

Annexure-B

FRAMEWORK & CONCESSION AGREEMENT

This FRAMEWORK AGREEMENT (“Agreement”) is made at Lahore on this ----- day of March 2010

BETWEEN

LAHORE TRANSPORT COMPANY (hereinafter to referred as “THE COMPANY” having its registered office at 4th Floor IEP Building, near Liberty Round About, Gulberg III, Lahore, Pakistan through its Chief Executive Officer Mr Jai Ik Kim which expression, unless repugnant to the context shall mean and include its heirs, successors, executors, administrators and assigns) of the First Part.

AND

MESSERS _____ (hereinafter to referred to as “THE OPERATOR” having its registered office is at _____ through its _____ which expression, unless repugnant to the context shall mean and include its heirs, successors, executors, administrators and assigns) of the Other Part

Whereas Lahore Transport Company (the “Company”) has a mandate to develop and implement policies for the promotion and encouragement of safe, integrated and efficient transport facilities and services within the City of Lahore. The Company is further authorized by its Articles and Memorandum of Association to enter into agreements and contracts with local and international entities accordingly.

And Whereas the Company shall be the monitor and facilitator for urban transport in Lahore.

And Whereas the Company shall organize and provide urban transport to the public of Lahore through private operators.

And Whereas the Operator has the necessary arrangements for supply of air conditioned Coasters/Mid Sized Buses (hereinafter refer to as the “Vehicles”), materials, skilled personnel, technology components, expertise and knowledge required for the Project and agrees to enter into the frame work agreement.

And Whereas both the parties in consideration of the underlying facts and representations made hereinabove, and in further consideration of the mutual covenants and conditions contained, in this Agreement, the parties agree as follows:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. **Agreement Period:** This Agreement shall remain in force initially for a period of five years commencing from the date of its signing.
2. **Renewal of Agreement:** The renewal of the said agreement is subject to satisfactory performance by the operator on mutually agreed upon terms and routes as specified in the Schedule-I attached herewith, the particulars of which are detailed herein.
3. **Company’s Responsibility(ies):**

The Company undertakes to facilitate;

- a) Issuance of Routes to Qualified Transport Operators;
- b) Provision of Bus depot/Terminal (subject to availability by DHA);
- c) Bus stops infrastructure;
- d) Enforcement to minimize the plying of unauthorized/illegal public transport on the routes allocated to the Operator.

4. **Operator’s Responsibility(ies):**

4.1 Membership Fee: The Operator shall deposit a sum of Rs.2000/- (Rupees Two Thousand only) per month against each vehicle in the account of Company on or before 10th of every month, failing which the operator shall be liable to pay Rs.100/- per day as fine.. Furthermore the Agreement shall stand terminated if the Operator fails to pay the service charges for a period of three (03) consecutive months.

- 4.2 Security Deposit:** The Operator shall deposit with the Company a sum of Rs.15000/- (Fifteen Thousand only) per vehicle as security for due performance of any and all of the obligation(s) under this agreement which shall be refunded on the expiry of the said Agreement. This security deposit shall be in the form of a bank guarantee from a bank operating in Pakistan.
- 4.3 Operating assigned number of Vehicles:** The Operator upon signing the said agreement shall make available minimum number of vehicles as mentioned in RFP document, as agreed, to the Company for plying on the Company's specified routes as per time table and route alignment, fully detailed in the **Annexure-E**.
- 4.4 Fare:** A market Fare based on demand and supply forces shall be determined by the operator. Such Fare shall be approved and notified by the Company.
- 4.5 Fitness Certificate:** The Operator shall obtain fitness certificate of vehicles from the Company under Section 39 of Motor Vehicle Ordinance 1965 subject to the fee structure provided **in Schedule-II**.
- 4.6 Payment of Levies and Taxes:** It shall be the sole responsibility of the Operator to pay all traffic fines, token tax, toll tax and other taxes/charges payable under any law, notification imposed from time to time.
- 4.7 Hiring of Drivers:** The Operator shall strictly follow the hiring criterion for the Drivers of the vehicle that includes Min/Max age, License(s), driving experience and other such criterion as set out by the Company in **Schedule-VI**.
- 4.8 Training of Drivers:** The Operator shall ensure proper and reasonable arrangements for drivers' training and periodic refresher training programs. The Operator shall also ensure availability of qualified driver instructor(s), well equipped class room(s) and a Driving Manual for his staff. The Company shall have the right to ask the Operator at any time to have the drivers' skills tested from a driving school of Company's choice.
- 4.9 Uniform:** The Operator shall provide proper Uniform to its staff as prescribed by the Company and make sure at all times that the driver(s), fare collector(s) and assistant fare collector(s) shall be wearing such uniforms.
- 4.10 Bus Specification:** The Operator shall ensure that the vehicles (CNG, Petrol or Diesel) plying on the assigned route(s) under this agreement are maintained in accordance with the bus specifications provided in **Annexure A**.
- 4.11 The Penalties:** The Operator shall ensure that the vehicles are clean during the operation times. The details of criteria, faults and defects of the bus are fully described in **Schedule-IV** attached herewith.

