionaire to the Senior Lenders under the Financing Documents on account of principal there under for funding the Concessionaire's works in respect of the Project, and all accrued interest, additional interest, liquidated damages, commitment fees, commission, prepayment premium, costs, charges and other monies including financing charges and fees owned by the Concessionaire to the Senior Lenders under the Financing Documents for the Project upto the transfer date, and which are payable under the Financing Documents.
- 1.1.9 "Notice of Default" shall have the meaning ascribed thereto in Clause 2.2(a).
- 1.1.10 "Proposal" shall have the meaning ascribed thereto in Clause 3.1(iii).
- 1.1.11 "Project Agreements" means this Agreement, the Concession Contract, the Escrow Agreement, the Financing Documents, the EPC Contract and the O&M Contract, if any, and shall include amendments thereto made hereafter with the prior consent of HUDA.
- 1.1.12 "Senior Lenders" means the financial institutions, banks, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all or any part of the



Project and who hold pari passu charge on the Concession granted by this Agreement and have a right of substitution of the Concessionaire pursuant to the Substitution Agreement.

1.1.13 "Selectee" means a new Concessionaire proposed by the Senior Lenders pursuant to this Agreement and approved by HUDA for substituting the Concessionaire for the residual period of the original Concession by amendment of the Concession Contract.

1.1.14 "Substitution Notice" means the notice given by the Lenders' Agent pursuant to Clause 2.2 (c) of this Agreement.

1.2 The words and expressions beginning with or in capital letters used in this Agreement not defined in the Concession Contract, shall have, unless repugnant to the context, the meaning respectively assigned to them in the Concession Contract.

1.3 In this agreement unless the context otherwise requires:

- a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- b) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);
- c) the headings are for convenience of reference only and shall not be used in and shall not affect the construction or interpretation of this Agreement;
- d) terms beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein;
- e) the words "include" and "including" are to be construed without limitation;
- f) any reference to a "day" shall mean reference to a calendar day;
- g) any reference to "month" shall mean reference to a calendar month;
- h) the Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- i) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this clause shall not operate so as to increase liabilities or obligations of HUDA hereunder or pursuant hereto in any manner whatsoever;
- j) references to Recitals, clauses, sub-clauses, paragraphs or schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, clauses, sub-clauses, paragraphs, Annexures, appendices of this Agreement.
- k) any agreement, consent, approval, authorisation, proposal, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or Senior Lender(s) shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or the Senior Lender(s), as the case may be, in this behalf and not otherwise; and
- l) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both days or dates.




