REQUEST FOR PROPOSAL (RFP)

FOR

“Retail cum Commercial Office with option for Multiplex”

TO DESIGN, FINANCE, CONSTRUCT, SUB-LET, OPERATE, MANAGE AND MAINTAIN 18,452 SQM AREA FOR PROPERTY DEVELOPMENT ON THE STATION BOX OF THE NETAJI SUBHASH PLACE METRO STATION OF DMRC’S PHASE-III CORRIDOR ON DEVELOPMENT RIGHT BASIS
“Retail cum Commercial Office with option for Multiplex”

**Salient points of the project**

1. **Introduction:** - Netaji Subhash Place Metro Station (NSP) of DMRC’s Phase-III corridor is located on the intersection of Line I (Red) and Line 7 (Pink) adjacent to existing Netaji Subhash Place Metro Station making it an interchange station. The commuters are expected to alight from metro trains of one line and walk to catch metro train from other line.

2. **Market Potential:** - The site is opposite to Netaji Subhash Place District Centre which shall be easily accessible through an upcoming underground pedestrian passage. A foot over bridge connects the site to thickly built Bhav Nagar area. The DPR has assessed and projected a passenger density of approx. one lakh which is likely to touch one lakh fifty thousand within the next fifteen years who would be visiting the interchange station on daily basis. The Phase-III station is located on the intersection of Mahatama Gandhi Road popularly known as the Ring Road, the life line of Delhi and Lala Jagat Narian Marg. This road connects people to and from Outer and Inner Ring Road carrying population from some of the most thickly populated areas of North West Delhi. In addition, the subject development is located within a radius of approx. 2-3 km of established residential areas of Shalimar Bagh, Pitampura, Kohat Enclave etc. Most of these vectors have plotted developments in the size of 100 syd to 500 syd. Gauging a good potential DMRC intends to develop Property Development (PD) above the station box of the Phase-III NSP Metro Station, which is near completion. Further, the subject property is a corner property located along Ring Road and Wazirpur road in proximity to well established industrial, commercial and residential areas of Delhi. Thus DMRC proposes to have ultra-modern “Retail cum Commercial Office with option for Multiplex” on this Metro station.

3. **Project Offer:** - Retail cum Commercial Office with option for Multiplex, integrated with the station building and dedicated parking is proposed at the Phase-III Netaji Subhash Place MRTS, over the Metro Station building (underground) and concourse floor (partially below the ground) (site plans available at annexure-6).

4. **DMRC Scope of PD Construction:** - In addition to the station building, DMRC is in the process of constructing two level basement and two ramps for PD parking, including some space for PD services like ESS, underground water tanks, pump rooms, chiller rooms etc. Fire water tanks for PD are above concourse level and are common with
station fire tank. Space for PD fire pumps has been earmarked however the pumps are to be installed by PD lessee. DMRC is also constructing space adjacent to concourse floor which has direct access from underground passage to and from Netaji Subhash Commercial Centre out of which some area shall be made available for PD. However the total FLOOR AREA to be developed will be constrained at 18,452 SQM including area for PD made available at concourse floor. These bare shell spaces will be made available on as is where basis, except that PD Transformers are likely to be provided by DMRC. The total area of civil structure of the basement floors constructed by DMRC as parking floors and services area amounts to 6736sq. m. This construction cost of approx. Rs 29 crores is being borne by DMRC.

5. **Components for Development Rights:** Five floors are proposed to be developed over the concourse floor of the metro station building. The Concourse floor will be for circulation, arrival & departure of metro commuters, waiting, operational area, which will be with DMRC and the development rights for first to fifth floor for the “construction of retail cum commercial office with option for multiplex” are being offered to the bidder for construction. Lessee will be free to develop complete FLOOR AREA of 18,452 Sq.m (approx.).

6. **Period of lease for Development Rights:** - 50 years, including construction period and fitout period allowed from the date of execution of License Agreement.

7. **Parking capacity:** - Development of dedicated parking in the two basements and in the open space surrounding the station building of around 250 ECS shall be in the scope of the lessee. If lessee is unable to achieve permissible ECS, then lessee shall be free to develop additional parking space in the 2000 sqm (approx) land plot in the existing Netaji Subhash Place metro station in the form of multi-level parking (without commercial), cost of which shall be completely borne by the lessee. Stilt floor in this multi-level parking shall be allocated by the lessee for commuter parking which shall be managed by DMRC.

8. **Project approvals:-**

   Project will be formulated & designed in accordance with the byelaws & MPD-2021 provisions and utilizing the best of national/ international practices. Lessee will be responsible to comply with all the requirements of Chief Fire Officer.

9. **Fire Safety:-**

   Fire alarm/fire-fighting & protection arrangements, as per norms are to be provided and maintained by the lessee during the entire lease period. For any loss of life/property or any other such accidents and claims thereof shall be the entire responsibility of the
lessee and it will be borne by him. DMRC will in no way be responsible for the same in respect of retail cum commercial office and parking development made by the lessee.

10. **Structural Designs:** Will be got done by the lessee from a highly reputed Structural Design Consultant duly approved by DMRC. Proof checking of the structural designs will be done by DMRC before allowing construction.

11. **Power supply:** will be made available at one point to the developer and shall be charged on DERC/commercial rates by DMRC for this development. However, if any power back-up arrangement is preferred, the same shall be provided by the lessee and he will be solely responsible for all aspects related to it.

12. **Earnest Money Deposit (EMD):** Rs. 64,00,000/- (Rs. Sixty four lakhs only).

13. **Upfront Payment:** Fixed upfront fee of Rs. 40 Crores (to be paid in 2 installments) as specified in the document.

14. **Bid variable:** Quarterly Recurring Payment (QRP) to be quoted by the bidder.

15. **Bids security:** Security Deposit/bank guarantee equivalent to 1 year quarterly recurring payment shall be deposed by the lessee. This will be with DMRC for the whole lease period to ensure proper performance by the bidder.

16. **Escalation:** Bid variable quoted by the highest bidder and the bid security will be escalated @20% every 3 years, over the entire lease period commencing from the date of execution of License Agreement.

DELHI METRO RAIL CORPORATION LTD.  
5th Floor, A-Wing, Metro Bhawan, Fire Brigade Lane,  
Barakambara Road, New Delhi –110 001
DISCLAIMER

This request for proposal (“RFP”) document for Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III corridor to undertake design, finance, construction, sub-letting and maintenance of 18,452 Sqm (approx) PD area (FAR) on the station box contains brief information about the Project, qualification requirements and the selection process for the Bidder. The purpose of this RFP document is to provide interested parties (“Bidder(s)”) with information in order to assist them in formulation of their bid application (the ‘Bid’).

The information (“Information”) contained in this RFP document or subsequently provided to Bidders, in writing by or on behalf of Delhi Metro Rail Corporation Ltd. (“DMRC”) is provided to Bidder(s) on the terms and conditions set out in this RFP document and any other terms and conditions subject to which such Information is provided.

This RFP document is not an agreement and is not an offer or invitation by DMRC to any other party. The terms on which the Project is to be developed and the rights of the Selected Bidder shall be as set out in separate agreement contained herein.

This RFP document does not purport to contain all the information each Bidder may require. This RFP document may not be appropriate for all persons, and it is not possible for DMRC, their employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP document. Certain Bidders may have a better knowledge of the proposed Project than others. The assumptions, assessments, statements and information contained in the RFP document, may not be complete, accurate, adequate or correct. Therefore, each Bidder should conduct his own investigation and analysis and should check the accuracy, reliability and completeness of the Information in this RFP document and obtain independent advice from appropriate sources. DMRC, their employees and advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document and Information provided hereunder is only to the best of the knowledge of DMRC.

Information provided in this RFP document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The Information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The DMRC accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

Intimation of discrepancies in the RFP document, if any, should be given to the office of the DMRC immediately by the Bidders. If DMRC receives no written communication, it shall be deemed that the Bidders are satisfied that the RFP document is complete in all respects. In particular, DMRC shall not be responsible /liable for any latent or evident defect or character of the Project land/Project including but not limiting to the following:
1. Soil testing/investigations
2. Availability of water
3. Electricity availability and provisions
4. Site Drainage
5. Site approach
6. All statutory permissions from various authorities including approvals from town planning or other authorities as per the Central / State Government norms.
7. All applicable rent, rates, duties, cess and taxes, if any
8. All applicable statutory laws and provisions, and
9. Technical and financial feasibility of the project.

Any character or requirement of the Project land, which may be deemed to be necessary by the Bidder should be independently established and verified by the Bidder itself.

This RFP Document is not an agreement and is not an offer or invitation by DMRC to any other party. The terms on which the Project is to be developed and the right of the successful Bidder, shall be as set out in separate agreements executed between DMRC and the successful Bidder in the format broadly set out herein. DMRC may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

DMRC, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

DMRC also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

DMRC may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

DMRC reserves the right to accept or reject any or all Applications without giving any reasons thereof. DMRC will not entertain or be liable for any claim for costs and expenses in relation to the preparation of the documents to be submitted in terms of this RFP Document.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by DMRC or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and DMRC shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

The word “Bid” and “Tender” is used interchangeably in the document.
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SECTION 1
PROJECT BACKGROUND
I. PROJECT BACKGROUND

1.1. Introduction

1.1.1 Delhi Metro Rail Corporation (DMRC), a joint venture of the Government of India (GOI) and the Government of the National Capital Territory of Delhi (GNCTD) implementing the Delhi Metro Rail Projects, has been mandated by Ministry of Urban Development (MoUD) to undertake value capture from property development initiatives for sustainable revenue generation and part financing Delhi MRTS Project. Ministry of Urban Development has also issued an order permitting DMRC to carry out Property Development in lands allotted for Delhi MRTS Project vide Order No. K-14011/8/2000 - MRTS (Pt.) dated 30 March, 2009. Now vide notification no S.O. 2023 (E) dated 9th June, 2016 Ministry of Urban Development has further strengthened the DMRC property development to ensure financial viability of the Mass Rapid Transit System (MRTS) project, certain fiscal concessions were considered necessary and facilitating property development by DMRC on land allotted to them.

1.1.2 Under the Delhi Metro Phase III plan, Netaji Subash Place Metro Station on Pink Line has been identified as “Interchange station with Commercial Development” where the passengers shall have easy access from Netaji Subash Place Commercial Centre to city Metro Network. This will provide an alternative route for those going to Blue Line, alleviating crowds on the heavily-used Yellow Line towards pink line. Heavy demand is accordingly expected for facilities like retail, shopping, food court & conveniences at the Netaji Subash Place interchange Metro station. Demand is also expected for commercial office space or multiplex as well.

1.1.3 DMRC was allotted a plot of land at Netaji Subash Commercial Centre, the gateway to western and north western Delhi (plans available at Annexure-6) for construction of MRTS station. The MRTS station building which is being constructed partly underground is located at an established retail and commercial hub comprising of various Grade A and Grade B retail malls and commercial developments such as D Mall, North Square Mall, NDM 1&2, Gopal Heights, Bestech Sky Tower, Aggarwal Towers, Krishna Apra and P.P. Trade Centre etc. The site is a prime property at the junction of Mahatama Gandhi Road popularly known as the Ring Road and Lala Jagat Narian Marg carrying the large population working or residing in this part of Delhi. The site is a vibrant transportation hub well connected with Airport, New Delhi Railways Station, ISBT and key office, commercial & industrial areas of Delhi & NCR.

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Approx Distance in K.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Netaji Subhash Place Metro Station</td>
<td>0 – 0.5</td>
</tr>
<tr>
<td>Wazirpur Bus Terminal</td>
<td>0 – 1</td>
</tr>
<tr>
<td>Connaught Place (CBD of Delhi)</td>
<td>14 – 15</td>
</tr>
<tr>
<td>Indira Gandhi International Airport (Delhi)</td>
<td>20 – 22</td>
</tr>
</tbody>
</table>
1.1.4 The air space above the concourse on ground floor i.e. 1st floor onwards, two basements and 1683.3 sqm area on concourse floor as bare shell and open space around the station is being offered on a “as is where is basis” on development rights. Five floors with large terrace along first floor are proposed to be developed over the concourse floor of station building on ground (Station Box). Ground floor will be for circulation, arrival & departure of metro commuters, waiting and operational area, which will be with DMRC. 1683.3 sqm area on the concourse floor shall be given to the lessee as bare shell and first to fifth floor will be given to Lessee for the development of commercial space using the complete FLOOR AREA of 18,452 Sq. m (including area to be given on concourse) for retail, commercial, office usage with multiplex as an option, i.e. an average area of approx. 3,500 sq. m on each plate. The lower two (2) part basement floors are for parking. The total area of parking floors (viz. two (2) part floors) will be approx. 6,730 sqm including space for housing some PD services like water tanks, chiller room and ASS etc.

1.1.5 DMRC will construct two level basement and two ramps for PD parking, including some space for PD services like ESS, underground water tanks, pump rooms, chiller rooms etc. Fire water tanks for PD are above concourse level and are common with station fire tank. Space for PD fire pumps has been earmarked however the pumps are to be installed by the lessee. These bare shell spaces will be made available on as is where basis, except that PD Transformers are likely to be provided by DMRC. The total area of civil structure of the basement constructed by DMRC as parking floors and services area amounts to 6,736 sq. m. This construction cost of approx. Rs. 29 is being borne by DMRC.

1.1.6 DMRC is also constructing space adjacent to concourse floor which has direct access from underground passage to and from Netaji Subhash Commercial Centre out of which 1683.3 sqm area shall be made available to the lessee. However the total FLOOR AREA will be constrained at 18,452 SQM including the area for PD made available at concourse floor.

1.1.7 DMRC through this tender intends to transfer development rights to selected developer for a lease period of 50 years commencing from the date of execution of License Agreement to take up Design, Finance, Construct, Sub-Let, Operate, Manage and Maintenance of an 18452 sqm FLOOR AREA area making use of available footprint of station box and FAR as permitted under MPD 2021 in the proposed commercial building on the station box of the Netaji Subhash Place Metro Station of Line-7 (Pink) in Phase-III Network of DMRC. The Lessee has to construct the commercial building over the station box along with site development and manage the parking areas and utility areas duly integrated with the station building. This ‘leasing’ has been envisaged to generate up-front and recurring revenues to DMRC to supplement its non fare-box collections in the operation phase. Revenues thus realized will be used by DMRC to supplement its funds for MRTS project and fare-box collection. The successful bidder shall plan the layout for DMRC approval as per Section – 4 of this document.
SECTION 2
NOTICE INVITING BIDS
2.0 NOTICE INVITING BIDS

CONTRACT CPD-39

2.1 DMRC invites Bids from suitable participants who may be a sole proprietorship firm or a partnership firm or a body corporate incorporated and registered in India under the Companies Act, 1956/2013, duly registered under the law applicable to such company, either individually or in Joint Venture/Consortium under an existing agreement (the “Bidders”, which expression shall, unless repugnant to the context, include the members of the Consortium) for selection of Lessee(s) to grant rights under the Lease Agreement for the property development of the Leased Site.

The Development Rights for the Project above Phase-III Netaji Subhash Place Metro Station is proposed to be given on lease basis through this bidding process on “as is where is basis” for 50 (fifty) years from commencement date. The site is demarcated in the plans placed as Annexure – 6 of this document, as per details below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Floor Area (Sq.m.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Development area on the station box of DMRC’s Phase-III Netaji Subhash Place Metro Station (To design, finance, construct, sub-let, operate, manage and maintain the area on Development Rights)</td>
<td>18,452 sqm</td>
</tr>
</tbody>
</table>

2.2 Deemed Knowledge and Disclaimer:-

2.2.1 DMRC shall receive Bids pursuant to this RFP document, in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by DMRC. Bidders shall submit bids in accordance with such terms on or before the Proposal Due Date. The participating Bidders are expected to visit the Project Site to examine its precincts and the surroundings at the Bidder’s own expenses and ascertain on its own responsibility, information, technical data, traffic data, market study, etc. including actual condition of existing services.

2.2.2 The Bidder shall be deemed to have inspected the Project Site and be aware of the existing buildings, constructions, structures, installations etc. existing in the Site and shall not claim for any change on the Project Site after submitting its Bid. The Bidder hereby admits, agrees and acknowledges that DMRC has not made any representation to the Bidder or given any warranty of any nature whatsoever in respect of the Project Site including in respect of its usefulness, utility etc. or the fulfillment of criteria or conditions for obtaining Applicable Permits by the Bidder for implementing the Project.
2.2.3 The Bidder shall be fully and exclusively responsible for, and shall bear the financial, technical, commercial, legal and other risks in relation to the development of the assets regardless of whatever risks, contingencies, circumstances and/or hazards may be encountered (foreseen or unforeseen) including underground utilities and notwithstanding any change(s) in any of such risks, contingencies, circumstances and/or hazards on exceptional grounds or otherwise and whether foreseen or unforeseen and the Bidder shall not have any right whether express or implied to bring any claim against, or to recover any compensation or other amount from DMRC in respect of the Project other than for those matters in respect of which express provision is made in the Lease Agreement.

2.3 **Salient features of Bidding Process:**

   a) DMRC has adopted a two packet bidding process for declaration of a Selected Bidder to transfer rights under the Lease Agreement for the Site.
   
   b) The details of bidding process are provided in Section 3.
   
   c) Schedule of bidding process for RFP:

<table>
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<tr>
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<tbody>
<tr>
<td>Cost of RFP Bid Document (Non-refundable)</td>
<td>INR 21,000/- (inclusive of 5% DVAT) Non-Refundable (Demand Draft /Banker’s cheque) in favour of “Delhi Metro Rail Corporation Ltd” payable at New Delhi.) Cost of tender documents i.e. D.D./Banker’s cheque, in original, shall be accepted only upto 15:00 hours on 23.02.2017 in the office of Executive Director/Contracts at below mentioned address.</td>
</tr>
<tr>
<td>Validity of Tender Security in case of BG</td>
<td>20.10.2017</td>
</tr>
<tr>
<td>Pre-Bid Meeting</td>
<td>25.01.2017 at 11.00 hrs</td>
</tr>
<tr>
<td>Last date of receiving queries</td>
<td>27.01.2017 (upto 17:00 Hrs.) (Queries from bidders after due date shall not be acknowledged)</td>
</tr>
<tr>
<td>DMRC’s response to queries by</td>
<td>06.02.2017</td>
</tr>
<tr>
<td>Tender Submission Start Date &amp; Time</td>
<td>10.02.2017 from 09:00 Hrs</td>
</tr>
<tr>
<td>Tender Submission End Date &amp; Time</td>
<td>23.02.2017 upto 15:00 Hrs.</td>
</tr>
<tr>
<td>Date &amp; time of opening of Tender (Technical Bid)</td>
<td>24.02.2017 at 15:00 Hrs.</td>
</tr>
</tbody>
</table>
Authority and place for submission of RFP Bid Document cost and seeking clarifications

<table>
<thead>
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<th>Stage of Activity</th>
<th>Time Period</th>
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<tbody>
<tr>
<td>Payment of 1st installment of Upfront Lease Fee and Security Deposit</td>
<td>Within 30 days of issue of Letter of Acceptance.</td>
</tr>
<tr>
<td>Signing of Lease Agreement (Commencement Date)</td>
<td>Within 7 days after payment of Upfront Lease Fee and Security Deposit.</td>
</tr>
<tr>
<td>Handing over of Site</td>
<td>Within 180 days of the signing of lease agreement</td>
</tr>
<tr>
<td>Payment of 2nd remaining installment of Upfront fee</td>
<td>Within 36 months of date of signing of lease agreement i.e. before the expiry of construction and fit out period (moratorium period)</td>
</tr>
<tr>
<td>Payment of Annual Lease Fee to DMRC by Developer.</td>
<td>On quarterly basis, within 7 days of the commencement of quarter in advance, after end of moratorium period. Delay in payments shall attract interest @ 20 % per annum on outstanding balance on due date The quarterly recurring payments for the area leased on concourse floor shall commence after 12 months (1 year) from the commencement date. The quarterly recurring payments for the complete leased area shall commence after 36 months (3 years) from the commencement date.</td>
</tr>
</tbody>
</table>
Instructions for Online Bid Submission:

The bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

More information useful for submitting online bids on the CPP Portal may be obtained at: https://eprocure.gov.in/eprocure/app.