- 4.12 Workshop:** The Operator shall maintain on its own or through a contractual arrangement, an automobile workshop as recommended by the Company fully equipped with adequate tools/equipment(s) as given in attached **Schedule-V**. The workshop shall be manned and supervised by qualified technical staff, for regular inspection, preventive and breakdown maintenance of vehicles plied by the Operators.
- 4.13 Service Reliability and Frequency:** The Operator shall ensure that the vehicles are strictly complying with the time table provided by the Company.
- 4.14 Personal Safety and Security during the Journey:** The staff on the vehicles shall make all possible efforts to minimize the events of accidents and shall also make sure to maximize the personal safety and security of passengers and others.
- 4.15 Road Worthiness:** The operator will ensure all times road worthiness of the vehicles plying on the route allocated under this framework agreement. The inspection criteria for road worthiness is attached as **Schedule III**.
- 4.16 Doors to be closed while plying:** The Operator shall ensure that the vehicle doors are properly working at all times automatically and the driver of the bus, in any case, shall not drive the vehicle when the doors are open.
- 4.17 Stopping at Designated Places:** The bus driver(s)/conductor(s) shall not let anyone aboard or alight at any place except the designated bus stops and the Operator shall further ensure that the vehicles only stop at the designated bus stops only. The Company upon written request of the Operator or as it may deem proper may increase or decrease the number of bus stops and their positions on the route(s). The alterations so made shall be notified to the Operator in writing.
- 4.18 Over/Under Speeding:** The Operator's fleet shall follow the speed limits as defined by the competent authority at all times.
- 4.19 Commercial/Personal use of Vehicle:** The Operator shall not use any of the vehicle(s) for a private or commercial purpose without prior written permission of the Company.
- 4.20 Harmony with Other Operators:** The Operator shall maintain harmony with all other Operators operating on the overlapping distance(s) on the route(s).
- 4.21 Advertisement Space:** Any advertisement (print media only) may be displayed on the external sides of the vehicles after obtaining necessary written permission regarding dimensions, type of advertisement etc by the LTC.

5. Indemnity and Insurance:

That the Operator shall be responsible for, and shall indemnify the Company against, losses, claims, damages, demands, actions, costs (including legal /attorney fees), charges, expenses and liabilities of whatsoever nature including death or personal injury or loss of or damage to any person or property moveable or immovable which may arise out of or in consequence of the performance or non-performance of this agreement by Operator or any of its staff member directly or indirectly.

Without prejudice the Operator shall at its own costs/expenses get itself insured, as per the provisions of Sections 67 & 95 of the Motor Vehicle Ordinance 1965, against any liability for death or personal injury or loss of or damage to any property which may arise out of or in consequence of the performance or non-performance of this agreement.

6. Company's Right of Access:

The employees, agents and contractors of the Company, duly authorized in this behalf, shall have the right of access during hours of operations, and upon notice, to the Operator's vehicles and facilities for the purposes of inspecting the same in order to verify whether the facilities have been provided and maintained in accordance with the terms and conditions of this agreement and the provisions of applicable laws/ rules.

7. Direction for Improvement:

That the operator shall at all time strictly act upon the direction of the Company given from time to time. Where the Company finds that any action or practice of the Operator is not in accordance with terms and conditions of this agreement or any provision of law, Rules or Regulations, the Company may issue such additional directions as it may deem fit to the Operator to improve such actions or practice so as to bring it in conformity with the aforesaid provisions and the Operator shall comply with such directions.

8. Assignment, Novation and Disposals:

Unless otherwise agreed to by the Parties, this Agreement and all rights and obligations hereunder are personal and both parties shall neither assign, novate or otherwise dispose in whole or in part of its rights hereunder nor sub-contract or otherwise delegate in whole or in part any of its obligations hereunder without the prior written consent of the other party.