Chief Administrator
Haryana Urban Development Authority
Panchkula

ARTICLE 2

SUBSTITUTION OF THE CONCESSIONAIRE BY A SELECTEE

- 2.1 HUDA hereby agrees to substitute the Concessionaire by a Selectee (selected by the Senior Lenders in accordance with the provisions of this Agreement and approved by HUDA) by amendment of the Concession Contract or by execution of a fresh Concession Contract in favour of the Selectee for the purpose of securing the payments of the Lenders Dues, provided that nothing contained herein shall entitle the Senior Lenders to operate the Concession themselves as a Concessionaire under and in accordance with Concession Contract either individually or collectively.
- 2.2 (a) Upon receipt from HUDA of a copy of any Notice of Breach or Default under the Concession Contract, or of and by itself the Lenders' Agent shall notify by a notice in writing to the Concessionaire (the "Notice of Default"), with a copy thereof simultaneously to HUDA, about the occurrence of a Concessionaire's Event of Default under the Concession Contract and requiring the Concessionaire to remedy and cure such default within the Cure Period stipulated or, where no Notice of Breach or Default has been issued, within 30 (thirty) days from the date of delivery of such Notice of Default. The Notice of Default shall be accompanied by the Lenders' Certificate.
- (b) A certificate under the hands of an authorised officer of the Lenders' Agent annexed to the Notice of Default certifying:
- (i) the occurrence of a Concessionaire's Event of Default, and
 - (ii) the Lenders' Dues.
- (the "Lenders' Certificate") shall be conclusive evidence of occurrence of such Concessionaire's Event of Default and of such Lenders' Dues. Such Lenders' Certificate shall be final, conclusive and binding upon the Concessionaire for the purposes of this Agreement and the Financing Documents.
- (c) HUDA and the Concessionaire hereby agree that the Lenders' Agent may:
- (i) within 30 (thirty) days of the date of delivery of the Notice of Default of the Concessionaire, or
 - (ii) within 7 (seven) days of the date of issue of the Termination Notice, and without prejudice to any other right or remedy available to the Senior Lenders under the Financing Document, notify HUDA and the Concessionaire on behalf of all the Senior Lenders about the Senior Lenders decision to invite, negotiate and procure offers, either through private negotiations or public auction or process of tendering for the residual period of the Concession and the rights and obligations of the Concessionaire under the Concession Contract, by a Selectee, subject to the approval of such Selectee by HUDA (the "Substitution Notice").
- (d) Upon assumption by the Selectee of the liability and obligations of the Concessionaire under the Financing Documents and the Concession Contract including obligation to pay any sums then due and payable to HUDA under the Concession Contract, HUDA shall grant the Concession to the Selectee on the same terms and conditions for the residual period of the original Concession, by amendment of Concession Contract and not by Termination thereof.
- 2.3 The Lenders' Agent shall apply in the selection of the following criteria:



- (i) the Selectee shall be capable of properly discharging the duties obligations and liabilities of the Concessionaire under the Concession Contract;
- (ii) the Selectee shall provide security to the satisfaction of Senior Lenders for repayment of the Lenders Dues;
- (iii) the Selectee shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues of the Concessionaire to HUDA under and in accordance with the Concession Contract and of Lender's Dues upon terms and conditions as agreed to with the Senior Lenders;
- (iv) the Selectee shall have the net worth, experience and technical equity parameters as set forth in the Concession Contract or prescribed by HUDA there under in respect of the Concessionaire or as relaxed subsequently by HUDA;
- (v) the Selectee shall have not been in breach of any agreement between the Selectee and HUDA; and
- (vi) any other appropriate circumstance, whereby continuity in the performance of the Concessionaire's obligations under the Concession Contract is maintained and the security in favour of Senior Lenders under the Financing Documents is preserved.

2.4 At any time prior to the acceptance of the Selectee by HUDA pursuant to this Agreement, HUDA may require the Lenders' Agent to satisfy HUDA as to the eligibility of the Selectee and the decision of the HUDA in this behalf (which shall be reasonable), shall be final, conclusive and binding on the Senior Lenders and the Selectee.

ARTICLE 3

MODALITY FOR SUBSTITUTION

3.1 The following modalities shall be applicable to any substitution of the Concessionaire by the Selectee pursuant to this Agreement:

- (i) The Lenders' Agent may invite, negotiate or procure offers either through private negotiations or public auction or process of tender or otherwise for the substitution of the Concessionaire by the Selectee;
- (ii) The Lenders' Agent shall on behalf of the Senior Lenders propose to HUDA pursuant to sub-clause (iii) below, the name of the Selectee for acceptance and shall apply as necessary to HUDA for:
 - a) grant to the Selectee (as substitute for the Concessionaire) the right to build, construct, complete, maintain, and operate the Project under and in accordance with and subject to and on the terms and conditions set forth in the Concession Contract;
 - b) amendment of the Concession Contract so as to grant to the Selectee on the same terms and conditions, the residual period of the Concession under original Concession Contract; and