REGISTRATION

1) Bidders are required to enroll on the e-Procurement module of the Central Public Procurement Portal (URL: https://eprocure.gov.in/eprocure/app) by clicking on the link “Online bidder Enrollment” on the CPP Portal which is free of charge.

2) As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.

3) Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.

4) Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify / nCode / eMudhra etc.), with their profile.

5) Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC’s to others which may lead to misuse.

6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

SEARCHING FOR TENDER DOCUMENTS

1) There are various search options built in the CPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.

2) Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective ‘My Tenders’ folder. This would enable the CPP Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
3) The bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

PREPARATION OF BIDS

1) Bidder should take into account any corrigendum published on the tender document before submitting their bids.

2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.

3) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF / XLS / RAR / DWF/JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.

4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use “My Space” or “Other Important Documents” area available to them to upload such documents. These documents may be directly submitted from the “My Space” area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

SUBMISSION OF BIDS

a) Bidder should log into the site well in advance for bid submission so that they can upload the bid in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.

b) The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.

c) Bidder has to select the payment option as “offline” to pay the tender fee / EMD as applicable and enter details of the instrument.

d) Bidder should prepare the EMD as per the instructions specified in the tender document. The original should be posted/couriered/given in person to the concerned official, latest by the last date of bid submission or as specified in the tender documents. The details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.

e) Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BoQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the
BoQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.

f) The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.

g) All the documents being submitted by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

h) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.

i) Upon the successful and timely submission of bids (ie after Clicking “Freeze Bid Submission” in the portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.

j) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

ASSISTANCE TO BIDDERS

1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.

2) Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk.

3) For any Technical queries related to Operation of the Central Public Procurement Portal Contact at :

   Mobile Numbers:  91 7878007972, 91 7878007973, 91 7574889871, 91 7574889874, 91 8826246593
   Tel:  The 24 x 7 Toll Free Telephonic Help Desk Number 1800 3070 2232. Other Tel: 0120-4200462, 0120-4001002.
   E-Mail: cppp-nic[at]nic[dot]in
SECTION 3

REGULATION OF BIDS
AND
LEASE AGREEMENT
SECTION 3

REGULATION OF BIDS AND LEASE AGREEMENT

3.1 General Information

3.1.1 DMRC invites Bids from eligible Bidders in terms of eligibility criteria as specified in this document for granting development right on the footprint of the station box on the subject site for property development including right to design, finance, construct, operate, sub-lease, manage and maintain the subject area.

3.1.2 The information submitted in the RFP document will form the basis for evaluating the Bidders. The Bidders may participate in the Bid process as per the instructions given in this RFP document.

3.1.3 From amongst the Bidders fulfilling the Eligibility Criteria, as laid down in this RFP document, the site shall be offered to the Selected Bidder on the basis of the Lease Fee quoted by the Selected Bidder for the FLOOR area.

3.1.4 The intending Bidder must read the terms and conditions carefully.

3.1.5 Information and instructions for bidders posted on website shall form part of tender documents.

3.1.6 The Request for Proposal Document (RFP Document) can be seen and downloaded from website https://eprocure.gov.in/eprocure/app.

3.1.7 RFP Document can only be submitted after uploading the mandatory scanned documents towards cost of Bid Documents such as Demand Draft or Pay Order or Banker’s Cheque from a Scheduled commercial bank based in India and towards Tender Security such as Bank Gaurantee or Demand Draft or Pay Order or Banker’s Cheque from a Scheduled commercial bank based in India and other documents as stated under Clause 3.15 of RFP Document.

3.1.8 Those bidders who are not registered on the website mentioned above shall be required to get registered beforehand. If needed they can be imparted training on ‘online tendering process’ as per details available on the website.

3.1.9 The authorized signatory of intending bidder as per Power of Attorney (POA) must have valid class-III digital signature. The complete RFP Document shall only be uploaded using Class-III digital signature of the authorized signatory.

3.1.10 On opening date, the bidder can login and see the tender opening process. After opening of tenders they will receive the competitor bid sheets.

3.1.11 Bidder can upload documents in the form of JPG format and PDF format.
3.1.12 Bidder must ensure to quote in the financial proposal.

3.1.13 Each Bidder shall submit only one bid. If a Bidder submits more than one bid, all the tenders in which he has participated shall be considered invalid.

3.2 **Downloaded RFP Documents:**

3.2.1 The complete bid document can be downloaded from the website of DMRC i.e. [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app) and a non-refundable fee Rs. 21,000/- (inclusive of 5% of DVAT) towards the cost of the Bid document shall be submitted upto the date and time specified in NIT in the office of Executive Director / Contracts, failing which the Bid shall be rejected out-rightly. No tampering, alteration or changing of the contents of the Bid documents is permissible. The DMRC shall not be responsible for any printing error while downloading the documents.

3.2.2 The Tenderers are required to collect the conceptual plans of the envisaged Leased Area(s) offered under Development Rights from the office of the Executive Director/Contracts, free of cost and place the same as Annexure-6. The Tenderer hereby agrees voluntarily and unequivocally not to seek any claim, damages, compensation or any other consideration whatsoever on account of having to collect the Leased Space(s) plans from DMRC.

3.3 **Queries in RFP and Amendments**

3.3.1 Bidders may upload their queries, if any, on e-tendering portal [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app) not later than the date specified under the bid schedule under the schedule of bidding process in para 2.3 C of Section-2 of this RFP document. DMRC shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive bidding process, however, no queries received after prescribed date shall be entertained by the DMRC.

3.3.2 At any time prior to the Proposal Due Date, the DMRC may, for any reason whatsoever, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP through the issuance of an addendum. This shall be uploaded on e-tendering portal [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app) and shall be binding upon all the bidders.

3.3.3 In order to give the Bidders reasonable time to take an addendum into account, or for any other reason, the DMRC may, at its discretion, extend the Proposal Due Date.

3.3.4 The Response to queries/ addendums (if any) will also be uploaded on [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app) and the Bidders are advised to keep a regular check on the website for any such updates.
3.4 **PRE-BID MEETING**

a. DMRC shall conduct a pre-bid meeting on the date and location specified under the schedule of bidding process in **para 2.3 C** of bid schedule of Section-2 of this RFP document for the purpose of providing clarification and answering the queries of the prospective Bidders.

b. The bidder is requested to submit any question in writing or by facsimile, to reach the Employer DMRC not later than the last date of seeking clarification as mentioned in key details of NIT.

c. The text of the questions raised by all the bidders and the responses given will be transmitted without delay to all purchasers of the Tender Documents. Any modification of the Tender Documents which may become necessary as a result of the Pre-Tender meeting shall be made by the Employer DMRC exclusively through the issue of an Addendum pursuant to Clause 3.3 above.

3.4.4 Non-attendance at the Pre-Tender meeting will not be a cause for disqualification of a Bidder.

3.5 **ELIGIBILITY CRITERIA**

The Bidder shall meet the following minimum Eligibility Criteria (the “**Eligibility Criteria**”):

3.5.1 A Bidder must be a sole proprietorship firm or a partnership firm or a body corporate incorporated and registered in India under the Companies Act, 1956 /2013, duly registered under the law applicable to such company, either individually or in Joint Venture or a Consortium under an existing agreement and further subject to compliance with applicable laws, policies and guidelines of the Government of India.

In case the Selected Bidder is a Consortium, such Consortium shall be required to incorporate a company under Companies Act, 2013 which shall be a special purpose company (“**SPC**”) within 30 days of issuance of the LOA and the SPC shall enter into Lease Agreement with DMRC for implementation of the Project. The members of Consortium shall be required to maintain 100% of the equity of the SPC throughout the subsistence of the Lease Agreement. In case company is not incorporated within 30 days of issuance of LOA, then the LOA will stand cancelled and the amount deposited by the selected bidders (i.e. Tender Security, Security Deposit, Upfront Lease Fee etc.) shall be forfeited.

3.5.2 i) **Technical Capability**

The Bidder (as a developer / contractor / owner / partnership) should have successfully completed in last 7 years preceding the bid opening date, construction and maintenance of commercial / property development project/s equivalent to either:

a. One similar project having built up area not less than 80% of 18,452 Sqm Built Up Area., or

b. Two similar projects each having built up area not less than 50% of the 18,452 Sqm Built Up Area, or
c. Three similar projects each having built up area not less than 40% of 18,452 Sqm Built Up Area.

Provided further that:

- the commercial / property development project/s being treated as completed when it is ready for occupation and the same is certified as such by an Architect / statutory auditor / or the Chartered Engineer as the case may be.
- Bidders shall submit their technical eligibility in the specified Bid Form (link Form) for technical eligibility duly certified by an architect and the statutory auditor or the chartered Engineer as the case may be.

ii) Financial Capability:
A Bidder should have a minimum net worth of Rs 32,00,00,000/- (Rupees thirty two crores only) in FY 2015-16. In Case of JV- Net worth will be based on the percentage participation of each Member.

Example:
Let Member-1 has percentage participation = M and Member-2 has =N. Let the Net worth of Member-1 is A and that of Member-2 is B, then the Net worth of JV will be

\[ \text{Net worth of JV} = \frac{AM+BN}{100} \]

The minimum average annual turnover of a Bidder should Rs. 32,00,00,000/- (Rupees thirty two crores only) for the preceding three financial years as per the audited balance sheets of the Bidders starting from the financial year 2013-14. The average annual turnover of JV will be based on percentage participation of each member.

Example:
Let Member-1 has percentage participation = M and Member - 2 has =N. Let the average annual turnover of Member-1 is ‘A’ and that of Member-2 is ‘B’, then the average annual turnover of JV will be

\[ \text{Average annual turnover of JV} = \frac{AM+BN}{100} \]

Notes:

Financial data for latest last three audited financial years has to be submitted by the bidder in Annexure-3 along with audited balance sheets. The financial data in the prescribed format shall be certified by Chartered Accountant with his stamp and signature in original. In case audited balance sheet of the last financial year is not made available by the bidder, he has to submit an affidavit certifying that ‘the balance sheet has actually not been audited so far’. In such a case the financial data of previous ‘3’ audited financial years will be taken into consideration for evaluation. If audited balance sheet of any year other than the last year is not submitted, the tender may be considered as non-responsive.
3.5.3 EXPLANATIONS FOR THE PURPOSE OF TECHNICAL QUALIFICATION

For counting the experience to assess technical capability of the bidder the development done by him up to Proposed Due Date (PDD) will only be counted. For details, refer to Annexure 2.

3.5.3.1 For the purpose of this tender, Net Worth will be calculated as follows:

(i) In case of a Company, Net worth = (Paid up Share Capital) + (Reserves and Surpluses) - (Revaluation of Reserves) – (Intangible Assets, Miscellaneous expenditure to the extent not written off, Accumulated Losses).

(ii) Any other asset/liability appearing in the Balance sheet and contingent liabilities affecting the Net worth shall be computed by DMRC to compute the net worth.

(iii) In case of a Partnership firm, the contribution by each partner taken together in the capital of the firm shall be considered as Net Worth of the Partnership Firm.

(iv) If an Individual Investor or Partnership Firm or Group / Associated Companies are proposing to invest in the project company, then such investors shall be approved to the satisfaction of DMRC.

(v) Individual Net worth statement certified by a Chartered Accountant and in the case of companies, by the statutory auditor shall be required at an appropriate stage for the purpose of calculating the net-worth of investors for the project company to demonstrate their financial capabilities.

3.5.3.2 The Bidder shall submit the audited annual reports of last three years i.e. 2013-14, 2014-15 and 2015-16 as per Annexure 3. In case of a Consortium, the audited annual reports of each relevant member of the consortium for last three years shall be submitted. If audited annual report for 2015-16 is not yet ready then the bidders is required to submit reports for 2012-13, 2013-14, 2015-15 alongwith an affidavit certifying that balance sheet for 2015-16 has not been audited so far.

3.5.4 ELIGIBILITY FOR A CONSORTIUM

In case the Bidder is a Consortium, the eligibility of Consortium will be judged only considering the Members holding equity 26% or more. Further, the Lead Member of the Consortium must have a minimum of 51% of the Financial Eligibility specified in sub-para 3.5.2 and sub-para 3.5.3 above.

For the purpose of evaluation of the Consortium, each member’s contribution towards the turnover and net worth of the Consortium shall be considered in the same ratio of their equity participation in the Consortium. Financial eligibility of lead member and one member having at least 26% equity shall be considered for evaluation of Financial eligibility.

3.5.5 Any Central / State government department or public sector undertaking must not have banned business with the tenderer (any member in case of JV) as on the date of tender submission. Also no work of the tenderer must have been rescinded by DMRC/ Central or State Govt. Department / Public Sector Undertaking / Other Govt. entity or local body
after award of contract during last 5 years due to non-performance of the tenderer. The tenderer should submit undertaking to this effect in Form of Tender.

3.5.6 A firm, who has downloaded the tender document in their name, can submit the tender either as individual firm or in joint venture/Consortium.

3.5.7 NON SUBSTANTIAL PARTNERS IN CASE OF JV/CONSORTIUM

a. Lead partner must have a minimum of 51% participation in the JV/Consortium.
b. Partners having less than 26% participation will be termed as non-substantial partner and will not be considered for evaluation which means that their Technical and financial soundness shall not be considered for evaluation of JV/Consortium.
c. In case of JV/Consortium, change in constitution or percentage participation shall not be permitted at any stage after their submission of application otherwise the applicant shall be treated as non-responsive.

3.6 BID BY A CONSORTIUM OF FIRMS

Bids submitted by the Consortium must comply with the following requirements:

3.6.1 The number of members shall not exceed three (3).

3.6.2 The members of Consortium should have entered into a Memorandum of Association (“MOA”) (as per Annexure 7) between themselves. One of the members of Consortium, holding at least 51% of the equity / ownership stake shall be authorized and nominated as the ‘Lead member’ (“Lead Member”) to act and represent all the members of the Consortium for bidding and implementation of the Project. A copy of this MOA shall be enclosed with the Bid.

Formation of SPC

3.6.3 The Lead Member shall hold not less than 51% (fifty one per cent) of the equity of the SPC during the subsistence of the Lease Agreement and that each member of the Consortium whose technical and financial capacity was evaluated for the purposes of award of the Project shall hold at least 26% (twenty six per cent) of such Equity during the subsistence of the Lease Agreement. Replacement of the Lead Member shall not be allowed at any time during the subsistence of the Lease Agreement.

3.6.4 A Bidder or a member of a Consortium can be a member in only one Consortium. If a Bidder / member participates in more than one Bid for the same site / site, all Bids of which it is a part shall be summarily rejected.

3.6.5 All members of the Consortium shall be jointly and severally liable for the execution of the Project during Lease Period in accordance with the terms of the Lease Agreement.

3.6.6 RFP submitted by a firm or Consortium must comply with the following requirements:
• The RFP shall include all the information required for each member of Consortium separately.
• The covering letter (Letter of application as per Annexure-1 of Section 5) must be signed by the Lead Member only in the prescribed format.
• The members of Consortium must clearly spell out their respective roles in the Consortium in the prescribed format only.

3.6.7 If the Selected Bidder is a Consortium, the Agreement shall be signed with the SPC incorporated by such Consortium, however, all members of the Consortium shall be liable jointly and severally, for the execution of the Project in accordance with the terms of the Agreement.

3.7 Change in Composition and Equity Participation of the Consortium

3.7.1 After receipt of the Bid, there shall be no change in composition of Consortium (either inclusion of a new member or exclusion of a member) or proposed shareholding structure as mentioned in the submitted Bid which affects the minimum shareholding requirement of members of the Consortium to decline below the required percentage as provided under Clause 3.6.3 hereinabove till the completion of the Lease Period.

3.7.2 Any change proposed in the equity shareholding pattern of the Consortium in the Special Purpose Company during the Lease Period, within the prescribed limits as mentioned in Clause 3.6.3, shall require prior written approval of DMRC. As and when the SPC is created and entrusted with the task of implementing the Project, the constitutional documents of the SPC and the Board Resolutions authorizing the execution, the delivery and the performance of such tasks will have to be submitted to DMRC.

3.8 Conflict of interest

3.8.1 A Bidder shall not have a conflict of interest (the “Conflict of Interest”) that affects the bidding process. Any Bidder found to have such a Conflict of Interest shall be disqualified. In the event of disqualification, DMRC shall forfeit and appropriate the EMD as mutually agreed genuine pre-estimated compensation and damages payable to DMRC for, *inter alia*, the time, cost and effort of the DMRC, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the DMRC hereunder or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the bidding process, if:

i) a constituent of Bidder is also a constituent of another Bidder; or

ii) Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
iii) Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
iv) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others’ information about, or to influence the Bid of either or each other; or
v) such Bidder or any Associate thereof has participated as a consultant to DMRC in the preparation of any documents design or technical specifications of the Project.