9. Force Majeure:

- a. That the Company shall not forfeit Operator's Performance Guarantee or charge Liquidated Damages or terminate the Operator's Agreement for default, if such delay in performance or failure to perform Operator's obligations under this Agreement is the result of an event of "Force Majeure".
- b. For purposes of this Clause "Force Majeure" means an event beyond the reasonable control of both the parties. Such events may include revolutions, fires, floods, epidemics, quarantine restrictions, riots and freight embargoes, Natural Calamities, earthquakes, typhoon, fire, or tornado and any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, insurrection, civil commotion, or an act of terrorism;
- c. If a Force Majeure situation arises, Operator shall promptly notify to the Company in writing of such conditions and the cause thereof. Unless otherwise directed by Company in writing, Operator shall continue to perform its obligations under the Agreement as far as it is reasonably practicable and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- d. If the Force-Majeure Event continues for more than one month, then the Parties shall negotiate in good faith as to the manner in which any relevant provision of this Agreement may need to be amended or otherwise dealt with.

10. Termination of Agreement:

This agreement may be terminated by either party by giving three (03) months notice in writing. However, in case the Operator fails to give three months notice in writing to the Company regarding the withdrawal of his vehicles and termination of the said Agreement, the Company shall have the right to confiscate the security of the Operator.

Provided further, if the rating of the Operator falls below a satisfactory level because of violation of Agreement's service requirements, the Agreement shall be automatically stand cancelled and terminated.

11. Termination by a Default Event:

It shall be a default event (a "Default Event") in relation to the Operator if:

- i) an order is passed by a court of competent jurisdiction, or a resolution is passed for the dissolution or administration of the Operator (other than in the course of a reorganization or restructuring previously approved in writing by the Company);
- ii) any step is taken to appoint a manager, receiver, administrator, trustee or other similar officer in respect of any assets;
- iii) the Operator convenes a meeting of its creditors or proposes any arrangement or composition with, or any assignment for the benefit of, its creditors;

- iv) the Operator ceases or threatens to cease to carry on trading or to carry on any part of its operation(s);
- v) the Operator commits any continuous or material breach of the said Agreement and in the case of such breach which may be resolved and the Operator fails to deal with the same within 14days of the notification of such breach by the Company (and in which notice the Company expresses its intention to exercise its rights under this sub-clause);
- vi) if a Default Event arises the Company may terminate this Agreement by notice in writing giving such period of notice as the Company considers appropriate in the circumstances. However, the said notice shall be of 30days from the date of such default.
- vii) the termination of this Agreement under this clause shall be without prejudice to any rights of either Party in respect of any antecedent breach of contract by the other Party.
- viii) on termination of this Agreement, the Company shall not be liable to the Operator for any loss of opportunity, loss of profit, loss of contract or any other losses and/or expenses of whatsoever nature arising out of or in connection with such termination.

12. Validity, Legality and Enforceability:

That if any of the provisions of this Framework Agreement are found to be illegal or become invalid, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. Change of Control or Ownership of the Operator:

That in case of change of control or ownership of the Operator, the agreement shall immediately stand terminated.

14. Intellectual Property Rights:

- a) The Operator acknowledges and agrees that all the information related to Fleet Management System (FMS), Radio Frequency Identification (RFID), related software shall remain confidential and not to be revealed to any other person/Company without the prior approval of the Company.
- b) That the Operator shall indemnify, protect and hold the Company safe and harmless against any claim(s), suit proceeding(s) or action(s) which may be instituted or

brought by any third party against the Company in connection with an allegation that Operator infringes any intellectual property rights, registered design trade mark or copy right of any third party. The Operator shall entirely and solely be liable at its own cost and expenses to pay all damages and costs if any awarded against the Company.

15. No Partnership or Authority:

Nothing contained or implied in this agreement is intended to nor shall create a partnership between the Company and the Operator hereto or establish either Company or Operator as an agent of the other. Neither the Company nor the Operator has any authority hereunder to bind other or to incur any obligation or assume any responsibility on behalf of the other.

16. Miscellaneous Items:

The terms and conditions of this Agreement shall supersede any contrary terms and conditions of the bidding document and any Appendices and or Schedule(s) thereto. However the annexures / appendices and schedules referred wherever referred in this agreement shall be integral parts of this agreement.

17. Ambiguity /Discrepancy in Agreement:

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

- a) Between two Articles of this Agreement, the provisions of specific Article(s) relevant to the issue under consideration shall prevail over the other Article(s);
- b) Between the Articles and the Schedules, the Articles shall prevail;
- c) Between the written description on the drawings and the System Requirements / Vehicle Specifications, the latter shall prevail;
- d) Between any value written in numerals and that in words, the latter shall prevail.