- c) the execution of a new Substitution Agreement with the proposed Selectee for the residual period of Concession on the same terms and conditions as herein, and
- (iii) The Lenders' Agent on behalf of the Senior Lenders shall be entitled, within a period of 60 (sixty) days from the date of delivery to HUDA of the Substitution Notice pursuant to Clause 2.2 (c) above, to select and propose to HUDA for its approval a Selectee (the "Proposal"). The Proposal of the Lenders' Agent pursuant to this sub-clause (iii) shall contain the particulars and information in respect of the Selectee, the Lenders' Dues and other data and information, all as prescribed in Schedule IV hereto. Without prejudice to the foregoing the Lenders' Agent agrees and undertakes to provide to HUDA such further and other information and such clarifications in respect of any data, particulars or information furnished pursuant hereto by the Lenders' Agent as HUDA may reasonably require. HUDA shall convey its approval or otherwise of such Proposal, including of Selectee, in its sole discretion within 15 (fifteen) days of (a) the date of receipt of the Proposal by HUDA, or (b) the date when last of further and other information and such clarifications in respect of any data, particulars or information comprised in the Proposal, as have been provided in the Lenders' Agent to HUDA, whichever is later. It is expressly agreed that the Proposal shall be accompanied by an unconditional undertaking of the Selectee that it shall upon approval by HUDA of the Proposal including the Selectee, observe, comply, perform and fulfil the terms, conditions and covenants of the Concession Contract which according to its terms are required to be observed, complied with, performed and fulfilled by Concessionaire there under on the footing as if such Selectee were the concessionaire under the Concession Contract and shall be liable for and shall assume, discharge and pay the Lenders Dues to the Senior Lenders under and in accordance with the Financing Documents. Upon approval of the Proposal including of the Selectee by HUDA, such Selectee shall become the Selectee hereunder.
- (iv) HUDA shall, upon its satisfaction of the eligibility of the Selectee and in accordance with the provisions of this Agreement, and subject to the provisions of Sub-clause (v) below, proceed to substitute the Concessionaire or the Selectee by amendment of the Concession Contract or such other writing as HUDA may reasonably require on the same terms and conditions for the residual period of the Concession in favour of the Selectee.
- (v) The substitution as aforesaid shall be subject to the Selectee, obtaining requisite Indian Government approvals, clearances and permission necessary for operating the Concession under and in accordance with the Concession Contract.
- (vi) The objection if any of HUDA to the substitution as aforesaid shall be reasoned and be made after hearing the Lenders' Agent, provided however, that in the event of a refusal as stated above, the Lenders' Agent may propose another Selectee. In the event that no objection is raised with respect to the Selectee by HUDA within the period set forth in sub-clause (iii) above, the Selectee shall be deemed to have been accepted by HUDA. HUDA shall, subject to the provisions of Sub-Clause (v) above, grant the Concession for the residual period within 15 days of its acceptance/deemed acceptance of the Selectee.
- (vii) The substitution as aforesaid, pursuant to the security interest in favour of the Senior Lenders, shall be deemed to be complete only upon the Selectee as Concessionaire accepting and complying with the terms and conditions stipulated in the Concession Contract.