3.8.2 Notwithstanding anything stated herein a Conflict of Interest situation arising at the prequalification stage will be considered to subsist only, as between such Bidders attracting Conflict of Interest provisions on account of shareholdings, who submit Bids under this document.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used shall include each Member of such Consortium. For purposes of this RFP, Associate means, in relation to the Bidder/ members of Consortium, a person who controls, is controlled by, or is under the common control with such Bidder/ member of Consortium (the “Associate”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

3.9 LANGUAGE AND CURRENCY

3.9.1 The Bid and all the related correspondence and documents shall be written in English language only.

3.9.2 The currency for the purpose of the Bid shall be the Indian National Rupee (INR).

3.10 Tender Security (EMD)

3.10.1 The Bidder shall submit a Tender Security Rs. 64,00,000/- (Rupees sixty four lakhs Only); in any one of the following forms in the office of the Executive Director/Contracts before the dead line of tender submission as specified in NIT. Also the scanned copy of the same should be uploaded along with the bids.

(a) Irrevocable bank guarantee issued by a Scheduled Commercial bank based in India or from a branch in India of a scheduled foreign bank in the form given in Annexure-10 of Section V of tender documents.
RFP for Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III corridor

(b) Demand Draft / Pay Order / Bank Draft in favour of Delhi Metro Rail Corporation Ltd. payable at New Delhi from a Scheduled Commercial bank based in India,

(c) Fixed Deposit Receipt (FDR) of a Scheduled Commercial bank / Post office based in India duly pledged in favour of Delhi Metro Rail Corporation Ltd.

In case of joint venture/consortia, Bank Guarantee or FDR for tender security shall be in the name of joint venture/consortia and not in name of individual members. The Tender Security shall remain valid upto to date as specified in NIT under schedule of bidding process clause 2.3(c).

The tender security shall be submitted in a sealed envelope clearly marked on top “Tender Security for Property Development on the Station Box of Phase-III NSP MRTS station”.

3.10.2 Any Tender not having an acceptable Tender Security shall be rejected by the Employer considering it as non-responsive and their Technical package shall not be opened and if opened then it will NOT be evaluated. No post bid clarification shall be sought on tender security.

3.10.3 The Tender Security of the successful Bidder shall be returned upon the execution of the Contract and the receipt by the Employer of the Security Deposit in accordance with Clause 3.11 below.

3.10.4 The Tender Security of bidders who fail in technical evaluation shall be returned after opening of financial package. Tender security of the unsuccessful bidders in financial opening shall be released after unconditional acceptance of the Letter of Acceptance (LOA) by the successful bidder.

3.10.5 The Tender Security / EMD shall however be forfeited in the following cases:

   a) if the Bidder withdraws its Bid during the interval between the Bid Due Date and the expiration of the Bid Validity Period;
   b) if the Selected Bidder fails to make the payments (as per Clause 4.9) within the time specified in this RFP, or any extension thereof granted by DMRC;
   c) If the selected Bidder refuses or neglects to execute the Contract or fails to furnish the required Security Deposit within the time specified or extended by the Employer
   d) if the Bidder does not accept the arithmetic corrections to his Tender price, as per the relevant clause in RFP.

3.11 SECURITY DEPOSIT

3.11.1 The Lessee shall submit an interest free Security Deposit to the DMRC for a sum equivalent to one hundred percent of first year’s Lease Fee (i.e. Lease fee + maintenance fee if any + utility area if any) as per Clause 4.9, for the said Leased Space(s) with a validity of three years. Further, security deposit shall also be submitted.
for advance lease fee of additional area. This Security Deposit shall be submitted within 30 days of issue of the LOA. The Security Deposit shall be in the form of Bank Guarantee / Demand Draft / Pay Order in favour of “Delhi Metro Rail Corporation Ltd.”, drawn on any scheduled commercial bank (except regional, rural & local area bank) acceptable to DMRC and payable at New Delhi. The Bank Guarantee for Security Deposit shall be renewed after every three years for a sum equivalent to one year’s recurring fee (lease fee + maintenance if any + utility area if any) of applicable Lease Fee for that year (i.e. Lease fee + maintenance fee if any) with a validity of three years.

The Bank Guarantee must be issued on the Structured Financial Messaging System (SFMS) platform. A separate invoice of the BG will invariably be sent by the issuing bank to the Employer’s bank through SFMS. The details of Employer’s bank are as under:

   ICICI BANK LTD
   9A, Phelps Building, Connaught Place,
   New Delhi-110001.
   IFSC Code; ICIC0000007

The bank guarantee issued on the SFMS platform shall only be acceptable to DMRC.

3.11.2 The said Security Deposit will be kept valid on a rolling basis till the end of the Lease Period & final settlement of accounts which shall be kept valid for a period of 6 months beyond the lease period or final settlement whichever is earlier.

3.11.3 The Security Deposit would however be forfeited in case of any ‘Event of Default’ as described in the Draft Lease Agreement and/or in accordance with terms specified elsewhere in the Bid Document.

3.12 PROPOSAL PREPARATION COST

The Bidder shall be solely responsible for all the costs associated with the preparation of its Bid and its participation in the bidding process, including all types of due diligence that may be required for the process. The DMRC shall not in any way be responsible or liable for such costs, regardless of the conduct or outcome of bidding.

3.13 VALIDITY OF OFFER

3.13.1 The Proposal shall remain valid for a period not less than one hundred eighty (180) days from the Bid Due Date (“Proposal Validity Period” or “Bid Validity Period”). DMRC reserves the right to reject any Bid that does not meet its requirement. DMRC may however request the Bidders to extend the validity of their Bids for a specified additional period.

3.13.2 A Bidder agreeing to the request will not be allowed to modify its Bid, but would be required to extend the validity of its EMD for the relevant period of extension.
3.13.3 The Bid Validity Period of the Selected Bidder shall stand extended till the date of execution of the Lease Agreement.

3.14 PREPARATION AND SUBMISSION OF PROPOSAL

The Bids should be submitted in the forms prescribed under this section, and the relevant Annexure in Section 5.

3.14.1 The completed Bids shall be accepted only up to the date and time as specified in under the bid schedule of Section-2 of this RFP document. Bids have to be submitted online on the website https://eprocure.gov.in/eprocure/app.

DMRC, at its sole discretion, retains the right, but is not obligated to extend the Bid Due Date, by issuing an addendum to those Bidders who have purchased the Bid document from the office of the DMRC and by also placing the same on the website https://eprocure.gov.in/eprocure/app.

3.14.2 The Bidders shall furnish the information strictly as per the formats given in Section 5 of this document without any ambiguity. The DMRC shall not be held responsible if the failure of any Bidder to provide the information in the prescribed formats results in a lack of clarity in the interpretation and consequent disqualification of its Bid.

3.14.3 In case of a Consortium, wherever required, the Bid must contain such information individually for each member of the Consortium.

3.14.4 In case of a Consortium, the members shall submit a Memorandum of Agreement (MOA) conveying their intent to jointly Bid for the Project. The MOA shall also include the nomination of the Lead Member in the Consortium, and clearly outline the proposed shareholding and responsibilities of each member at each stage of the Project. The MOA should also clearly indicate that all the Consortium Members shall be jointly & severally responsible for execution of the Project & subsequent operationalization of the Lease Agreement during entire Lease Period.

3.14.5 All Proposals/Bids shall be signed by the duly ‘Authorized Signatory’ of the Bidder. In case of a Consortium, the proposal shall be signed by the duly Authorized Signatory of the Lead Member. The Bidders shall submit a supporting Power of Attorney (POA) authorizing the Signatory of the Proposal, to commit the Bidder and agreeing to ratify all acts, deeds and things lawfully done by the said attorney and such POA shall be signed by all members of the Consortium and shall be legally binding on all of them.

3.14.6 The Proposal shall be initialed on each page by the Authorized Signatory in unequivocal acceptance of all the terms and conditions of this Bid Document. All the alterations, omissions, additions, or any other amendments made to the Proposal shall mandatorily be initialed by the Authorized Signatory.
3.14.7 All the witnesses and sureties shall be persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Bid Documents shall be dated.

3.14.8 Bidders are required to submit only one set of the Bids, including the Original RFP issued to them which is signed on each page in acceptance of all the terms and conditions of the Bid Document.

3.14.9 Any firm, which submits or participates in more than one Bid for the said Project shall be disqualified and shall also cause the disqualification of all the Consortia in which it is a Member.

3.15 SUBMISSION OF BIDS
3.15.1 The RFP Document cost and tender security shall be submitted to the office of the Executive Director/Contracts as specified in bid document.

3.15.2 The technical package/qualification documents shall be uploaded online on the website [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app) and shall contain the following:

- Letter of Application and Interest (As per Annexure 1)
- Scanned copy of RFP Document cost and tender security
- General Information of the Bidder (As per Annexure 2)
- Summary of Financial Capability (As per Annexure 3)
- Affidavit (As per Annexure 5)
- Conceptual Site Plans and Area Breakup Statement (As per Annexure 6) as stated in clause 3.2.2 of RFP document.
- Memorandum of Agreement (MOA) in case of a Consortium (As per Annexure 7) Attested (by Distt. Magistrate / Gazetted officer) copy of the Partnership Deed in case of a Partnership.
- Power of Attorney for Signing Of the Application (As per Annexure 8)
- Undertaking for not being banned (As per Annexure 11).
- A declaration (As per Annexure -12) stating that the tender document/addendums/clarifications, if any, placed upto the date of opening of bids on the e-tendering portal [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app] have been downloaded and considered in our tender submission and confirming their unconditional acceptance to all the terms and conditions.

3.15.3 The Financial Proposal (as per Annexure 4) shall be uploaded online on the website [https://eprocure.gov.in/eprocure/app](https://eprocure.gov.in/eprocure/app). The rates shall be quoted in the excel file provided in the bid documents. The tenderer shall download the excel file and after quoting their rates upload the same accordingly. **The rates shall not be offered/quoted elsewhere in the technical submission/ tender submission.**

3.15.4 Tender cost and EMD received after proposal Due Date and time shall not be accepted and online tenders of such tenderers shall liable to be rejected summarily.
3.15.5 DMRC will not be responsible for delay, loss or non receipt of ‘Tender Security’ (EMD) and ‘Cost of Tender Document’ (Tender Cost) sent by post / courier.

3.16 BIDDER’S RESPONSIBILITY

3.16.1 It would be deemed that prior to the submission of the Bid; the Bidder has made a complete and careful examination of:

a) The requirements and other information set forth in this RFP document.
b) The various aspects of the Project including, but not limited to the following:
   (i) The site, existing facilities, encumbrances within the sites and structures, the access to the roads and the utilities;
   (ii) All other matters that might affect the Bidder’s performance under the terms of this RFP, including all risks, costs, liabilities and contingencies associated with the Project.
c) All the Bids shall be signed by the Bidder or the duly authorized signatory of the Bidder.
d) Bidder shall visit the Project Site at its own cost before submitting the Bid.

3.16.2 The DMRC shall not be liable for any mistake or error or neglect by the Bidder in respect of the above. The Bids that are not substantively responsive to the requirements of this RFP document shall be rejected as non responsive.

3.17 MODIFICATION AND WITHDRAWAL OF PROPOSALS

3.17.1 No Proposal shall be modified or withdrawn by the Bidder after the Bid Due Date.

3.17.2 Withdrawal of a Bid during the interval between Bid Due Date and the expiration of the Bid Validity Period would result in the automatic forfeiture of the EMD.

3.18 OPENING OF BIDS

3.18.1 The Technical Package of all bidders who have submitted a valid tender security and cost of tender document shall be opened in the presence of representatives of bidders who choose to attend on date & time as mentioned in tender document in the office of the Executive Director/Contracts, DMRC, 5th Floor, A-Wing, Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi –110001. Bidders may visit DMRC e-procurement web-site to know latest Technical Opening information after completion of opening process. If such nominated date for opening of Tender is subsequently declared as a Public Holiday by the Employer, the next official working day shall be deemed as the date of opening of Technical Package. The Tender of any bidder who has not complied with one or more of the foregoing instructions may not be considered.

3.18.1(a) On opening of the Tender, DMRC will first check the tender cost and tender security through online mode by cross verifying with the hard copy submitted.
3.18.1(b) If the documents do not meet the requirements of DMRC, a note will be recorded accordingly by the Tender Opening Authority.

3.18.1(c) The bidders name, details of the tender security and such other details as the DMRC or his authorized representative, at his discretion, may consider appropriate will be announced at the time of tender opening.

3.18.1(d) The digitally signed financial package which bidder have uploaded online will be opened on a subsequent date after evaluation of technical packages. Financial packages of only those bidders whose submissions are found substantially responsive and technically compliant to the tender conditions will be opened. The time of opening of financial package shall be informed through website only. Bidders can visit to DMRC e-procurement website for further information.

3.18.2 The DMRC reserves the right to reject any Proposal and forfeit the EMD, if

a) It is not signed, sealed and marked as stipulated in Clause 3.16.

b) The information and documents have not been submitted as requested and in the formats specified in the RFP.

c) There are inconsistencies between the Proposal and the supporting documents.

d) It does not mention the validity period as set out in Clause 3.13.

e) It provides the information with material deviations, which may affect the scope or performance of the Project.

f) There are conditions proposed with the Technical and/or Financial Proposals.

3.18.3 A material deviation or reservation is one:

a) which affects in any substantial way, the scope, quality, or performance of the Project, or

b) which limits in any substantial way, inconsistent with the RFP document, the DMRC’s rights or the Bidder’s obligations, or

c) which would affect unfairly the competitive position of other Bidders’ presenting substantially responsive Bids.

d) No request for modification or withdrawal shall be entertained by the DMRC in respect of such Proposals.

3.19 RESPONSIVENESS OF BIDS

3.19.1 Before evaluation of Bids, DMRC will determine whether the Bid is responsiveness to the requirements of Bid Documents. A Bid/Proposal shall be considered ‘responsive’ only if:-

i) it is received by the deadline for submission of Bid/Proposal;

ii) It contains information complete in all respect as required in the Bid Documents(in the formats specified);

iii) it is signed, sealed and marked as stipulated;
iv) it is accompanied by receipt of Bid Document Fee;
v) it is accompanied by the EMD/ Bid Security;
vi) it is accompanied by the relevant Power(s) of Attorney(ies) and Undertakings as specified in Bid Forms;
vii) The document is accompanied by the Checklist as prescribed.

3.19.2 If any of the above criteria is not fulfilled, in any manner whatsoever, the proposal shall be treated as non-responsive. The decision of DMRC on the responsiveness of the Bid shall be final and conclusive and binding on the Bidder and shall not be called into question by any Bidder on any ground whatsoever. Any Bid/Proposal which is non-responsive may be rejected.

3.19.3 To facilitate checking the responsiveness and evaluation of Bids, DMRC may at its sole discretion, without being under any obligation to do so, reserve the right to call for any clarification from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by DMRC for this purpose. If the Bidder does not provide the clarification sought within the prescribed time, its Bid shall be liable to be rejected. In case it is not rejected, DMRC may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding.

3.19.4 No Bidder shall however have the right to (i) give any clarification unless asked for by DMRC, in any manner whatsoever, with respect to the bidding process, or (ii) intervene in any manner whatsoever, in the bidding process.

3.20 EVALUATION OF BIDS

The Bids of the Bidders shall be evaluated in two stages. “Tender Security” and “Technical Qualification” will first be evaluated which will cover following items:

3.20.1 First of all it will be determined whether each tender is accompanied with the valid tender security i.e. the required amount and in an acceptable form as stated in Clause 3.10 above. Tenders not accompanied with the valid tender security shall be rejected and may not be evaluated further. Other aspects of technical evaluation will be done as per Clause 3.5, 3.6, 3.8, 3.13, 3.18 and 3.19 above.

3.20.2 Bids not considered substantially responsive and not full-filling the requirements of the tender document as evaluated above shall be rejected by DMRC and shall not be allowed subsequently to be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

3.20.3 If any tender is rejected, pursuant to paragraph 3.20.2 above, the Financial Package of such bidder shall not be opened.

3.20.4 The decision of DMRC as to which of the tenders are not substantially responsive shall be final.
3.20.5 In case of those Bidders who have not met the eligibility criteria then the Financial Bids of such bidder shall not be opened.

3.20.6 Evaluation of Financial Proposals:

All technically acceptable tenders will be eligible for opening of their financial proposals. DMRC shall notify all technically qualified Bidders to attend the opening of the financial proposal. The financial proposal will then be opened online in front of attending Bidders.

DMRC will evaluate and compare the Bids previously determined to be eligible and responsive. If there is a discrepancy between words and figures, the amount in words shall prevail and shall be binding on the Bidder. Bidders shall note that in case of difference between the calculations submitted by the Bidder and the calculations computed by DMRC (if any), the calculations computed by DMRC shall prevail.

The Bidders with the highest Bid may also be requested to make a presentation at their own cost, for clarifications, additional information on Bidder’s capability, concept plan and the business proposal in this regard to DMRC. DMRC may seek further clarifications and make suggestions in respect of the proposal which should not in any manner effect a change in the Lease Fee quoted by such Bidder or the manner of its payment and also should not constitute any material deviation affecting the relative position of any Bidder and also should not be inconsistent in any substantial way with the Bid Documents. The Bidder shall be obliged to incorporate these suggestions in his planning/proposals.

3.20.7 The arithmetical errors will be rectified on the following basis. If there is a discrepancy between words and figures, the amount in words will prevail. If the Bidder does not accept the correction of errors, its Bid shall be rejected & the EMD shall be forfeited.

3.20.8 The Bidder found eligible and quoting the highest amount as Lease Fee in its Proposal shall normally be declared as the Selected Bidder for the Project.

3.20.9 In the event of two or more technically qualified Bidders quoting same amount in financial proposal for the Project, DMRC may ask the tie Bidders to submit their revised Financial Proposals with the amounts quoted by them earlier as reserve price for such Financial Bid. In such case, the Bidder who amongst the tie Bidders, quotes the higher amount in the revised Financial Bid will normally be declared as the Selected Bidder for the Project.

3.20.10 However, the confirmation of the highest Bid shall be at the sole discretion of the DMRC who does not bind itself to confirm to the highest Bid and reserves the right to reject the Bid without assigning any reasons whatsoever.

3.20.11 Further, in the event of the highest Bidder withdrawing its offer or not being selected for any reason in the first instance for the Project, (the "First Round of Bidding"), DMRC without being under any obligations to do so, may, at its sole discretion, either invite the next higher Bidder to revalidate and/ or extend its EMD, as necessary and also match.
the Bid of the aforesaid highest Bidder for the Project or annul the bidding process as deemed appropriate by DMRC in its sole discretion.

3.21 RIGHT TO REJECT BIDS

3.21.1 The DMRC reserves the right to reject any Bid if it is of the opinion that the Bidder lacks the expertise, experience and is not in possession of requisite infrastructure required for the purpose of the Project. The discretion of the competent authority of DMRC in this respect shall be final and binding on all the Bidders.

3.21.2 The DMRC reserves the right to reject any/all Bids including the highest Bid or withdraw the Bid at any stage without assigning any reasons whatsoever. Nothing contained herein shall confer a right upon a Bidder or any obligation upon the DMRC.