18. Representations and Warranties:

The Parties hereby represent, warrant and covenant that each of them has all the requisite power(s), authority, and capacity to enter into this Agreement and perform their obligations hereunder according to the terms and conditions hereof. Parties further specifically represent and warrant that they are authorized to enter into this Agreement and have approved this Agreement which shall constitute valid, binding and enforceable obligations of the Parties.

19. Confidential Information:

Each Party shall keep confidential this Agreement and all other information furnished hereunder or related to the subject matter of this Agreement and which is not in the public domain (hereinafter referred to as the “Confidential Information”) and no Party shall divulge the Confidential Information without the prior written consent of the other Party except that a Party may disclose, without having obtained such prior written consent, the Confidential Information, but only in so far as in reasonably required, to:

- i. A contractor or a consultant or legal advisor or other professional advisor to a Party in connection with the transactions proposed under this Agreement.
- ii. Any relevant stock exchange or similar body as is required by such body to make a disclosure or any requirement under the applicable law to be disclosed to any Government’s agency or court of competent jurisdiction. Notwithstanding anything to the contrary in this clause, this clause shall not apply in the event of termination of this Agreement.
- iii. The Recipient Party shall use its reasonable endeavors to minimize the risk of unauthorized disclosure or use and undertakes to take proper care and all reasonable measures to protect the confidentiality of the Confidential Information using not less than the standard of care as it applies to its own Confidential Information.

20. Arbitration:

Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination, invalidity or interpretation of this Agreement or difference whatsoever arise between the Parties out of or in relation to or in connection with this Framework Agreement or any Route Agreement, which cannot be amicably settled between the parties such matter shall finally be referred to the Chairman of the Company, who will either himself or by appointing an “Arbitrator” pass the award. The said award of the “Arbitrator” shall be final and binding upon both the parties.

21. Governing Law and Dispute Resolution:

- a) The said Agreement shall be governed by the laws of the Islamic Republic of Pakistan and the courts at Lahore shall have exclusive jurisdiction in case of any claims or dispute arising out of this Agreement.
- b) A person aggrieved by an order of an officer of the Company, acting under the delegated powers of the company, may, within thirty days of issuance of the said order, appeal to the Company and the Company shall decide the matter within forty five days of the submission of the appeal.
- c) **Indemnity:** no suit, prosecution or other legal proceedings shall lie against the Provincial Government, Company or its management or any other person exercising any powers or performing any function under this Agreement or for

anything which is in good faith done or purporting or intended to be done under this agreement or any rule made thereunder.

- d) **Power To Make Rules:** The Company may with the approval of the Provincial Government by notification in the Official Gazette make Rules to carry out the purposes of this Agreement.
- e) **Powers To Make Regulations:** The Company shall issue Regulations for exercising the powers given to it under the Rules.

22. Change in Law:

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

23. Legal Expenses:

In the event of a legal action is taken by either party to enforce this Agreement, all cost and expenses, including reasonable attorney's fees, incurred by the prevailing party in exercising any of its rights or remedies hereunder or in enforcing any of the terms, conditions, or provisions hereof, shall be paid by the other party.

24. Change in Law:

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

25. Notices:

- a) All notices shall be in writing and shall be deemed sent either in the form of letter, fax telex, telegraph, telegram or cable.
- b) Any notice shall be deemed to have been received as follows;
- c) Personal delivery upon receipt;
- d) Fax or electronic mail twenty four hours after sending, provided in the case of fax, the original shall also be sent by prepaid registered mail or certified mail and for electronic mail return receipt confirmation is received after sending the same.
- e) Registered or certified mail (48) hours after delivery to the postal authorities by the party serving the notice.

29. Address of Parties:

The addresses of the parties for correspondence and for service of notice(s) of any kind shall be as follows and any notice required to be given or to be served under this Agreement by either party shall be sufficient if in writing sent through a first class mail at the said address or such other address as a party may notify in writing to the other party from time to time for this purpose.

Company (LTC): _____

Operator: _____

In witness whereof both of the parties to the agreement set their respective hands, signatures in presence of witnesses on the Day, Month and year hereinabove mentioned.

COMPANY;

OPERATOR;

Through _____
Name: _____
NIC #: _____

Through _____
Name: _____
NIC#: _____

Witnesses:

1. _____
Name: _____
NIC #: _____

2. _____
Name: _____
NIC #: _____

3. _____
Name: _____
NIC #: _____

4. _____
Name: _____
NIC #: _____