- (viii) The decision of the Senior Lenders and HUDA in the selection of the Selectee shall be final and binding on the Concessionaire and shall be deemed to have been made with the concurrence of the Concessionaire and the Concessionaire hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever. No third party shall have the right to question the decision of the Senior Lenders/Lenders' Agent and HUDA.
 - (ix) All actions of the Lenders' Agent hereunder shall be deemed to be on behalf of the Senior Lenders, and be binding upon them. The Lenders' Agent is authorised to receive payment of compensation, payment to cure default and any other payments, consideration for transfer in accordance with the Substitution Notice and the Financing Documents and give valid discharge on behalf of all Senior Lenders.
- 3.2 The terms and conditions for substitution of the Concessionaire by the Selectee shall be proposed by the Senior Lenders through the Lenders' Agent to HUDA, on or after the occurrence of an Event of Default but at least 2 months prior to the anticipated date of substitution as aforesaid for the residual period of the Concession.
- 3.3 The Concessionaire hereby irrevocably agrees and waives any right to challenge the Senior Lender's decision to apply to HUDA for substitution as aforesaid and neither the Concessionaire nor HUDA shall be entitled to prevent the Lenders' Agent from proceeding to seek such a substitution of the Concessionaire by Selectee as hereinbefore provided. The Concessionaire agrees and confirms that the Concessionaire shall not have any right to seek re-valuation of the Concessionaire's assets and the Concession Contract including the Concession, otherwise than as contracted in the Financing Documents while HUDA permits substitution as hereinbefore provided, pursuant to the Lenders' Agent's request. The Parties acknowledge that the rights of the Senior Lenders hereunder are irrevocable and shall not be contested in any proceedings before any court of authority and the Concessionaire shall have no right or remedy to prevent, obstruct, injunct or restrain HUDA and/or the Senior Lenders from effecting or causing the substitution as aforesaid.
- 3.4 Where no suitable Selectee can be found by the Lenders' Agent and HUDA shall decide to take over the concession then HUDA shall advise the Lenders' Agent of all steps it proposes to take under the Concession Contract for determination of Termination Payments thereof.
- 3.5
- (i) If HUDA decides to substitute the Concessionaire by any other Person (HUDA Nominee), it shall take into account the Senior Lenders' Dues while considering offers from such persons and shall include a suitable condition as agreed to by the Lenders' Agent on behalf of the Senior Lenders for payment or take over of such dues by such HUDA Nominee to the extent agreed by the Lenders' Agent while substituting the Concessionaire by the HUDA Nominee. The HUDA Nominee shall similarly be bound to execute a supplementary/fresh substitution agreement on the same terms and conditions as provided herein.
 - (ii) Notwithstanding anything contained in Clause 3.4 and this Clause 3.5, HUDA shall not be required to take over, upon Termination of the Concession Contract including the Concession, the liabilities representing the Lender's Dues save and except to the extent of Termination Payments due and payable upon such Termination under the Concession Contract. In such an event HUDA's obligation shall be limited to assumption of such liabilities and payments of dues as HUDA has agreed to bear under the Concession Contract.
- 3.6 Nothing contained in these presents shall mean or be interpreted as provision of any guarantee or surety by HUDA and it is expressly agreed that HUDA has not provided




 Chief Administrator
 Haryana Urban Development Authority
 Panchkula

any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of amount of Financial Assistance advanced by the Senior Lenders to the Concessionaire.

- 3.7 The person substituting the Concessionaire shall be deemed to be the Concessionaire under Concession Contract and shall enjoy all rights and be responsible for all obligations under Concession Contract as if it were the Concessionaire. Further, in the event of such step-in or substitution, an additional Cure Period of 90 (ninety) days from the date of such substitution shall be provided by HUDA to enable the Concessionaire to cure any breach or default subsisting on the day of such step-in or substitution. Provided further that if the Senior Lenders step in to operate and manage the Concession for a period not exceeding 90 (ninety) days, their liabilities shall be restricted to the obligations relating to and arising during such 90 (ninety) days period.