3.21.3 The Bidder hereby voluntarily and unequivocally agrees that DMRC shall not be under any obligation or be liable for any acceptance, rejection or annulment of any/all Bids and the Bidder shall not to seek any claims, damages, compensation or any other consideration whatsoever on this account, from DMRC.

3.22 MISREPRESENTATION/FRAUD/BREACH OF TERMS AND CONDITIONS

3.22.1 If it is discovered at any point of time that any Bidder has suppressed any facts or has given a false statement or has made any misrepresentation or has committed a fraud or has violated any of the terms of this Bid, the Bid shall be disqualified by DMRC. If the Bidder is a Consortium, then the entire Consortium and each Member shall be disqualified/ rejected. In such an event, the Bidder shall not be entitled to any compensation whatsoever, or refund of any amount/s deposited / paid by it.

3.23 DISPUTES

3.23.1 All disputes between the selected Bidder and DMRC shall be settled as per the Dispute Resolution procedure elaborated in the draft Lease Agreement. During the bidding process, no dispute of any type would be entertained. Even in such cases where DMRC asks for additional information from any Bidder, the same cannot be adduced as a reason for citing any dispute.

3.23.2 The Courts at Delhi shall have the sole & exclusive jurisdiction to try all the cases arising out of this RFP document.

3.24 CONFIDENTIALITY

3.24.1 The information relating to the examination, clarification, evaluation and recommendation for the short-listed Bidders shall not be disclosed to any person not officially concerned with the process. DMRC will treat all the information submitted as part of all the proposals in confidence and will insist that all that have access to such material treat it in confidence. DMRC will not divulge any such information unless it is
ordered to do so by any Government Authority that has the power under law to require its disclosure or due to statutory compliances.

3.25 ACCEPTANCE OF THE OFFER

3.25.1 After the Bids are accepted by the competent authority of DMRC, the LOA shall be issued to the Selected Bidder.

3.26 EXECUTION OF LEASE AGREEMENT

3.26.1 The Selected Bidder shall be required to pay the Upfront Lease Fee (Service Taxes extra) as per prescribed schedule and deposit the requisite Security Deposit to the DMRC within 30 days of issue of the LOA.

3.26.2 The Lease Agreement shall be executed within a period of 7 days from the payment of Upfront Lease Fee & Security Deposit by the Selected Bidder to the DMRC which shall be the Commencement Date of the Project. Prior to signing of the Lease Agreement, the Selected Bidder shall submit the certified true copies of all resolutions adopted by its/their Board of Directors authorizing it/them for the execution, delivery and performance of this Agreement to the DMRC.

3.26.3 The access to the Leased land shall be granted to the Selected Bidder within 180 days of the execution of the Lease Agreement.

3.26.4 The responsibility for registration of lease agreement shall vest with the selected bidders. The cost of stamp duty for execution of the Lease Agreement, the registration charges and any other related documentation charges and the incidental charges will be borne by the Selected Bidder.

3.26.5 In case of failure to sign the Lease Agreement within the stipulated time, the DMRC shall retain the right to cancel the LOA and forfeit the Bidder’s EMD and any other amount deposited till that time without being liable in any manner whatsoever to the Selected Bidder.

3.26.6 The failure to meet the abovementioned conditions, shall be construed as a breach of the Selected Bidder and DMRC shall be entitled to cancel the LOA without being liable in any manner whatsoever to the Selected Bidder and appropriate the EMD and any other amount deposited till that time as ‘Damages’.

3.27 UNSUCCESSFUL BIDDERS

The Tender Security received from the Bidders who are not selected shall be returned by DMRC within 30 (Thirty) days of the declaration of the Selected Bidder. The EMD/ bid security shall be returned without payment of any interest.
SECTION 4

GENERAL CONDITIONS
OF
LEASE AGREEMENT
SECTION 4
GENERAL CONDITIONS OF LEASE AGREEMENT

4.1 Entry to the Site for work and Increased FLOOR AREA
4.1.1 Since the construction of Station building is scheduled to be completed by March 2017, The Selected Bidder shall be granted access to the subject land to construct, operate, manage and maintain the subject site as mentioned in Clause 2.1 of this RFP and as detailed in Annexure – 6 of this RFP document within 180 days of the execution of Lease Agreement (commencement date) which shall be executed within a period of 7 days from the payment of Upfront Lease Fee & Security Deposit by the Selected Bidder to the DMRC (hereinafter referred to as “Commencement Date”).

4.1.2 In case any additional FAR over and above the existing FAR (the ‘Additional Area’) is available in future, the Additional Area may be allotted to the Lessee at the sole discretion of DMRC on the request made by the Lessee upon payment of additional Upfront Lease Fees (at applicable rate at that time by increasing @20% every three year as done in the case of recurring payment) and the Annual Lease rate of Lease Fee on the date of such request made by the Lessee on pro rata basis. The Lease Period of such Additional Area shall however be co-terminus with the Lease Agreement. All cost associated with the additional FAR including but not limiting to the FAR conversion charge will be borne by Lessee.

4.1.3 Additional FAR through possible implementation of TOD Norms:
Benefit of TOD on this plot could not be availed as the foundation of the building has been designed for load of about 5 RCC floors. However, in future, if any advantage of increased FAR area due to TOD may be availed as “Additional Area” per clause 5.1.1 of this document.

4.2 Period of ‘Lease’
4.2.1 The Lease granted under the Lease Agreement shall be valid for a period of 50 (Fifty) years from the Commencement Date or earlier if the lease Agreement is terminated by the DMRC at its sole discretion. The Selected Bidder shall be obliged to pay the Lease Fee and all other payments as per the terms of the RFP and Lease Agreement during and for the period of lease

4.3 Construction and Fitout Period (Moratorium Period)
4.3.1 For carrying out the construction, fitout and furnishing works etc. the successful bidder would be permitted a Lease Rent Fee free period upto 1 year for the area leased on Concourse floor and 3 years for the area above concourse (to be developed by selected bidder) from the date of signing of the Lease Agreement (hereinafter referred to as “Moratorium Period”).
4.4 **Right to Sub-Lease**

4.4.1 The Lessee (considering Bidder as lessee) shall be entitled to sub-Lease the built up site to any person or entity (the “Sub-Lessee”), only after adding the necessary structures and utility services. Further licensing by a Sub-Lessee to sub-sub-lessee shall be permitted. Further licensing by a sub-sub-Lessee shall not be permitted.

4.4.2 The sub-Lease shall however be for the use of the Site, during the subsistence of the Leased Period only with a clear stipulation that all such sub-Lease granted shall terminate simultaneously with the termination of the Lease Agreement, including on sooner determination of the Lease Period for any reason whatsoever. All contracts, agreements or arrangements with Sub-Lessee shall specifically stipulate this covenant of termination of the rights of the Sub-Lessee, and further that such Sub-Lessee shall not have any claim or seek any compensation from DMRC for such termination.

4.4.3 The Lessee shall prepare a draft standard format of the sub-Lease agreement, which will be required to be signed by the Sub-Lessee for use of the subject Site. Prior written approval of DMRC shall be obtained by the Lessee in respect of such standard draft. DMRC may specify certain covenants to be incorporated in the sub-Lease agreement to protect its interests. Only after such covenants are incorporated in the sub-Lease agreement, the Lessee will be entitled to enter into Sub-Lease agreement and shall be required to submit copies of each such Leases to DMRC for verification and record. In case of any deviation from the above-mentioned standard draft sub-Lease agreements, the Lessee shall obtain the prior written consent and approval of the DMRC before entering into an agreement with a Sub-Lessee. DMRC reserves the sole right not to give consent/approval to such a request and no compensation or claim on this account will be entertained in this regard.

4.4.4 At any point of time, the Lessee shall not enter or cause any of its Sub-Lessee to enter into any sub-Lease agreement with any person or entity for transfer of its rights which would adversely affect the interests of DMRC or is not available to the Developer in the first place. Any such act of the Developer or Sub-Lessee shall render the Lease Agreement liable for termination at the sole cost and expense of the Lessee.

4.5 **End of the Lease Period**

4.5.1 At the end of the Lease Period by efflux of time or premature termination for any reason whatsoever, all rights given under the Lease Agreement shall cease to have effect including its rights over the subject Site and the entire facility thereof shall transfer back to DMRC, at nil value and in good operable condition. The Lease Agreement does not create any property rights in favour of the Lessee and the property at all times belongs to DMRC. All the furniture and fixtures and other assets permanently attached to the Project Facility shall revert to DMRC without any obligation on DMRC to pay or adjust any consideration or other payment to the Lessee. DMRC at its own discretion may allow the sub-Lessee / tenant(s) / end user(s) to continue on mutually negotiable terms and conditions.
4.5.2 For the purpose of clarification, at the end of the Lease Period, on any ground whatsoever, the DMRC shall have the absolute right to run the Project Site on its own, or re-Lease or lease it to any third party or to manage it in any other manner as it may deem fit in its sole discretion.

4.6 Detailed Scope of Work for the Project

4.6.1 Programme of Works and Procedure

The lessee shall prepare and submit his detailed Programme work so that he is able to achieve following key dates:

1. Pre planning of project and obtainance of applicable permits and approvals from DMRC and concerned local authorities, necessary to commence construction work – Within 180 days of the signing of License Agreement.
2. Construction and development as per approved plans including fit outs – Within 36 months of the date of execution of License Agreement.

It is expressly clarified that the recurring payments shall commence after the expiry of moratorium period starting from the date of execution of License Agreement, save as on for the reasons mentioned in Clause 4.10.

4.6.1.1 During the Construction

a. The lessee shall ensure that the construction of Project facility is undertaken with minimal inconvenience to the traffic and ensure that adequate safety personnel are deployed on the site having relevant experience and skills for implementation of project.

b. The lessee shall comply with all safety regulations applicable, in its design, access arrangements and operations on the Project site. The lessee shall be responsible for the operation of machinery and any other work and shall take all precautions to ensure safety of staff, labourers and public.

c. The lessee shall be responsible for keeping unauthorized persons off the Project site and authorized persons shall be limited to, employees of lessee, employees of sub-contractors and employees and persons authorized by DMRC.

d. The lessee shall arrange for all material requirements for the Project and disposal of all material wastes.

4.6.1.2 After the Completion of Construction

a. The lessee shall carry out the design and construction in strict compliance with all applicable laws, applicable building codes and good industry practice.

b. The lessee shall be solely responsible and liable, at his own cost, for all maintenance and upkeep and repairs of the commercial facilities. The lessee shall ensure that floor, walls and ceilings in corridors and common areas are kept clean, litter free at all times.

c. The exteriors and interiors of the building, especially structural elements shall be inspected, repaired and painted on regular basis. Repair of damaged civil structure, cladding materials/fixtures, doors and windows, plumbing sanitary, electrical and HVAC etc shall be carried out promptly.
d. The lessee shall prevent encroachment of unauthorized areas and ensure free passage for movement of people with adequate lighting provisions.

4.6.2 Planning and Design

4.6.2.1 Structural Designs will be got done by the Lessee from a highly reputed Structural Design Consultant duly approved by DMRC. Proof checking of the Structural designs will be done by DMRC before allowing construction. Construction including its quality assurance, Labour welfare etc. will have to be done by the Lessee in line with standard regulations and practices and in a manner to the satisfaction of DMRC.

4.6.2.2 Bidder shall ensure to conform the byelaws requirements of all regulatory & statutory bodies in respect of fire hazard, ventilation, safety, security, evacuation during disaster alarm etc. and it incorporates an efficient parking layout including proper entry/exit for smooth and congestion free traffic circulation.

4.6.2.3 Bidder is required to submit the proposed layout drawing for all floors reflecting occupancy and usage for DMRC approval.

4.6.2.4 Before accepting the proposal, DMRC may require the bidder to make a visual presentation on the project proposal to satisfy itself about the adequacy & acceptability of the proposed design etc.

4.6.2.5 The Project Development encompassing the facilities mentioned herein shall not, in any case, compromise with the convenience of the commuters/visitors of the Metro Station.

4.6.2.6 The Commercial development must conform to the existing building regulations of the civic authorities. The car park should have parking facilities for day as well as night.

4.6.2.7 Power Supply:

Power supply maximum will be made available at one point to the developer on DERC/commercial rates by DMRC for this commercial development. However, if any back-up arrangement is preferred, the same shall be provided by the Lessee and he will be solely responsible for all aspects related to it.

DMRC will supply electric power required by the developer. The tariff and all terms and conditions will be as per DERC regulations, applicable from time to time. The Lessee shall also charge tariff from his customers at rates stipulated by DERC.

4.6.2.8 Development of dedicated parking in the two basements and in the open space surrounding the station building of around 250 ECS shall be in the scope of the lessee. If lessee is unable to achieve permissible ECS, only then lessee shall be free to develop additional parking space in the 2000 sqm (approx) land plot in the existing Netaji Subhash Place metro station in the form of multi-level parking (without commercial), cost of which shall be completely borne by the lessee. Stilt floor in this multi-level parking shall be allocated by the lessee for commuter parking which shall be managed by DMRC.
4.6.2.9 All design – Structural, E & M work, Fire-fighting/ detection, elevators, signage, parking system etc. will have to be get approved by the Lessee from DMRC, before execution.

4.6.2.10 All temporary diversion works which will be required for the smooth flow of running traffic in order to carry out the works without any interruptions including all safety precautions. Signage, barricading, emergency lighting etc. Lessee shall provide barricading along the work site.

4.6.2.11 The Lessee has to ensure cleanliness of the roads and footpaths by deploying manpower for the same. The Lessee shall have to ensure proper brooming, cleaning and washing on all times.

4.6.2.12 Barricading and housekeeping of the leased premises should be as per DMRC standards.

4.6.3 Approvals from DMRC

4.6.3.1 All communication in all matters regarding the approvals related to the subject Site shall be forwarded to the nodal officer as appointed by the DMRC. The nodal officer shall act as a single window for the Lessee and shall be responsible for all the matters related to the subject Site.

4.6.3.2 The Lessee shall forward all requests, such as approval of plans etc. related to the Leased Site(s) to the nodal officer. Such requests, if completed in all manners, may be approved / rejected / processed / amended (in case other organizations are involved for approvals such as DFS, DDA etc) by the DMRC within 60 days of the receipt of the request.

4.6.3.3 The nodal officer for this Bid will be the Executive Director (Property Development), DMRC or any other successor officer nominated by DMRC in this regard.

4.6.4 STATUTORY CLEARANCES

4.6.4.1 The Lessee shall be required to adhere to the building design, but there are no limitations on planning and subdivision of the interior floor site. However, within these parameters, maintaining the structural safety and integrity shall be the sole responsibility of the Lessee. The Lessee shall also ensure that the proposed property development is neither an impediment for smooth flow of traffic nor a safety hazard for the station structure and for commuters. The Lessee shall also ensure that all station utilities and facilities falling within the subject Site, if any, will be kept accessible and the Lessee shall not interfere or tamper with those installations at any time.

4.6.4.2 Notwithstanding anything mentioned above, the Lessee is required to adhere to the provisions of the prevailing master plan and the building bye-laws of the authorities having jurisdiction over the Project Site for the development works to be undertaken.
4.6.4.3 Lessee will submit the plans and drawings to DMRC for clearance so as to enable them to submit these plans further to other statutory bodies for approvals.

4.6.4.4 The Lessee shall be responsible to comply with all the requirements and obtain all clearances and sanctions as required from the competent authorities for building sub-plans, utilities, fire fighting, etc. It is to be clearly understood that all such clearances are to be obtained by the Lessee and the DMRC may only provide assistance wherever possible without any obligation. Lessee shall develop appropriate design by adopting good national/international standards and best practices. Requisite approvals from local authorities will required to be taken by Lessee.

4.6.4.5 Procuring all the permissions/licenses etc. required from the statutory/regulatory/civic authorities concerned, to be able to use the Leased Site(s) for desired commercial purposes/business, will be sole responsibility of the Lessee. DMRC shall not be responsible for any such procurement and shall not entertain any claims in this regard.

4.6.4.6 DMRC has no objection is the lessee intends to develop Multiplex or Miniplex in the leased area, however the lessee shall have to abide by the The Cinematograph Act, 1952, along with its latest amendments and obtain approvals from the concerned statutory/regulatory authorities.

4.6.4.7 The Lessee shall make fire-fighting arrangements of his own for the entire site. Such fire-fighting arrangements should conform to the National Building Code, Delhi Building Bye-laws and Delhi Fire Safety (Fire Prevention) Rules throughout the lease period.

4.6.4.8 If during the Lease period, any loss of property and/or life takes place, the loss and account of the same shall be borne entirely by the Lessee/developer and DMRC shall not be liable for any such claims. The Lessee/developer would be responsible for the payments arising out of any third party claims. The developer is advised to procure insurance for meeting such liabilities at his own cost.

4.6.4.9 The Lessee shall at all times adhere to all provisions of the Delhi Metro Railway (Operation And Maintenance) Act, 2002 and amendments thereto and shall also comply with all notices and circulars issued by DMRC in this regard.

4.7 ASSIGNABILITY & ENCUMBRANCES

4.7.1 Except for sub-leasing the use of the Leased Site(s) as per the terms of this RFP, the Lessee shall not assign any of its rights, or interest in this Lease Agreement in favour of any company/person(s) at any time and for any reasons whatsoever.

4.7.2 The lessee may subject to the first and paramount charge of DMRC over the receivables from the sub-licensees and other users of the built up space and facilities, for the payment of the amounts becoming due to DMRC, create second or further charge over the receivables as the security to recognized Financial Institution(s)/Banks for financial
assistance and funding of the Project subject to prior written approval of Licensor (DMRC). DMRC reserves the right not to give such approval. The lessee hereby voluntarily and unequivocally agrees not to seek any claim, compensation, damages or any other consideration whatsoever on account of non-issue of such approval.

4.7.3 Under no circumstance, shall the building or facilities constructed or installed at the Leased Site(s) be mortgaged, charged or otherwise any lien (including negative lien), charge or encumbrance be created or agreed to be created in favour of any person, including the Lenders / Financial Institution(s) / Banks etc.

4.7.4 Further, it is clarified that the Lessee will be completely responsible for any loss of life or property in case of an emergency and/or due to the non-functioning of any system, including but not limited to the fire safety system that is exclusively under scope and control of Lessee. The DMRC shall not be responsible for any loss of life and property in PD premises due to any reason including but not limited to malfunctioning of the fire system in case of any fire emergency within the Leased site.