ARTICLE 4

INTERIM PROTECTION OF SERVICE AND PRESERVATION OF SECURITY

- 4.1 In the event of the Senior Lenders notify HUDA and the Concessionaire of the Concessionaire's Event of Default (and the concessionaire has not cured the default for a period of 30 days) or in special circumstances affecting the security of the Senior Lenders, the Senior Lenders shall be entitled to institute protective legal proceedings for a receivership (the "Receiver") to maintain, preserve and protect the assets (other than the Concession Contract including the Concession) held as security by the Senior Lenders provided always that such receiver shall be HUDA if such assets are in the opinion of HUDA necessary and required for the operation and maintenance of the Project and the Parties hereby consent and agree to the same. The Lenders' Agent shall in such an event notify HUDA to assume receivership of the assets held as security and HUDA shall operate and maintain the same pending the substitution of the Concessionaire by the Selectee. In the event HUDA does not assume receivership and declines the request of the Lenders' Agent, the Lenders' Agent shall for itself and each of the Senior Lenders, be entitled to seek the appointment of a Court Receiver for the Concessionaire's assets held as security and HUDA shall operate and maintain the same pending substitution as aforesaid and/or the takeover of the Concession Contract including the Concession and the Project in accordance with the Concession Contract or this Agreement by HUDA. All the receivables shall be deposited by the Receiver in the Escrow Account and shall be dealt with in accordance with the Concession Contract. The Receiver shall be responsible for protecting the assets in receivership and shall render a true and proper account of the receivership to the Senior Lenders in accordance with the terms of its appointment. The Receiver shall make best efforts to operate and maintain the Project in accordance with the obligations of the Concessionaire under the Concession Contract.
- 4.2 Any person other than HUDA may be appointed as Receiver only with the prior consent of HUDA. In a declaratory suit for appointment of a Receiver, notwithstanding that no recovery or mortgage suit or any suit or proceeding for enforcement of the Senior Lenders' security under the Financing Documents is instituted by the Lenders' Agent for itself or the Senior Lenders, any action for appointment of HUDA as Receiver or appointment of an Independent Court Receiver shall be without prejudice to the other rights and remedies of HUDA, and of the Senior Lenders under the Financing Documents.

ARTICLE 5

TERMINATION OF THE CONCESSION BY HUDA



A handwritten signature in black ink, appearing to be "Ch".

Chief Administrator
Haryana Urban Development Authority
Panchkula

- 5.1 If under the Concession Contract an event occurs which shall entitle HUDA to Terminate the Concession Contract, HUDA shall intimate this to the Senior Lenders prior to exercising of its decision to Terminate the Concession and advise the Senior Lenders to ensure the cure of the event which otherwise can result in Termination of the Concession and the Concession Contract. Subject to the provisions of Clause 30.2 of the Concession Contract, such a notice may entitle the Senior Lenders to cure any financial or other default of the Concessionaire within a period of two months from the date of the notice received from HUDA, failing which HUDA, without any further notice to either the Concessionaire or the Lenders' Agent/Senior Lenders, shall be entitled to Terminate the Concession Contract.
- 5.2 Upon receipt of the Notice as referred to in Clause 5.1, intimating occurrence of an event which can entail Termination of the Concession Contract including the Concession, the Senior Lenders shall be entitled to consider such notice as an Event of Default and may initiate steps to invite, negotiate and procure offers for the substitution of the Concessionaire by a Selectee in accordance with the procedure set forth in this Agreement.

ARTICLE 6

SENIOR LENDERS RIGHT TO RECEIVE TERMINATION PAYMENTS

- 6.1 HUDA and Concessionaire hereby agree, and confirm that without prejudice to any other right or remedy, HUDA shall be entitled to deposit the Termination Payments into Escrow Account and the Senior Lenders shall be entitled to receive the same without any further reference to or consent of the Concessionaire under and in accordance with the Concession Contract towards the satisfaction of the Senior Lenders Dues out of and limited to the sum of Termination Payments worked out under and in accordance with the Concession Contract. The Senior Lenders shall be entitled to appropriate any consideration received for the substitution as hereinabove provided from the Selectee towards the payment of their and HUDA's respective dues to the exclusion of the Concessionaire.
- 6.2 The Concessionaire hereby nominates, constitutes and appoints the Lenders' Agent as its constituted attorney for doing all acts, deeds and things as may be required to be done for the substitution of the Concessionaire by the Selectee pursuant hereto and for receiving consideration for discharge of the Lenders' Dues pursuant to Clause 6.1.
- 6.3 The Concessionaire hereby expressly authorises payment of sums by HUDA on account of Termination Payments into Escrow Account and the Lenders' Agent to draw the same there from for and on behalf of the account of the Senior Lenders notwithstanding the pendency of any dispute or objection or claim that the Concessionaire may have against the Senior Lenders and/or HUDA. The deposit by HUDA into the Escrow Account and payment to the Senior Lenders directly or through the Lenders' Agent in accordance with this Agreement, made or caused to be made by HUDA shall constitute a valid discharge of its obligation of the payment thereof to the Concessionaire. All such payments shall stand charged to the Senior Lenders under the Financing Documents and shall be receivable by the Lenders' Agent from the Escrow Account on behalf of the Senior Lenders to the exclusion of any receiver or liquidator appointed.