4.8 PAYMENTS TO DMRC

4.8.1 In lieu of the rights transferred to the Lessee for the subject Site, the Lessee shall make following payments to DMRC in manner given below:

a) **Part A: Fixed Upfront Fee** (Non Refundable and Non Negotiable): Fixed upfront fee for space is Rs. 40,00,00,000 (Rupees 40 crore only) which bidder has to pay in 2 installments. The stages of installments are as under:-

<table>
<thead>
<tr>
<th>Stage</th>
<th>Time of Payment</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Within 30 days of issue of LoA</td>
<td>Rs. 20 Crores</td>
</tr>
<tr>
<td>II</td>
<td>Within 36 months of date of execution of License Agreement i.e before expiry of ‘moratorium period’</td>
<td>Rs. 20 Crores</td>
</tr>
</tbody>
</table>

The 1st Stage of upfront fee is payable before signing of the Lease Agreement.

b) **Part B: Advance Lease Fee (as Bid Variable to be quoted by bidder)**

In addition to any outstanding dues over the Lessee, it shall make advance payments for **Lease Fee of Rs. ______ per sqm of the leased area** only on quarterly basis to the DMRC at the rate quoted in its Financial Bid (Refer to the format given in **Annexure 4** of Section 5) within 7 days of commencement of respective quarter. All the taxes including the service tax, as applicable from time to time shall also be paid by the Lessee in addition to the amount of the quoted rate of the Lease Fee. The Advance Lease Fee shall be payable from the day falling after the date of the completion of the Moratorium Period.
The Advance Lease Fee for a specified quarter shall be worked out by multiplying the area of the Leased Space(s) with the per month quoted rate of Lease Fee and further multiplying it by 3 (Lease Fee = Area X NN\(^1\) X 3).

c) Service tax as applicable will be borne solely by the Lessee.

d) All other statutory taxes, statutory dues, local levies, **stamp duty** as applicable shall be charged extra from the Lessee. **Property tax of the Leased area shall be paid by lessee directly to the respective authority at applicable rates.** The Lessee shall indemnify DMRC from any claims that may arise from the statutory authorities in connection with this Lease Agreement.

e) Lessee shall also pay for additional area charges for the additional area, which may be requested by the Lessee and made available by DMRC subject to availability/feasibility. Recurring charges of 100% of the lease fee and proportionate escalated upfront shall be payable by the lessee for any such allotment of additional area for commercial use. If additional area is required for the installation of services/utilities, recurring charges of 50% of the lease fee shall be payable by the lessee for such allotment.

4.8.2 The Advance Lease Fee referred to above shall be escalated @ 20% every 3 (three) year from the date of commencement. Other applicable charges such as security deposit shall be escalated @20% every 3 (three) year from the date of commencement.

The Advance Lease Fee in Clause 4.8 for the subject Site shall become payable from the day after the date of completion of the Moratorium Period.

The moratorium period of 1 year for the area leased on the concourse floor and 3 years for the area above the concourse (to be developed by lessee) shall commence from the date of signing of lease agreement i.e. commencement date.

4.8.3 In case of extension of the Commencement Date or Moratorium Period or both, as the case may be, for whatsoever reason, the escalation on the Advance Lease Fee and other charges, if applicable, shall be counted @ 20% every 3 year from the date of commencement. The Lessee will make the payments for each quarter in advance within seven days of the commencement of the respective quarter.

4.8.4 Any delay in payments in the preceding Clauses shall attract penalty of interest @20% per annum on the amount outstanding (calculated on a per day basis), till the time the respective payments have been received by DMRC. The delays beyond 60 days of the due dates for the payment of the respective Advance Lease Fee shall be treated as ‘Lessee Events of Default’. In such an eventuality the DMRC retains the right to en-cash the Security Deposit and claim damages from the Developer and even terminate the
Lease Agreement as mentioned in the ‘Security Deposit’ Clause of the Draft Lease Agreement.

4.8.5 In the event of default of Lessee in making payments of Upfront Lease Fee, Advance Lease fee, taxes or any other dues towards DMRC in prescribed time, DMRC shall have the rights including but not limited to restrict the access of Lessee in leased premises and recover all dues along with interest.

4.9 **Extension of Date of Commencement / Moratorium Period / Lease Period**

If in event of, the progress of work being delayed by any act or neglect of DMRC or its employees or by other contractor / Lessee employed by DMRC or in executing the works on which Lessee’s performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighbouring owners or public authority arising otherwise through the Lessee’s own default etc, then upon happening of any such event Lessee shall immediately bring it to the notice of DMRC within 30 days of happening of such an event and accordingly either Commencement Date or Moratorium Period or Lease Period individually or in combination may be extended suitably, as in the opinion of DMRC are reasonable having regard to the nature and period of delay and the type and quantum of works affected thereby.

Apart from above, the Lessee shall not be eligible for any other compensation for works so carried forward to the extended period of time. In addition, Lessee shall also make constantly its best endeavours to bring down or make good the delay and shall do all that may be reasonably required to the satisfaction of DMRC to proceed with the works.

Any failure or delay by DMRC to provide the Lessee possession of the Leased Site(s), or to give the necessary permission or necessary drawings or instructions or any other delay caused by the DMRC due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the Lease Agreement or alter the character thereof or entitle the Lessee to any damages or compensation.

Nevertheless, in the event of the delay being due to reasons being attributable to Lessee, or its failure to complete its obligations within specified time as per the Lease Agreement, for the reasons other than the reasons attributable to DMRC, Lessee shall not be entitled for any extension of date of Commencement Date or Moratorium Period or Lease Period whatsoever.

4.10 Operational structures existing in the area, if any, will not be disturbed by Lessee. The setbacks should be planned in such a way that the existing structures should not be disturbed till the alternative one, if any, is not commissioned.

4.11 The operational structures of DMRC including station building, ancillary buildings, commercial portion under occupation by DMRC’s Lessee, and area under setbacks etc. will not be handed over to the Lessee at any time.
4.12 Lessee will provide safe access passage for station commuters at all times. Passage shall be in accordance with requirements of DMRC during the entire term of Lease Agreement.

4.13 Lessee shall provide unfettered access to the authorized representative of DMRC and its operation staff for the purpose of maintenance works, if applicable, inside the specified area at all times during the Lease period.

4.14 The Lessee will have to take statutory clearance from DMRC and other concerned government agencies for removal of existing trees, if any, from the site.

4.15 The Lessee shall plan the layout in such manner that it provides access to station and ancillary buildings such as ASS room, Fire sump and pump room etc all the time, as well as meets the requirement of Bye laws enacted by local bodies.

4.16 The Lessee will not cordon off the metro station, and fire access road from project site, by constructing any structure which restrict visibility and may cause obstruction to fire tender route / fire escape area. Lessee will also ensure visibility on the surroundings of metro station from and to the project site.

4.17 The shifting of the existing operational structures and utilities, if found during excavation or otherwise, on the subject site shall be done by the Lessee under the supervision of DMRC.

4.18 During the construction activities the Lessee shall strictly follow the guidelines issued by DMRC and DMRC’s manuals on Safety, Health and Environment and Safety, Health and Occupational Hazard on construction sites (OHSAS Manual).

4.19 Lessee shall ensure the quality of the work and submit Audit Report on Quality of Construction and Material before and after commencing the construction work.

4.20 Lessee shall design the proposed Property development building for design life of 90 years or higher.

4.21 Lessee shall also indemnify DMRC against any damages / claims due to any loss of life or property due to construction / operation of the property development project.

4.22 Lessees shall strictly adhere to the extant bye laws, rules issued by the local authority during entire lease period.

4.23 Lessee shall study the Traffic Impact Assessment of the project and provide the amenities / service area / parking etc. to cater the additional demand generated due to commissioning of the Project.

4.24 The Lessee will have to satisfy himself for business prospects, development parameters and applicable norms, and certify that he has made site visit and conversant to the site proposed for property development before undertaking the bid submission process in the subject area. No compensation, claim or damages will be entertained by DMRC in this regard. The Lessee shall develop the project facilities and thereafter operate and
maintain them throughout the Lease Period. The act of granting permission to develop the Project Facility at the Site and to Lease the use of the Project Facility or any part thereof shall not vest or create any proprietary interest in the Project Facility or any part thereof including any permanent fixtures, fittings, etc. installed in the structure of the Project Facility in favour of the Lessee or any Sub-Lessee.
SECTION 5

(ANNEXURES)

Formats for Submission
Annexure 1
Letter of Application
(To be submitted and signed by the Bidder’s authorized signatory)

The Executive Director / Contracts,
5th Floor, “A” Wing, Metro Bhawan,
Fire Brigade Lane, Barakhamba Road,
New Delhi 110001.

Sub: RFP for Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III corridor

Sir,

1. Being duly authorized to represent and act for and on behalf of…………………………………………………(hereinafter referred to as the “Bidder”), and having studied and fully understood all the information provided in the Bid Document, the undersigned hereby applies as a Bidder for Property Development for Retail cum Commercial Development with option of Multiplex for 18,452 sqm FLOOR area on the station box of the Netaji Subhash Place MRTS station of DMRC’s Phase-III corridor , (hereinafter referred to as “Project”) on Lease basis, according to the terms & conditions provided by DMRC.

2. The Tender Security in the form of Demand Draft / Pay Order / Bank Draft / irrevocable bank guarantee / Fixed Deposit Receipt in favor of Delhi Metro Rail Corporation Ltd. have been deposited before dead line of tender submission as specified in NIT”.

3. DMRC and its authorized representatives are hereby authorized to conduct any inquiries/investigation to verify the statements, documents and information submitted in connection with the application and to seek clarification regarding any financial and technical aspects. This letter of application will also serve as authorization to any individual or authorized representative of any institution referred to the supporting information, to provide such information deemed necessary and requested by yourselves to verify statements and information provided in the application or with regard to the resources, experience and competence of the Bidder.

4. DMRC and its authorized representatives may contact the following persons for any further information:

   Name of the person (s): ...........
   Address: .................................
   Phone: .................................  Fax: ........................
5. This application is made with full understanding that:
   (a) Bids will be subject to verification of all information submitted at the time of bidding.
   (b) DMRC reserves the right to reject or accept any bid, cancel the bidding process, and/or reject all bids.
   (c) DMRC shall not be liable for any of the above actions and shall be under no obligation to inform the Bidder of the same.

6. We, the undersigned declare the statements made, and the information provided in the duly completed application forms enclosed, are complete, true and correct in every detail.

7. We hereby confirm that we have read, understood and accepted all the detailed terms and conditions of this RFP and Project related Information as required for the Bid. We have also visited the Project Site for the assessment and have made our own due diligence and assessment regarding the Project.

8. We agree to keep our offer valid for one hundred eighty (180) days from the date of submission of Proposal thereof and shall not make any modifications in its terms and conditions, which are not acceptable to the DMRC and are in violation of the terms of the Bid Documents. We hereby agree to abide by and fulfill all the terms, conditions and provisions of the aforesaid documents.

9. This application is made with the full understanding that the validity of bids submitted by us will be subject to verification of all information, terms and conditions submitted at the time of bidding and its final acceptance by DMRC. We agree that, without prejudice to any other right or remedy, DMRC shall be at liberty to forfeit the entire EMD.

Authorised signatory Date:
Name and seal of Bidder Place:

Encl:
1) The Tender Security of Rs.____________/- (Rupees ___________ only) and/or ____________/- (Rupees __________ only) in the form of Demand Draft/Pay Order/ BG bearing No. ______drawn upon ________ (bank) dated ________.
2) Power Of Attorney for signing of Application Board resolution authorising the signatory (Suggested Format at Annexure 8)
3) Memorandum of Agreement (MOA) in case of a Consortium
4) Relevant Submissions as per the given Formats.
Annexure 2
BIDDER RELATED INFORMATION

2.1 Important Instructions:

1. The information requested for should be strictly filled in the blank sites provided for this purpose.

2. There shall be no overwriting or corrections while filling the forms. Overwriting or corrections shall make the offer null and void.

NOTE: In case of a Bidder being a consortium, all of the consortium members are required to provide the following details-

<table>
<thead>
<tr>
<th>Sl.</th>
<th>Particulars</th>
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<tbody>
<tr>
<td>(i)</td>
<td>Name of Applicant / Lead Member of consortium</td>
</tr>
<tr>
<td>(ii)</td>
<td>Registered under the Indian Companies Act, 1956</td>
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<td></td>
<td>Yes (Tick whichever is applicable)</td>
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<tr>
<td></td>
<td>No</td>
</tr>
<tr>
<td>(iii)</td>
<td>Name(s) of Promoters</td>
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<td></td>
<td>1.</td>
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<td></td>
<td>2.</td>
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<td>3.</td>
</tr>
<tr>
<td>(iv)</td>
<td>Address of the Registered Office</td>
</tr>
<tr>
<td>(v)</td>
<td>Address of the Corporate Office</td>
</tr>
<tr>
<td>(vi)</td>
<td>Particulars of the Main Business Activities as per the Memorandum of Association</td>
</tr>
<tr>
<td>(vii)</td>
<td>Year of Incorporation</td>
</tr>
<tr>
<td>(viii)</td>
<td>Shareholding Pattern (% of paid up share capital)</td>
</tr>
<tr>
<td></td>
<td>Promoters –</td>
</tr>
<tr>
<td></td>
<td>Banks/Financial Institutions :</td>
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<td></td>
<td>Public :</td>
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<td></td>
<td>Others :</td>
</tr>
</tbody>
</table>

ENCLOSE AS ANNEXURE 2

(i) Copy of registration certificate of Bidder/each member of the consortium, in case of the Bidder being a consortium.

(ii) Memorandum of Understanding and Articles of Association of Bidder/ each member of the consortium in case of the Bidder being a consortium.

2.2 PROJECT EXPERIENCE RELATED INFORMATION
Statement giving details of completed commercial / Property Development project(s) developed by the Bidder/members of the consortium holding not less than 26% equity.
during the entire life of the project satisfying the condition (in case of consortium Bidders) during the past 7 years.

Commercial / Property Development Project #1

Name of Applicant/Member of the consortium:

Built Up Area of Commercial / Property Development Project Component (Square Meter):

Capital Investment (Rs. in crores):

<table>
<thead>
<tr>
<th>Section A: Commercial / Property Development Project Profile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name of the Commercial / Property Development Project</td>
</tr>
<tr>
<td>2. Location of the Development (Address)</td>
</tr>
<tr>
<td>3. Total Land Area (Sq. m.)</td>
</tr>
<tr>
<td>4. Date of Commencement</td>
</tr>
<tr>
<td>5. Date of Completion</td>
</tr>
</tbody>
</table>

Section B: Financial Information

| 1. Actual Project Cost (Rs. in crores)                     |
| 2. Total Income from the Project (Rs. In crores)           |
| 3. Net Profit from the Project (Rs in crores)              |

Commercial / Property Development Project #2

Name of Applicant/Member of the consortium:

Built Up Area of Commercial / Property Development Project Component (Square Meter):

Capital Investment (Rs. in crores):

<table>
<thead>
<tr>
<th>Section A: Commercial / Property Development Project Profile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name of the Commercial / Property Development Project</td>
</tr>
<tr>
<td>2. Location of the Development (Address)</td>
</tr>
<tr>
<td>3. Total Land Area (Sq.m.)</td>
</tr>
<tr>
<td>4. Date of Commencement</td>
</tr>
<tr>
<td>5. Date of Completion</td>
</tr>
</tbody>
</table>

Section B: Financial Information

| 1. Actual Project Cost (Rs. in crores)                     |
| 2. Total Income from the Project (Rs. In crores)           |
| 3. Net Profit from the Project (Rs in crores)              |

Commercial / Property Development Project #3
Name of Applicant/Member of the consortium:

Built Up Area of Commercial / Property Development Project Component (Square Meter):

Capital Investment (Rs. in crores):

Section A: Commercial / Property Development Project Profile

1. Name of the Commercial / Property Development Project
2. Location of the Development (Address)
3. Total Land Area (Sq. m.)
4. Date of Commencement
5. Date of Completion

Section B: Financial Information

1. Actual Project Cost (Rs. in crores)
2. Total Income from the Project (Rs. In crores)
3. Net Profit from the Project (Rs in crores)

Commercial / Property Development Project Project #4

Name of Applicant/Member of the consortium:

Built Up Area of Commercial / Property Development Project Component (Square Meter):

Capital Investment (Rs. in crores):

Section A: Commercial / Property Development Project Profile

1. Name of the Commercial / Property Development Project
2. Location of the Development (Address)
3. Total Land Area (Sq. m.)
4. Date of Commencement
5. Date of Completion

Section B: Financial Information

1. Actual Project Cost (Rs. in crores)
2. Total Income from the Project (Rs. in crores)
3. Net Profit from the Project (Rs in crores)

ENCLOSE AS ANNEXURE 3: Auditor’s certificate certifying development and implementation of the commercial / Property Development project, the details of built up
site for the commercial / Property Development project component and the capital investment made therein

2.4 FINANCIAL CAPABILITY RELATED INFORMATION

Tangible Net Worth of the bidder/ member #1 of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium Bidders) (in Rs. Crores):

Name of the Bidder/member of the consortium:

<table>
<thead>
<tr>
<th>Details</th>
<th>2015-2016 (in Rs crores)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid up Capital</td>
<td>[•]</td>
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<tr>
<td>Add: Reserves and Surplus</td>
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<tr>
<td>Less: Revaluation Reserves</td>
<td>[•]</td>
</tr>
<tr>
<td>Less: Accumulated Losses</td>
<td>[•]</td>
</tr>
<tr>
<td>Less: Intangible Assets</td>
<td>[•]</td>
</tr>
<tr>
<td>Tangible Net Worth</td>
<td>[•]</td>
</tr>
</tbody>
</table>

Average Turnover in the last three financial years of the Bidder/member of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium Bidders)

Name of the Bidder/ member of the consortium:

Average Turnover (Rs. in Crores)

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<tbody>
<tr>
<td>1. Annual Turnover(^2) as per the audited Profit and Loss Account (Rs. in Crores)</td>
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</table>

Tangible Net Worth of the Bidder/member #2 of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium Bidders)
Capability condition as specified in clause 3.5.4 (in case of consortium Bidders)( Rs. in Crores):

**Name of the Bidder/member of the consortium:**

<table>
<thead>
<tr>
<th>Details</th>
<th>2015-2016 (in Rs crores)</th>
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<tbody>
<tr>
<td>Paid up Capital</td>
<td>[●]</td>
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<tr>
<td>Add: Reserves and Surplus</td>
<td>[●]</td>
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<tr>
<td>Less: Revaluation Reserves</td>
<td>[●]</td>
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<tr>
<td>Less: Accumulated Losses</td>
<td>[●]</td>
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<tr>
<td>Less: Intangible Assets</td>
<td>[●]</td>
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<tr>
<td><strong>Tangible Net Worth</strong></td>
<td>[●]</td>
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Average Turnover in the last three financial years of the Bidder/member #2 of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium Bidders):

**Name of the Bidder/member of the consortium:**

**Average Turnover (Rs. in Crores):**

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<tbody>
<tr>
<td>Annual Turnover³ as per the audited Profit and Loss Account (Rs. in Crores)</td>
<td>[●]</td>
<td>[●]</td>
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</table>

Tangible Net Worth of the Bidder/member #3 of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium Bidders):

**Name of the Bidder/member of the consortium:**
Average Turnover in the last three financial years of the Bidder/ member #3 of the consortium holding not less than 26% of share capital during the entire life of the Project satisfying the Financial Capability condition as specified in clause 3.5.4 (in case of consortium applicants)

**Name of the Bidder/member of consortium:**

**Average Turnover (Rs. in Crores):**

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<tr>
<td>Annual Turnover* as per the audited Profit and Loss Account (Rs. in Crores)</td>
<td>[●]</td>
<td>[●]</td>
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</table>

Dated
Applicant’s Signature
(With seal of the company)
Full Name
Designation\ 
Name of the Company
Address of the Company
### Annexure 3
#### Summary of Financial Details

(In case of Consortium, each member to provide this separately)

<table>
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<tr>
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<tr>
<td>Accounting year</td>
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</tr>
<tr>
<td>Net Worth</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Annual Turnover</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

(Rs. Crore)

Note:

1) Attach certified copies of Annual Audited Balance Sheets and IT Returns Certificate for the preceding 3 (Three) years.

2) In case audited balance sheet of the last financial year is not made available by the bidder, he has to submit an affidavit certifying that ‘the balance sheet has actually not been audited so far’. In such a case the financial data of previous ‘3’ audited financial years will be taken into consideration for evaluation. If audited balance sheet of any other year than the last year is not submitted, the tender will be considered as non-responsive.

3) The above data must be submitted for all Relevant Consortium members, duly certified by CA/Statutory Auditor.

4) All such documents reflect the financial data of the Applicant or member in case of JV, and not sister or Parent Company.

5) Historic financial statements shall be audited by Statutory Auditor of the Company under their seal & stamp and shall be strictly based on Audited Annual Financial results of the relevant period(s). No statements for partial periods will be accepted.

Signed  
(Name of the Authorised Signatory)  
Signature of CA/ Statutory Auditors  
For and on behalf of  
(Name of the Bidder)  
Designation  
Place:  
Date:
Annexure 4
Format for Financial Proposal

(To be submitted and signed by the Bidder’s authorised signatory and if Bidder is bidding for more than one package, he/she/they has to submit this format separately with the quoted recurring payment.)

The Executive Director,
Property Development Department,
DMRC, 25, Ashoka Road,
New Delhi 110001.

Sub: “RFP for Property Development at Netaji Subhash Place MRTS Station Complex of DMRC's Phase-III corridor: (“Project”)

Sir,

We hereby submit our Financial Offer for the Project. If the Project is awarded to us, we agree to make the following payments to DMRC as per the terms given in the Request for Proposal (RFP) Document.

1. Fixed Upfront Lease Fee Rs. 40 Crores (Rupees Forty Crores + Service tax extra) in the form of Pay Order/Cheque/Demand Draft.

2. Monthly Lease Fee rate @____________________________ per square meter (in figures) Rupee__________ ________________________________(in words) for a Lease Period of 50 yrs.

3. We also agree to pay at the pro-rata rate of additional area charges for the additional area, which may be requested by us and made available by DMRC subject to availability/feasibility.

4. The Lease Fee and Any fee along with in items 1, 2 & 3 above shall be escalated at @ 20% every 3 year as per escalation Clause No. 4.8.2 of Section 4 of RFP document from the commencement date.

5. Over and above the Lease Fee, we also agree to pay all charges for the energy, water and other utility services to the extent provided at the Leased Site(s) by DMRC.

6. In an event, we are the selected bidder, any failure to deposit requisite Upfront Fee and Security Deposit within 30 days from the issue of LOA would entitle the DMRC to forfeit the Tender Security.
7. The arithmetical errors will be rectified on the following basis. If there is a discrepancy between words and figures, the amount in words will prevail. If I/we do not accept the correction of errors, this Bid will be rejected & EMD will be forfeited.

8. Service tax as applicable and other applicable taxes including property tax from time to time will also be paid by us/me in addition to the aforesaid charges.

This offer is being made by us/me after taking into consideration all the terms and conditions stated in the RFP document, and after careful assessment of the sites, all risks and contingencies and all other conditions that may affect the financial proposal. We agree to keep our offer valid for 180 days from the due date of submission of this Proposal.

Authorized signatory               Date:
Name and seal of Bidder               Place:
Annexure 5
Affidavit

(Notarized on Stamp Paper of Requisite Value as per Applicable Law)

I, ……………….. S/o ……………., resident of ………………., the ……………...(insert designation) of the ………………..(insert name of the single bidder/consortium member if a consortium), do solemnly affirm and state as follows:

1. I say that I am the authorised signatory of …………..(insert name of company /consortium member) (hereinafter referred to as “Bidder/Consortium Member”) and I am duly authorised by the Board of Directors of the Bidder/Consortium Member to swear and depose this Affidavit on behalf of the Bidder/Consortium Member.

2. I say that I have submitted information with respect to our eligibility for Delhi Metro Rail Corporation’s (hereinafter referred to as “DMRC”) Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III corridor Delhi (hereinafter referred to as “Project”) Request For Proposal (‘RFP’) Document and I further state that all the said information submitted by us is accurate, true and correct and is based on our records available with us.

3. I say that, we hereby also authorise and request any bank, authority, person or firm to furnish any information, which may be requested by DMRC to verify our credentials/information provided by us under this Bid and as may be deemed necessary by DMRC.

4. I say that if at any point of time including the Lease Period, DMRC requests any further/additional information regarding our financial and/or technical capabilities, or any other relevant information, we shall promptly and immediately make available such information accurately and correctly to the satisfaction of DMRC.

5. I say that, we fully acknowledge and understand that furnishing of any false or misleading information by us in our RFP shall entitle us to be disqualified from the bidding process for the Project. The costs and risks for such disqualification shall be entirely borne by us.

6. I state that all the terms and conditions of the Request for Proposal (RFP) Document have been duly complied with.

DEPONENT
VERIFICATION :-

I, the above named deponent, do verify that the contents of paragraphs 1 to 6 of this affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed.

Verified at ………………………., on this ………………….. .day of…………………….,year.

DEPONENT
ANNEXURE 6
SITE PLANS
ANNEXURE 7
CONSORTIUM AGREEMENT/MEMORANDUM OF AGREEMENT

[On non judicial stamp paper of appropriate value to be purchased in the name of the executants]

This Consortium Agreement/Memorandum of Agreement is executed at New Delhi on this ___ day of ____, Year.

BETWEEN

M/s ______________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at _______________________, acting through its Managing Director, ___________ duly authorized by a resolution of the Board of Directors dated ___ (hereinafter referred to as the ‘Lead Member’ which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the ONE PART;

AND

M/s. ________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at ________________ and Office at ____________________, acting through its Joint President, _____________, duly authorized by a resolution of the Board of Directors dated _______ (hereinafter referred to as the ‘Participant Member 1’) which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the SECOND PART;

AND

M/s. ________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at ________________ and Office at ____________________, acting through its Joint President, _____________, duly authorized by a resolution of the Board of Directors dated _______ (hereinafter referred to as the ‘Participant Member 2’) which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the THIRD PART;

(hereinafter collectively referred to as “Consortium” or “Parties” and individually as “Party”)
Whereas Delhi Metro Rail Corporation Limited (hereinafter referred to as ‘DMRC’) has invited Bids for the “Property Development at Netaji Subhash Place MRTS station (Phase-III) (‘Project’) on Lease basis, in terms of the Bid documents issued for the said purpose and the eligibility conditions required that the Bidders bidding for the same should meet the conditions stipulated by DMRC for participating in the Bid by the Consortium for executing the Project for which the Bid has been floated by DMRC.

AND WHEREAS in terms of the Bid Documents the Parties jointly satisfy the eligibility criteria laid down for a Bidder for participating in the Bid process by forming a Consortium between themselves.

AND WHEREAS all the Parties hereto have discussed and agreed to form a Consortium for participating in the aforesaid bid and have decided to reduce the agreed terms to writing.

AND WHEREAS it is necessary for the members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s Bid for the Project and its execution.

NOW THIS CONSORTIUM AGREEMENT/Memorandum of Agreement hereby WITNESSES:

1. That in the premises contained herein the Parties having decided to pool their technical know-how, working experiences and financial resources, have formed themselves into a Consortium to participate in the Bid process for “Property Development at Netaji Subhash Place MRTS station (Phase-III)” in terms of the Bid invited by Delhi Metro Rail Corporation Ltd., (DMRC).

2. That the Parties have represented and assured each other that they shall abide by and be bound by the terms and conditions stipulated in the Bid Documents for award of the Project to the Consortium so that the Consortium may take up the aforesaid Project in case the Consortium is declared as the Selected Bidder in the Bid process.

3. That the Parties have satisfied themselves that by pooling their technical know-how and technical and financial resources, the Consortium fulfills the pre-qualification/eligibility criteria stipulated for a Bidder, to participate in the Bid for the said Bid process for executing the Project.

4. That the Parties have agreed to nominate __________ as the Lead Member who shall be authorized to represent the Consortium for all intents and purposes for dealing with the DMRC or its representatives and for submitting the Bid as well as doing all other acts and things necessary for submission of Bid Documents such as Bid Application Form etc., Mandatory Information, Financial Bid, etc., and such other documents as may be
necessary for this purpose which shall be legally binding on all the members of the Consortium who shall be jointly and severally responsible for the performance and obligations in relation to the Bid submitted to DMRC and execution of the Project.

5. The Consortium further authorizes the Lead Member to represent the Consortium for all correspondence and communications with the DMRC and any notice or communication served upon the Lead Member shall be deemed to be notice or communication to the Consortium.

6. That the share holding of the members of the Consortium for this specified purpose shall be as per the Lease Agreement and at present the proposed shareholding shall be as follows:-

   a) The Lead Member shall have ____ per cent (___ %) of share holding with reference to the Consortium for the Project.

   b) The Participant Member 1 shall have ____ (%) of share holding with reference to the Consortium for the Project.

   c) The Participant Member 2 shall have ______ percent (___%) of share holding with reference to the Consortium for the Project.

7. That in order to fulfill the requirement of the Bid process and also to keep an altogether separate legal entity of the Consortium, the members of the Consortium undertake to provide their own nominees as share holders to the extent of their respective share holding for the purpose of formation of a Special Purpose Company (SPC) through which the Consortium proposes to undertake the Project.

8. That if any change in the membership of the Consortium be required to be made by the members of the Consortium, the same shall be done with the prior written consent approval of DMRC subject to the conditions as may be stipulated by them in this regard in the Lease Agreement and which consent, DMRC shall be entitled to decline without assigning any reason whatsoever.

9. That in order to meet the requirements of Bid documents or any other stipulations of DMRC, if it becomes necessary to execute and record any other documents amongst the Parties, the Parties undertake to do the needful and to participate in the same for the purpose of the Project.

10. That it is clarified by and between the Parties that execution to this Consortium Agreement/Memorandum of Agreement by the Parties does not constitute any type of partnership for the purposes of provisions of the Indian Partnership Act and that the Parties shall otherwise be free to carry on their independent business or commercial
activities for their own respective benefits under their own respective names and styles. This Consortium Agreement is limited in its operation to the Project.

11. That the Parties undertake to specify their respective roles and responsibilities for the purposes of execution of the Project if awarded to the Consortium in the Memorandum & Articles of Association of the proposed Special Purpose Company to be got incorporated by the Parties to meet the requirements and stipulations of DMRC.

IN FAITH AND TESTIMONY WHEREOF, THE PARTIES HERETO HAVE SIGNED THESE PRESENTS ON THE DATE, MONTHS AND YEAR FIRST ABOVE WRITTEN.

1. Managing Director
   (----------------)
   For (Name of company)

2. Managing Director
   (----------------)
   For (Name of company)

3. Managing Director
   (----------------)
   For (Name of company)

WITNESSES: 1.--------------- 2.---------------

Enclosure:

- Board resolution of each of the consortium members authorising execution of the consortium agreement and appointing the authorised signatory for such purpose.
FORMAT FOR POWER OF ATTORNEY FOR SIGNING OF APPLICATION

Know all men by these presents, we ................................. (name and address of the registered office) do hereby constitute, appoint and authorise Mr./Ms.......................(name and residential address) who is presently employed with us and holding the position of ..............................as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project, including signing and submission of all documents and providing information/responses to DMRC, representing us in all matters before DMRC, and generally dealing with DMRC in all matters in connection with our Bid for the Project.

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

For ...........................................
Accepted

............................................ (Signature)
(Name, Title and address) of the Attorney

Note:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.
ANNEXURE-9

FORM OF BANK GUARANTEE FOR TENDER SECURITY
(To be stamped in accordance with Stamp Act, if any, of the country of issuing bank)

1. KNOW ALL MEN by these presents that we ……………………………………. (Name of Bank) having our registered office at …………………………. (Name of country) (hereinafter called “the Bank”) are bound unto Delhi Metro Rail Corporation Limited (hereinafter called “the DMRC”) in the sum of `. ……………. for which payment will and truly to be made to the said DMRC, the Bank binds itself, its successors and assigns by these presents.

2. WHEREAS……………………………..(Name of Tenderer) (hereinafter called “the Tenderer”) has submitted its tender dated__________ for Property Development at Netaji Subhash Place MRTS station (Phase-III), hereinafter called the tender.

AND WHEREAS the Tenderer is required to furnish a Bank Guarantee for the sum of ` ……………….. as Tender Security against the Tenderer’s offer as aforesaid.

AND WHEREAS…………………………….. (Name of Bank) have, at the request of the Tenderer, agreed to give this guarantee as hereinafter contained.

3. We further agree as follows:

a. That the DMRC may without affecting this guarantee grant time or other indulgence to or negotiate further with the Tenderer in regard to the conditions contained in the said tender and thereby modify these conditions or add thereto any further conditions as may be mutually agreed upon between the DMRC and the Tenderer.

b. That the guarantee hereinbefore contained shall not be affected by any change in the constitution of our Bank or in the constitution of the Tenderer.

c. That any account settled between the DMRC and the Tenderer shall be conclusive evidence against us of the amount due hereunder and shall not be questioned by us.

d. That this Guarantee commences from the date hereof and shall remain in force till ……………….. (date to be filled up as per Clause 3.10 of Section 3).

e. That the expression ‘the Tenderer’ and ‘the Bank’ herein used shall, unless such an interpretation is repugnant to the subject or context, include their respective successors and assigns.
4. THE CONDITIONS OF THIS OBLIGATION ARE:

a. if the Tenderer withdraws his Tender during the period of Tender validity specified in the Form of Tender, or

b. if the Tenderer does not accept the correction of his tender price in terms of Clause 3.20.7 of the “RFP document”.

c. if the Tenderer having been notified of the acceptance of his tender by the DMRC during the period of tender validity:

i. fails or refuses to furnish the Security Deposit in accordance with Clause 3.11 of the “RFP document” and/or

ii. fails or refuses to enter into a Contract within the time limit specified in Clause 3.26 of the “RFP document”.

We undertake to pay to the DMRC mere on demand without demur upto the above amount upon receipt of his first written demand, without the DMRC having to substantiate his demand provided that in his demand the DMRC will note that the amount claimed by him is due to him owing to the occurrence of any one or more of the conditions (a), (b), (c) mentioned above, specifying the occurred condition or conditions.

5. Notwithstanding anything contained herein:

a) Our liability under this Bank Guarantee shall not exceed `…………….(Rupees———)

b) This Bank Guarantee shall be valid up to …………….

c) We are liable to pay the guarantee amount or part thereof under this Bank Guarantee only if you serve upon us a written claim or demand on or before………….

In witness whereof I/We of the bank have signed and sealed this guarantee on the …………. day of ………………… (Month & year) being herewith duly authorized.

For and on behalf of the…………………………. Bank.

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<th>Signature of Authorized Official of the Bank</th>
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Notes:

1. The stamp papers of appropriate value shall be purchased in the name of the Bank, who issues the ‘Bank Guarantee’.

2. The ‘Bank Guarantee’ shall be from the Scheduled Commercial Bank based in India, acceptable to DMRC.
ANNEXURE- 10

(Undertaking as per Clause 3.5.5 of Section-3)

We do hereby undertake that none of the Central / State government department / public sector undertaking / other government entities or local body has banned business with us as on the date of tender submission. Also none of the work has been rescinded / terminated by DMRC / Central or State Govt. Department / Public Sector Undertaking / Other Govt. entity or local body after award of contract to us during last 5 years due to our non-performance.

STAMP & SIGNATURE OF AUTHORISED SIGNATORY

Note :

1. In case of JV/Consortium, the undertaking shall be submitted by each member of the JV/Consortium.
2. The undertaking shall be signed by authorized signatory of the tenderer or constituent member in case of JV/Consortium.
ANNEXURE- 11

UNDERTAKING FOR DOWNLOADED TENDER DOCUMENT

We hereby confirm that, we have downloaded / read the complete set of tender documents (RFP Bid document)/addendum/clarifications along with the set of enclosures hosted on e-tendering portal https://eprocure.gov.in/eprocure/app. We confirm that we have gone through the bid documents, addendums and clarifications for this work placed up to the date of opening of bids on the e-tendering portal [https://eprocure.gov.in/eprocure/app]. We confirm that we have considered for these in our tender submission and our financial bid. We also confirm our unconditional acceptance to all the terms and conditions of tender document (RFP Bid document).

STAMP & SIGNATURE OF AUTHORISED SIGNATORY
GENERAL NOTES:

1. THIS DRAWING MUST BE READ IN CONJUNCTION WITH ALL RELEVANT ARCHITECTURAL, STRUCTURAL, PLUMBING & FIRE FIGHTING, ELECTRICAL AND TRAFFIC MANAGEMENT DRAWINGS.

2. ANY DISCREPANCIES MUST BE BROUGHT TO THE NOTICE OF THE CONSULTANT.

3. COLUMN LOCATION AND STRUCTURAL ARRANGEMENT SHOWN ARE INDICATIVE ONLY.

4. FOR FURTHER INFORMATION ABOUT FINISHES REFER TO FINISHES SCHEDULE.

5. ALL DIMENSIONS ARE TO BE READ AND NOT MEASURED.
DELHI METRO RAIL CORPORATION LIMITED

DRAFT LEASE AGREEMENT (CPD- 39) FOR PROPERTY DEVELOPMENT AT NETAJI SUBHASH PLACE MRTS STATION OF DMRC’S PHASE-III CORRIDOR
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DRAFT LEASE AGREEMENT

CONTRACT CPD-39

This Agreement (‘Agreement’) is made and executed at New Delhi on this _____________, Year.