GENERAL

- 7.1 The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement and the Lenders' Agent is duly and fully authorized by each of the Senior Lenders to enter into this Agreement on their behalf.
- 7.2 Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by a Registered post acknowledgement due and delivered to the other Parties.
- 7.3 The expressions "HUDA", the "Concessionaire", the "Senior Lenders" and the "Lenders' Agent" herein used shall, unless there be anything repugnant to the subject context, include their respective successors, legal representatives, administrators and permitted assigns.
- 7.4 This Agreement shall not be affected by reorganisation of any Senior Lender, Lenders' Agent or HUDA and the successor-in-interest of such Senior Lender, Lenders' Agent or HUDA shall have the benefit of this Agreement.
- 7.5 No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorised representatives of all the Parties hereto.
- 7.6 All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Contract or execution of fresh Concession Contract for the purpose of substitution as aforesaid shall be borne by and be to the account of the Concessionaire. In the event of the Senior Lenders making such payment for the time being, it shall be deemed to be a part of the Lenders Dues.
- 7.7 The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Contract and this Agreement shall be read together and construed harmoniously.
- 7.8 The consultation, recommendation or approval of the Lenders' Agent under this Agreement shall always be taken as consultation, recommendation or approval of every concerned Senior Lender and such Senior Lender shall be bound by the same and hereby waives its right to question or dispute the same.
- 7.9 This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- 7.10 It shall not be necessary for the Senior Lenders or the Lenders' Agent to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- 7.11 This Agreement shall be governed by and construed in accordance with Indian law and, subject to Clause 7.12 below, the courts at Haryana shall have jurisdiction over all matters arising out of or relating to this Agreement
- 7.12 Any dispute, difference or claim arising out of or in connection with or in relation to this Agreement which is not resolved amicably shall be decided finally by Arbitration. The arbitral tribunal shall consist of three arbitrators, one arbitrator appointed by each Party and one appointed jointly by such appointed arbitrators. The Parties would appoint their nominee arbitrator within a period of 30 days from the intimation of appointment of the nominee arbitrator by one Party to the other. Such appointed nominee arbitrators would also appoint the third arbitrator within a period of 30 days from the date when both of them have been appointed. In the event of failure to appoint arbitrators as aforesaid, the



Arbitrators shall be appointed as per provisions of Arbitration and Conciliation Act, 1996 as amended or replaced by other enactment.

The Arbitral Tribunal shall issue a reasoned award and the venue of such arbitration shall be Haryana, India. The Award shall be final and binding on the Parties. The Parties agree and undertake to carry out the award of the arbitrators (the "Award") without delay. This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding hereunder

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR HANDS THEREUNTO ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED.

SIGNED AND DELIVERED ON BEHALF OF

By:

Name:

Title:

SIGNED AND DELIVERED ON BEHALF OF

By:

Name:

Title:

SIGNED AND DELIVERED ON BEHALF OF

By:

Name:

Title:




Chief Administrator
Haryana Urban Development Authority
Panchkula

SCHEDULE – H
(See Article 25)

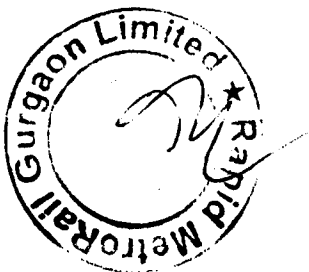
HANDOVER PACKAGE

Upon Termination or expiry of the Concession, the concessionaire shall comply with and conform to requirements set out in Article 25 and ensure that the Handover Package contains, at a minimum, the following information:

1. **Premises** – a list of the premises leased or operated by the Concessionaire, showing the status, address, telephone number, facsimile number, responsible manager and use of each;
2. **Contracts** – a list of all agreements, permits, licences or other documents which are material to the operation of the Concessionaire's business showing (as appropriate) the contact number, name, address, telephone and facsimile numbers of counterparties, contract price, value and subject matter;
3. **Commercial Leases, sub-leases and other commercial arrangements** – a summary of all Commercial Leases, sub-leases and commercial arrangements entered into by the Concessionaire in relation to the Interchange Facility identifying the counterparty, term of arrangement, rental, sublease area and summary of terms and conditions. Copies of all sub-leases and commercial arrangements should also be included
4. **Systems** – a list of systems used (computer and otherwise) for the maintenance and the Project, together with a description of the systems and master passwords where applicable;
5. **Daily operations** – a list of any other information key to the daily operation of the Concessionaire's business, including:
 - a. the names, work and home telephone numbers of each person in possession of keys accessing the premises owned, leased or operated by the Concessionaire within the Precinct;
 - b. lists of Plant and other assets owned, leased or otherwise operated by the Concessionaire material to the operation of the Concessionaire's Business; and
 - c. master password
6. **Organisational structure** – a detailed diagrammatical representation of the organisational structure of the Concessionaire and its Affiliates;
7. **Employees** – details of each employee of the Concessionaire, including:
 - a. names, work telephone numbers, roles and responsibilities;
 - b. the date on which his or her of employment began;
 - c. terms and conditions of employment;
 - d. all payments, benefits or changes to terms and conditions of employment promised to any employee; and
 - e. training record and certifications
8. **Drawings** – current and accurate "as built" drawings showing all modifications and augmentations. constructed or installed during the Contract Term, showing precise locations as installed, including three sets of all drawings and documentation, and one complete set of drawings and documentation stored in labelled CD-Rom format;



9. Planning and building permit correspondence – copies of all correspondence with the relevant authorities, consultants, contractors, and subcontractors pertaining to access arrangements, applications for planning permits, applications for building permits, correspondence related to subsequent building works and alterations and additions to services, and any other building or operational issues related to the Project;
10. Railway Systems, buildings plant and equipment - comprehensive set of commissioning and test data confirming that all Railway Systems and building services plant and equipment installed has been commissioned to meet the established design criteria; and
11. Manuals – copies of the most recent Operating Manual, Maintenance Manual and Quality Assurance Manual.
12. Asset listing giving life status and associated O&M Specification for each asset along with the maintenance schedule for the balance life.
13. Co-ordination procedures with emergency services.
14. Safety case log.
15. Any other document, detail etc. as required for effective and efficient working of the Project/Metro Link.



SCHEDULE – I
(See Article 25)

VESTING CERTIFICATE

1. HUDA represented by Chief Administrator, refers to the Concession Contract dated xxxxxxxx (the "Agreement") entered into between HUDA and represented by RMGL (the "Concessionaire") for Metro link from Sikanderpur to NH-8 Gurgaon (the "Project").
2. HUDA hereby acknowledges compliance and fulfilment of divestment of rights and interests set forth in Article 30 of the Agreement on the basis that upon issue of this Vesting Certificate, HUDA shall be deemed to have acquired, and all title and interest of the Concessionaire in the Project and the same shall be deemed to have vested unto HUDA, free from any encumbrances, charges and liens whatsoever.
3. Notwithstanding, anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Concessionaire to rectify and remedy and defect or deficiency in any of the obligations of Concessionaire under the Concession Contract and the Divestment Requirement contained therein and/or relieving the Concessionaire in any manner of the same.

Signed this xxxxxxxx day of xxxxxxxx, 20xx at [xxxx]

AGREED, ACCEPTED AND SIGNED

For and on behalf of

CONCESSIONAIRE by:

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

HUDA by:

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

1.

2.




Chief Administrator
Haryana Urban Development Authority
Panchkula