BY AND BETWEEN

Delhi Metro Rail Corporation Limited, a company incorporated under the Companies Act, 1956, having its registered office at Metro Bhawan, Fire Brigade Lane, Barakhamba road, New Delhi 110001, India (hereinafter referred to as “DMRC”, which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) of the ONE PART;

AND

M/s ___________________________ Ltd., a company incorporated under the provisions of the Companies Act, 1956/2013* (as applicable), having its registered office at ___________________________ (hereinafter referred to as the “Lessee” which expression shall unless repugnant to the context include the successors and permitted assigns) of the Other Part

OR

M/s ____________, a Partnership firm, registered under the Indian Partnership Act, 1932 carrying on its business under the name and style as hereinbefore mentioned and having its principal office at ________ (mention full address) and having Registration No.____ dt. _____.

OR

M/s ____________, a Partnership firm, registered under the Limited Liability Partnership Act, 2008 carrying on its business under the name and style as hereinbefore mentioned and having its principal office at ____________ (mention full address) and having Registration No.____ dt. _____.

OR

M/s ____________, a proprietary firm carrying on its business under the name and style as hereinbefore mentioned and having its principal office at ____________ (mention full address)
Hereinafter referred to as “the {Lessee/SPC Company}” (which expression shall, unless excluded by or repugnant to the context hereof, be deemed to mean and include its successors, administrators and permitted assigns) of the SECOND PART.

*in case Selected Bidder is a consortium it is required to incorporate an SPC under Companies Act, 2013.
(DMRC and the Lessee are hereinafter also individually referred to as a 'Party' and collectively as ‘Parties’).

WHEREAS:

A. DMRC has been established with the principal object of planning, designing, developing, constructing, maintaining, operating and financing Mass Transit and other urban transport and people mover system of all types and descriptions in the National Capital Territory of Delhi and other areas of the National Capital Region (hereinafter called the ‘Territory’);

B. The Delhi Metro Railway (Operation and Maintenance) Act, 2002 has been enacted by the Parliament to provide for the operation and maintenance, and to regulate the metro railway in the metropolitan city of Delhi and for matters connected therewith and incidental thereto;

C. DMRC has been authorised to develop real estates in and around the metro stations and other places in the Territory and generate revenues there from, for the purpose of part funding of its capital expenditure and to supplement the fare box collection. Ministry of Urban Development has also issued an order permitting DMRC to carry out Property Development in lands allotted for Delhi MRTS Project vide Order No. K-14011/8/2000 - MRTS (Pt.) dated 30 March, 2009. Now vide notification no S.O. 2023 (E) dated 9th June,2016 Ministry of Urban Development has further strengthened the DMRC property development to ensure financial viability of the Mass Rapid Transit System(MRTS) project, certain fiscal concessions were considered necessary and facilitating property development by DMRC on land allotted to them;

D. In pursuance of the above, DMRC is desirous of raising funds for developing Delhi Mass Rapid Transit System by transfer of development rights to a Lessee for the purpose of Property development on the station box of the Netaji Subhash Place MRTS station of DMRC’s phase-III corridor in return for Upfront Lease fee and annual lease fee as specified in this Agreement. For this purpose 5 RCC floors are proposed to be developed above Concourse floor at Netaji Subhash Place MRTS station with a total FAR of 18,452 sqm along with dedicated parking in 2 basements, as more specifically described in Schedule A hereto and in the plan set out in Schedule A hereto (hereinafter called the “Project Site”);

E. DMRC invited bids for the Project through open tender and after evaluation of the bids received and after approval of competent authority, DMRC has accepted the bid of the Selected Bidder/Consortium and has issued a Letter of Acceptance (hereinafter called the 'LOA') bearing No. ________ dated ________, requiring inter alia, the Selected Bidder/Consortium to accept the LOA and deposited 1st installment of the
Upfront Lease Fee i.e. Rs. Twenty Crores only (in Words Rs.____________) within 30 days of issue of Letter of Acceptance.

F. {The Consortium has since promoted and incorporated the SPC Company as a limited liability company under the Companies Act 2013, and has requested DMRC to accept the SPC Company as the entity which shall undertake and perform the obligations and exercise the rights of the Consortium under the LOA, including the obligation to enter into this Agreement pursuant to the LOA for executing the Project.}

G. The Lessee/SPC Company has represented that it has requisite skill, financial, managerial & technical expertise and experience to design, develop, operate, finance & maintain a state-of-the art Property Development on the Project Site. The Lessee further represents and warrants that it/they has/have duly fulfilled all the terms and conditions necessary for the execution of this Agreement as per the terms contained in the bidding documents and are in a position to implement the Project as envisaged in the bid and this Agreement;

H. The Lessee/SPC Company has submitted the requisite Upfront Payment/ Lease Fee as per the Payment Schedule mentioned at Schedule [C] to this Agreement.

I. Pursuant to acceptance of the Lessee's bid and submission of the Upfront Payment/ Lease Fee, the DMRC has agreed to enter into this Agreement with the {Lessee/SPC Company} for execution of the Project subject to and on the terms and conditions set forth hereinafter for development of the Project Site;

NOW THEREFORE IN CONSIDERATION OF THE FOREGOING AND THE RESPECTIVE COVENANTS AND AGREEMENTS SETFORTH IN THIS AGREEMENT, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES AGREE AS FOLLOWS:
ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Agreement (including the recitals above, Annexure and Schedules attached hereto) except where the context requires otherwise, the following words and expressions shall have the following meaning:

(i) ‘Agreement’ means this Agreement, along with all Annexures and Schedules hereto, as amended from time to time in accordance with the provisions hereof;

(ii) ‘Applicable Law’ means all acts, rules and regulations in force and in effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs of or orders of any court of record, as may be in force and effect during the subsistence of this Agreement applicable to the Project and the Parties hereto;

(iii) ‘Applicable Permits’ means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the “Project” during the subsistence of this Agreement and includes all applicable statutory, environmental or regulatory leases, authorisation, permits, consents, approvals, registrations and franchises from concerned authorities;

(iv) ‘Bid’ means the documents in their entirety comprised in the bid, including all clarifications, addenda and revisions issued by DMRC to the Bidders, the RFP Document submitted by the Selected Bidder (Lessee) in response to the letter no. ............ and in accordance with the provisions thereof. The words “Bid” and “Tender” are used synonymously;

(v) “Commencement Date” means the date of signing of this Agreement.

(vi) “Change in Law” means the occurrence of any of the following after the date of financial bid submitted by the Lessee:

(a) the enactment of any new Indian law;
(b) the repeal, modification or re-enactment of any existing Indian law;
(c) any change in the rate of any Tax

Provided that Change in Law shall not include:

(i) coming into effect after the date of signing this Agreement of any provision of a statute which is already in place as of the date of signing this Agreement; or
(ii) any new law or any change in existing law under the active consideration of or in the contemplation of any Government as of the date of signing this Agreement, which is a matter of public knowledge.
(vii) ‘Constructions’ means all buildings, Property Units, commercial units, infrastructure, superstructures and constructions of any nature whatsoever created by the Lessee on the Project Site;

(viii) “Damages” shall mean any claim of DMRC against the Lessee for breach of this Agreement, including but not limited to, losses, dues, arrears etc. against which DMRC shall be entitled to claim and adjust the Security Deposit.

(ix) ‘Drawings” shall mean the maps, drawings, plans and tracings or prints thereof annexed to the Bid Forms or approved subsequently by DMRC or competent local authorities.

(x) ‘Development Plan” shall mean the plan to be prepared and submitted by the Lessee to DMRC giving a stage wise description of the construction, development, operation, maintenance and Project Utilities of the Development Project.

(xi) “Emergency” means a condition or situation that is likely to endanger the security of the individuals working for the Project or which poses an immediate threat of material damage to any of the Project Facilities.

(xii) “Governmental Agency” means Central or State Government or any ministry, department, commission, board, authority, instrumentality or agency, under the control of Central or State Government or any other local or municipal bodies or institutions having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

(xiii) ‘Force Majeure’ or ‘Force Majeure Event’ means an act, event, condition or occurrence as specified in Article 11;

(xiv) 'Layout Plan' means the detailed plan for the Project formulated by the Lessee, in accordance with the provisions as contained in Article 6 of the agreement, norms and regulations prescribed under the Master Plan and Building Bye-Laws of Delhi and other conditions approved in writing by DMRC;

(xv) ‘Lease Period’ means a period of 50 years from the Commencement date.

(xvi) “Leased Space(s)” or “Leased Area” means the specified area within the Project Site for commercial development under development rights given on lease by DMRC to the Lessee under and in accordance with this Agreement. The Leased Space(s) is demarcated in the plan placed in Annexure 6 of the RFP and remaining spaces shall be designed and constructed by the lessee.

(xvii) ‘Lease rent / Advance Lease fee’ shall means a certain amount of rent in exchange for use of a property.
(xviii) “Moratorium Period” means the period of maximum 1 (one) year for concourse floor area and maximum 3 (Three) years for above station box area from the Commencement Date provided by DMRC to the Lessee for carrying out construction and fitout activity in order to construct, furnish and operationalize the Leased Space(s).

(xix) ‘Parties’ means the parties to this Agreement and "Party" means either of them, as the context may admit or require;

(xx) 'Payment Schedule' means the schedule as set out in the Schedule [C] hereto for payment towards the Transfer Price / Upfront Lease fee and / Advance Lease fee;

(xxi) “Permits” shall mean and include all applicable statutory, environmental or regulatory licences, authorisation, permits, consents, approvals, registrations and franchises from concerned authorities.

(xxii) 'Person' means any individual, body corporate, association of individuals or bodies corporate, society or such entity as is capable of having rights and obligations under applicable law;

(xxiii) 'Project' means the development and construction of the Property Units along with the accompanying access-ways, landscape green areas, utilities and services, telecom infrastructure, the Project Site in accordance with the Layout Plan;

(xxiv) ‘Project Agreements’ means agreements entered into by the Lessee in relation to the execution and operation of the Project including but not limited to the agreements with sub-contractor, Property Purchasers, Sub-Lessees, etc.

(xxv) 'Project Facility' means the built up places and facilities (water, fire safety, electricity etc.), and includes all the amenities and facilities situated on the Project Site, as described in this document Schedule-[A];

(xxvi) “Project Lessee” shall mean the lessee of the property development project who have been selected by DMRC for execution of property development project for a given lease period.

(xxvii) "Project Manager" shall mean an experienced and competent engineer nominated by the Lessee as the Project Manager for supervision of the Project.

(xxviii) ‘Property Units’ means the Property units to be developed and constructed by the Lessee as part of the Project;

(xxix) “Security Deposit” shall mean the security to be furnished by the Lessee as provided in Article 4 hereafter.

(xxx) "Site" shall mean the DMRC land or the air space above existing DMRC building / station / track which has been leased out to the Lessee for the
Project, as specified in the Schedules.

(xxxi) "Specifications" shall mean the specifications for materials and works.

(xxxii) ‘Sub Lessee’ means all persons who are allowed by the Lessee to use the built spaces and facilities in the Project Site;

(xxxiii) ‘Tax’ means and includes all taxes, fees, cesses, levies that may be payable by the Lessee under the Applicable Law to the Government or any of its agencies

(xxxiv) “Termination” means termination of this Agreement by efflux of time or sooner determination in accordance with the provisions of this Agreement.

(xxxv) "Termination Date" means the end of the lease period of 50 years from the commencement date or date of sooner determination of the lease period in accordance with the terms of this Agreement whichever is earlier.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,
(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
(b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
(c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
(e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
(f) references to “development” include, unless the context otherwise requires, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and “develop” shall be construed accordingly;

(g) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

(h) any reference to day shall mean a reference to a calendar day;

(i) references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in Delhi are generally open for business;

(j) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(k) references to any date or period shall mean and include such date or period as may be extended pursuant to this Agreement;

(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 such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(m) the words importing singular shall include plural and vice versa;

(n) references to any gender shall include the other and the neutral gender;

(o) “lakh” means a hundred thousand (100,000) and “crore” means ten million (10,000,000);

(p) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, lessee or document of any description shall be construed as reference to that agreement, deed, instrument, lessee or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of DMRC hereunder or pursuant hereto in any manner whatsoever;

(q) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party in this behalf and not otherwise;

(r) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(s) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement,
and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears; and

(u) time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Lessee to DMRC shall be provided free of cost and in Two copies, and if DMRC is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain a copy thereof.

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

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

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in 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

1.4.1 The documents forming a part of this Agreement are to be taken as mutually explanatory to one another and, unless otherwise expressly provided elsewhere in this Agreement, the priority of the following documents shall, in the event of any conflict, discrepancy or ambiguity between them, be in the order they are set out:

(i) This Agreement;
(ii) Schedules to this Agreement;
(iii) The Letter of Acceptance issued to the Lessee;
(iv) The written clarifications and addenda issued to the Bidders;
(v) The RFP including the Bid Document, Draft Lease Agreement and Annexures 1-12.

1.5 Law

The contract shall be dealt under the provisions of Indian Contract Act.
ARTICLE 2

2.0 TRANSFER PRICE

2.1 This Agreement has been signed with the Lessee/SPC Company after receipt of 1st installment of Upfront Lease Fee of Rs. 20,00,00,000/- + service taxes (In words Rupees Twenty Crores + service taxes) and Security Deposit as specified under Article 4.

2.2 The Lessee acknowledges that DMRC is allowing Property development on the Project Site and undertaking transfer of the leasehold rights in the same for the purpose of raising funds for its Delhi Mass Rapid Transit System.

2.3 Upon payment of the Upfront Lease Fee, the Lessee shall peacefully and quietly enter upon the Project Site only for the following purposes:

- pursue marketing in respect of the Project;
- hold a temporary marketing office;
- perform soil investigation/planning;
- temporary construction of boundary wall/barricading around the Project Site.

2.4 The Lessee shall pay a sum of Rs. ______ per sqm only on quarterly basis to the DMRC for the ‘leased area’ towards Advance Lease fee for the ‘Project Site’.

2.5 Lessee shall make advance payments for above referred advance Lease Fee (mode of payment – quarterly) to DMRC within 7 days of commencement of respective quarter. All the taxes including the service tax, as applicable from time to time shall also be paid by the Lessee in addition to the amount of the quoted rate of the Lease Fee. The Lease Fee shall be payable from the day falling after the date of the completion of the Moratorium Period.

The advance lease fee / Lease Rent for a specified quarter shall be worked out by multiplying the area of leased space(s) with the per month quoted rate of Lease Fee and further multiplying it by 3 (Lease Fee = Area X NN1 X3).

a) Service tax as applicable will be borne solely by the Lessee.

b) All other statutory taxes, statutory dues, local levies, cess, duties including stamp duty, registration charges that may be applicable/levied in respect of the Project as applicable shall be charged extra from the Lessee and shall have to be remitted along with the Lease Fee for onward remittance to the Government. Property tax of the leased area shall be borne by Lessee. The Lessee shall indemnify DMRC from any claims that may arise from the statutory authorities in connection with this Lease Agreement.
c) The advance Lease fee for the Leased Space(s) shall become payable from the day after the date of end of the Moratorium Period. The advance Lease fee and other applicable charges such as security deposit shall be escalated @ 20% every 3 (three) year from the date of signing of lease agreement i.e. commencement date.

d) The moratorium period of 1 year for the area leased on the concourse floor and 3 years for the area above the concourse (to be developed by lessee) shall commence from the date of signing of lease agreement i.e. commencement date.

e) In case of extension of the Commencement Date or Moratorium Period or both, as the case may be, for whatsoever reason, the escalation on the advance lease fee, maintenance fee (if applicable) and other charges if applicable shall be counted @ 20% every 3 year from the date of commencement i.e signing of lease agreement.

f) The Lessee will make the payments for each quarter in advance within seven days of the commencement of the respective quarter.

g) Any delay in payments shall attract penalty of interest @ 20% per annum on the amount outstanding (calculated on a per day basis), till the time the respective payments have been received by DMRC. The delays beyond 60 days of the due dates for the payment of the respective Advance Lease Fee shall be treated as ‘Lessee Events of Default’. In such an eventuality the DMRC retains the right to en-cash the Security Deposit and claim damages from the Lessee and even terminate the Lease Agreement as mentioned in the ‘Security Deposit’ Clause of the Lease Agreement.

h) Lessee shall also pay for additional area charges for the additional area, which may be requested by the Lessee and made available by DMRC subject to availability/feasibility. Recurring charges of 100% of the lease fee and proportionate escalated upfront shall be payable by the lessee for any such allotment of additional area for commercial utilisation. If additional area is required for the installation of services/utilities, recurring charges of 50% of the lease fee shall be payable by the lessee for such allotment.

2.6 Extension of Date of Commencement / Moratorium Period / Lease Period

If in event of, the progress of work being delayed by any act or neglect of DMRC or its employees or by other contractor / lessee employed by DMRC or in executing the works on which Lessee’s performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighbouring owners or public authority arising otherwise through the Lessee’s own default etc, then upon happening of any such event Lessee shall immediately bring it to the notice of DMRC within 30 days of happening of such an event and
accordingly either Commencement Date or Moratorium Period or Lease Period individually or in combination may be extended suitably, as in the opinion of DMRC are reasonable having regard to the nature and period of delay and the type and quantum of works affected thereby.

Apart from above, the Lessee shall not be eligible for any other compensation for works so carried forward to the extended period of time. In addition, Lessee shall also make constantly its best endeavours to bring down or make good the delay and shall do all that may be reasonably required to the satisfaction of DMRC to proceed with the works.

Any failure or delay by DMRC to provide the Lessee possession of the Leased Space(s), or to give the necessary permission or necessary drawings or instructions or any other delay caused by the DMRC due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the Lease Agreement or alter the character thereof or entitle the Lessee to any damages or compensation.

Nevertheless, in the event of the delay being due to reasons being attributable to Lessee, or its failure to complete its obligations within specified time as per the Lease Agreement, for the reasons other than the reasons attributable to DMRC, Lessee shall not be entitled for any extension of date of Commencement Date or Moratorium Period or Lease Period whatsoever.
ARTICLE 3

3.0 GRANT OF DEVELOPMENT AND LEASE RIGHTS

3.1 On and from the Commencement Date and subject to the terms and conditions set forth in this Agreement, DMRC grants and authorizes the Lessee the right to develop, design, finance, construct, sub-lease, operate and maintain the Project at its own cost, expense and risk for the Lease Period of 50 years. The Lease entitles the Lessee the following benefits, privileges, authorizations and entitlements, to be exercised at its own cost, expense and risk in accordance with Applicable Laws:

(i) To develop, design, engineer, finance, procure, construct, operate and maintain the Project, including the building, the paved access-ways, landscaped green areas, parking, utilities and services, telecommunication infrastructure, etc. in conformity with the Layout Plan (as approved by DMRC in accordance with Article 6.1);

(ii) To market the Property development project and enter into agreements for transfer of leasehold rights of the project for a lease period which is coterminous with the Lease Period at any point of time.

(iii) The Lessee shall confine its operations to the Project Site. The Lessee shall take all necessary precautions to keep persons and equipment within such areas, and to keep and prohibit them from encroaching, damaging or degrading or adversely affecting the surrounding DMRC area and property, or otherwise cause any interference to the passengers, visitors, employees, representatives and agents of the DMRC. Any failure or default of the Lessee to comply with the provisions as above mentioned shall present DMRC with a right to issue a notice to Lessee to rectify such failure or default within a stipulated time. If the failure or default is not rectified within the stipulated time, a fine upto Rs. 10.0 lakh (Rupees Ten Lakh only) may be imposed by DMRC.

3.2 With effect from Commencement Date, the DMRC grants the development rights to the Selected Bidder on the Project Site for the Lease Period, for development of Property development project. The Lessee hereby also agrees that it is acquiring the rights on the Project Site to develop the project only as specified under this Agreement. However, the ownership rights over the building constructed on the Project Site shall at all times vest with DMRC only.

3.3 For avoidance of doubt, it is clarified that the Lessee is exclusively responsible for the execution of the Project and it shall bear the financial, technical, commercial, legal and other risks in relation thereto regardless of any escalation in cost, Change in Law, other contingencies, circumstances and/or hazards that may be encountered (foreseen or not unforeseen) during the Lease Period.

3.4 Right to Sub-Lease

3.4.1 The Lessee (considering Bidder as lessee) shall be entitled to sub-Lease the built up site to any person or entity (the “Sub-Lessee”), only after adding the necessary
structures and utility services. Further licensing by a Sub-Lessee to sub-sub-Lessee shall be permitted. Further licensing by a sub-sub-Lessee shall not be permitted.

3.4.2 The sub-Lease shall however be for the use of the Site, during the subsistence of the Leased Period only with a clear stipulation that all such sub-Lease granted shall terminate simultaneously with the termination of the Lease Agreement, including on sooner determination of the Lease Period for any reason whatsoever. All contracts, agreements or arrangements with Sub-Lessee—shall specifically stipulate this covenant of termination of the rights of the Sub-Lessee, and further that such Sub-Lessee shall not have any claim or seek any compensation from DMRC for such termination.

3.4.3 The Lessee shall prepare a draft standard format of the sub-Lease agreement, which will be required to be signed by the Sub-Lessee for use of the subject Site. Prior written approval of DMRC shall be obtained by the Lessee in respect of such standard draft. DMRC may specify certain covenants to be incorporated in the sub-Lease agreement to protect its interests. Only after such covenants are incorporated in the sub-Lease agreement, the Lessee will be entitled to enter into Sub-Lease agreement and shall be required to submit copies of each such Leases to DMRC for verification and record. In case of any deviation from the above-mentioned standard draft sub-Lease agreements, the Lessee shall obtain the prior written consent and approval of the DMRC before entering into an agreement with a Sub-Lessee. DMRC reserves the sole right not to give consent/approval to such a request and no compensation or claim on this account will be entertained in this regard.

3.4.4 At any point of time, the Lessee shall not enter or cause any of its Sub-Lessee to enter into any sub-Lease agreement with any person or entity for transfer of its rights which would adversely affect the interests of DMRC or is not available to the Developer in the first place. Any such act of the Developer or Sub-Lessee shall render the Lease Agreement liable for termination at the sole cost and expense of the Lessee.
ARTICLE 4

4.0 Security Deposit

4.1 The Lessee shall, for the performance of its obligations hereunder shall prior to the Commencement Date i.e. date of execution of lease agreement, provide to DMRC, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to amount one hundred percent of one year Lease Fee for the said Leased Space(s) Rs. ***** crore (Rupees ***** Lakhs / Crore) for entire lease period for faithful completion of lease agreement in the form set forth in Schedule- [B] (the “Security Deposit / Performance Guarantee/ Performance Security”). Until such time the Performance Guarantee is provided by the Lessee pursuant hereto and the same comes into effect, the TENDER SECURITY shall remain in force and effect, and upon such provision of the Performance Guarantee pursuant hereto, DMRC shall release the TENDER SECURITY to the Lessee.

4.2 Appropriation of Security Deposit

Upon the DMRC being of the view that the Lessee has committed any breach or default of this Agreement, DMRC shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Security Deposit as damages for such breach or default. Upon such encashment and appropriation from the Security Deposit, the Lessee shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Security Deposit, and in case of appropriation of the entire Security Deposit provide a fresh Security Deposit, as the case may be, and the Lessee shall, within the time so granted, replenish or furnish fresh Security Deposit as aforesaid failing which DMRC shall be entitled to terminate this Agreement and forfeit the remaining amounts of the Performance Guarantee, if any.

4.3 Release of Security Deposit

4.3.1 The Lessee shall for the due and faithful performance of its obligations, provide to DMRC cash deposit/ Bank Guarantee (format for bank guarantee is shown in Schedule B)/ Demand Draft / Pay Order from a scheduled commercial bank acceptable to DMRC, and payable at New Delhi for a sum equivalent to one hundred percent of first year’s Lease fee. This Security Deposit shall be submitted along with the Transfer fee / Upfront Lease fee to DMRC. The Security Deposit shall be kept valid on a rolling basis till the end of the Lease Period plus 180 days. The Bank Guarantee for Security Deposit shall be renewed after every three years for a sum equivalent to one year’s Lease Fee for that year (i.e. Lease fee + maintenance fee if any+ utility area if any) with a validity of three years. Security Deposit for additional FAR will also be submitted alongwith the escalated upfront for additional FAR.

4.3.2 The said Security Deposit shall be returned by DMRC after the expiry of the Lease Period subject to fulfillment of all handover requirements by the Lessee, to
the satisfaction of DMRC and further subject to adjustment for all damages suffered by DMRC.

4.3.3 If the Lessee defaults in any recurring payment for more than 60 days from the due date as per the provisions of this agreement, DMRC shall be entitled to encash the Security Deposit without being liable in any manner whatsoever to the Lessee and to appropriate the Security Deposit as ‘Damages’, without prejudice to other rights and claims of the DMRC.

4.3.4 In case after submission of the fresh Security Deposit, the Lessee defaults a second time in recurring payment, DMRC shall be entitled to terminate this Agreement in accordance with the provisions of Article 9, without being liable in any manner whatsoever to the Lessee and to appropriate the Security Deposit as ‘Damages’.
ARTICLE 5

5.0 Additional FAR

5.1 Leased Site

5.1.1 In case any additional FAR over and above the existing FAR is available in future, the Additional Area may be allotted to the Lessee at the sole discretion of DMRC on the request made by the Lessee upon payment of additional Upfront Lease Fees (at applicable rate at that time by increasing @20% every three year as done in the case of recurring payment) and the Annual Lease rate of Lease Fee on the date of such request made by the Lessee on pro rata basis. The Lease Period of such Additional Area shall however be co-terminus with the Lease Agreement. All cost associated with the additional FAR including but not limiting to the FAR conversion charge will be bear by Lessee.

5.1.2 Additional FAR through possible implementation of TOD Norms
Benefit of TOD on this plot could not be availed as the foundation of the building has been designed for load of about 5 RCC floors. However, in future, if any advantage of increased FAR area due to TOD may be availed as “Additional Area” per clause 5.1.1 of this document.
ARTICLE 6

6.0 PROJECT

6.1 LAYOUT PLAN AND SITE LIMITATIONS

6.1.1 DMRC hereby transfers the development rights to the selected developer for a lease period of 50 years commencing from the date of execution of License Agreement to Design, Finance, Construct, Sub-Let, Operate, Manage and Maintain 18,452 sqm FAR area making use of available footprint of the station box and FAR as permitted under MPD 2021 in the proposed commercial building on the station box of the Netaji Subhash Place Metro Station of Line-7 (Pink) in Phase-III Network of DMRC. The Lessee has to construct the commercial building over the station box along with site development and manage the parking areas and utility areas duly integrated with the station building. This ‘leasing’ has been envisaged to generate up-front and recurring revenues to DMRC to supplement its non fare-box collections in the operation phase. Revenues thus realized will be used by DMRC to supplement its funds for MRTS project and fare-box collection.

6.1.2 The air space above the concourse on ground floor i.e. 1st floor onwards, two basements and 1683.3 sqm area (approx) on concourse floor as bare shell and open space around the station is being offered on a “as is where is” basis on development rights. Five floors with large terrace along first floor are to be developed over the concourse floor of station building on ground (Station Box). Ground floor will be for circulation, arrival & departure of metro commuters, waiting and operational area, which will be with DMRC. The area on concourse floor shall be given to the lessee as bare shell and first to fifth floor will be given to Lessee for the development of commercial space using the complete FAR of 18,452 Sq. m (including area to be given on concourse) for retail, commercial, office usage with multiplex as an option, i.e. an average area of approx. 3,500 sq.m on each plate. The lower two (2) part basement floors are for parking. The total area of parking floors (viz. two (2) part floors) will be approx. 6,730 sqm including space for housing some PD services like water tanks, chiller room and ASS etc.

6.1.3 DMRC will construct two level basement and two ramps for PD parking, including some space for PD services like ESS, underground water tanks, pump rooms, chiller rooms etc. Fire water tanks for PD are above concourse level and are common with station fire tank. Space for PD fire pumps has been earmarked however the pumps are to be installed by the lessee. These bare shell spaces will be made available on as is where basis, except that PD Transformers are likely to be provided by DMRC. The total area of civil structure of the basement constructed by DMRC as parking floors and services area amounts to 6,736 sq.m. This construction cost of approx. Rs. 29 is being borne by DMRC.

6.1.4 DMRC shall construct space adjacent to concourse floor with direct access from underground passage to and from Netaji Subhash Commercial Centre out of which 1683.3 sqm area (approx) shall be made available to the lessee. However the total FAR will be constrained at 18,452 Sqm including the area for PD made available at concourse floor.
6.1.5 Since the construction of Station building is scheduled to be completed by March 2017, The Selected Bidder shall be granted access to the Project site to construct, operate, manage and maintain the Project site as detailed in Annexure – 6 of this document within 180 days of the execution of Lease Agreement (commencement date) which shall be executed within a period of 7 days from the payment of Upfront Lease Fee & Security Deposit by the Selected Bidder to the DMRC (hereinafter referred to as “Commencement Date”).

6.1.6 Programme of Works and Procedure

The lessee shall prepare and submit his detailed Programme work so that he is able to achieve following key dates:

1. Pre planning of project and obtainance of applicable permits and approvals from DMRC and concerned local authorities, necessary to commence construction work – Within 180 days of the signing of License Agreement.

2. Construction and development as per approved plans including fitouts – Within 36 months of the date of execution of License Agreement.

It is expressly clarified that the recurring payments shall commence after the expiry of moratorium period, save as on for the reasons mentioned in Clause 2.6.

6.1.6.1 During the Construction

a. The lessee shall ensure that the construction of Project facility is undertaken with minimal inconvenience to the traffic and ensure that adequate safety personnel are deployed on the site having relevant experience and skills for implementation of project.

b. The lessee shall comply with all safety regulations applicable, in its design, access arrangements and operations on the Project site. The lessee shall be responsible for the operation of machinery and any other work and shall take all precautions to ensure safety of staff, labourers and public.

c. The lessee shall be responsible for keeping unauthorized persons off the Project site and authorized persons shall be limited to, employees of lessee, employees of sub-contractors and employees and persons authorized by DMRC.

d. The lessee shall arrange for all material requirements for the Project and disposal of all material wastes.

6.1.6.2 After the Completion of Construction

a. The lessee shall carry out the design and construction in strict compliance with all applicable laws, applicable building codes and good industry practice.

b. The lessee shall be solely responsible and liable, at his own cost, for all maintenance and upkeep and repairs of the commercial facilities. The lessee shall ensure that floor, walls and ceilings in corridors and common areas are kept clean, litter free at all times.
c. The exteriors and interiors of the building, especially structural elements shall be inspected, repaired and painted on regular basis. Repair of damaged civil structure, cladding materials/fixtures, doors and windows, plumbing sanitary, electrical and HVAC etc shall be carried out promptly.
d. The lessee shall prevent encroachment of unauthorized areas and ensure free passage for movement of people with adequate lighting provisions.

6.1.7 Planning and Design

a) Structural Designs will be got done by the Lessee from a highly reputed Structural Design Consultant duly approved by DMRC. Proof checking of the Structural designs will be done by DMRC before allowing construction. Construction including its quality assurance, Labour welfare etc. will have to be done by the Lessee in line with standard regulations and practices and in a manner to the satisfaction of DMRC.
b) Bidder shall ensure to conform the byelaws requirements of all regulatory & statutory bodies in respect of fire hazard, ventilation, safety, security, evacuation during disaster alarm etc. and it incorporates an efficient parking layout including proper entry/exit for smooth and congestion free traffic circulation.
c) Bidder is required to submit the proposed layout drawing for all floors reflecting occupancy and usage for DMRC approval.
d) Before accepting the proposal, DMRC may require the bidder to make a visual presentation on the project proposal to satisfy itself about the adequacy & acceptability of the proposed design etc.
e) The Project Development encompassing the facilities mentioned herein shall not, in any case, compromise with the convenience of the commuters/ visitors of the Metro Station.
f) The Commercial development must conform to the existing building regulations of the civic authorities. The car park should have parking facilities for day as well as night.
g) Power supply will be made available at one point to the developer on DERC/commercial rates by DMRC for this commercial development. However, if any back-up arrangement is preferred, the same shall be provided by the Lessee and he will be solely responsible for all aspects related to it.
h) DMRC will supply electric power required by the developer. The tariff and all terms and conditions will be as per DERC regulations, applicable from time to time. The Lessee shall also charge tariff from his customers at rates stipulated by DERC.
i) Development of dedicated parking in the two basements and in the open space surrounding the station building of around 250 ECS shall be in the scope of the lessee. If lessee is unable to achieve permissible ECS, only then lessee shall be free to develop additional parking space in the 2000 sqm (approx) land plot in the
existing Netaji Subhash Place metro station in the form of multi-level parking (without commercial), cost of which shall be completely borne by the lessee. Stilt floor in this multi-level parking shall be allocated by the lessee for commuter parking which shall be managed by DMRC.

j) All design – Structural, E & M work, Fire-fighting/ detection, elevators, signage, parking system etc. will have to be get approved by the Lessee from DMRC, before execution.

k) All temporary diversion works which will be required for the smooth flow of running traffic in order to carry out the works without any interruptions including all safety precautions. Signage, barricading, emergency lighting etc. Lessee shall provide barricading along the work site.

l) The lessee has to ensure cleanliness of the roads and footpaths by deploying manpower for the same. The lessee shall have to ensure proper brooming, cleaning and washing on all times.

m) Barricading and housekeeping of the leased premises should be as per DMRC standards.

6.1.8 Utilities and Services

The Lessee would be required to make its own arrangements for obtaining necessary approvals, permits, clearances and sanctions from the competent authorities for all utilities such as water, electricity, sewerage, sanitation, fire safety etc. and as per applicable bye-laws and standards.

6.1.9 Site Safety and Security Measures

(i) The Lessee is required to introduce and observe at all times, appropriate measures for safety, security and orderliness on the Project Site.

(ii) The Lessee is required to make its own arrangement for fire fighting which shall confirm to the IS Code of Practice / Delhi Fire Services/ NBC norms and all other applicable statutory bodies.

(iii) The Lessee shall comply with all safety regulations applicable, in its design, access arrangements and operations on Project Site. During construction period of the Project, the Lessee shall be responsible for the operation of machinery and any other work and shall take all precautions to ensure safety of the staff, laborers and public.

(iv) The Lessee shall be responsible at its cost, for procurement, transport, receiving, unloading and safe keeping of all plant and machinery, equipment, materials and other things required for the construction and operation and maintenance of the facilities.

(v) Unless otherwise stated in this Agreement:

(a) The Lessee shall be responsible for keeping unauthorized persons off the Project Site, during the construction period.
(b) Authorized persons during the construction phase shall be limited to the employees of the Lessee, employees of subcontractors of the Lessee, and employees and persons authorised by DMRC.

(vi) Employees/staff of the Lessee shall not be deemed or construed to be the employees of DMRC. The Lessee understands and undertakes that its employees/staff shall make no claim against the DMRC for any reason whatsoever, throughout the lease period. Further, the Lessee also agrees that the DMRC shall not be liable for any accident/injury or claims of the workers/employees during the execution of the development works, under this Agreement, throughout the lease period of 50 years.

(vii) If during the lease period, any loss of property and/or life takes place, the loss and account of the same shall be borne entirely by the Lessee and DMRC shall not be liable for any such claims. The Lessee would be responsible for the payments arising out of any third party claims. The Lessee is advised to procure insurance for meeting such liabilities at its own cost.

The Lessee shall be solely liable for the above mentioned obligations/responsibilities and in case any liability, on account of Lessee’s failure to comply with the above, falls on DMRC, the Lessee shall fully indemnify DMRC.

6.2 REPORTING REQUIREMENTS

6.2.1 The Lessee shall carry out all checks and maintenance or repair works with adequate advance notice in such a planned manner that there shall be minimal disruption of the operations of the nearby area and the MRTS Station/property.

6.2.2 DMRC may inspect the Project Site and Project Facilities at any time for its own assessment of the compliance by the Lessee with its maintenance obligations under this Agreement. The Lessee shall extend all reasonable assistance to the DMRC representatives during such inspection visits.

6.2.3 The Lessee shall at its cost, carry out its own periodic inspections, and also assist DMRC or its nominee (whenever requested) to carry out any random or periodic inspection of any part or component of the works. The cost of any test, if required, shall be borne by the Lessee.

6.2.4 The Lessee shall, upon request by DMRC, co-operate in the co-ordination of the works under this Project with the work of any other persons to whose systems the facilities are to be connected, provided that such co-operation shall not empower the Lessee to unreasonably interfere with the carrying out of the works. The Lessee shall afford all reasonable opportunities for carrying out their work to:

(i) the workmen of DMRC;
(ii) any other persons employed by the DMRC and their workmen; and the workmen of any public authority who may be employed in the execution on or near the site of any work not included in this Agreement, which DMRC may require.
6.2.5 USE OF THE PROJECT SITE AND PEACEFUL POSSESSION

6.2.5.1 The Lessee, subject to complying with the Terms and Conditions of this Agreement, shall have the use of the Site during the Lease Period in accordance with the terms of this Agreement and limited for the purposes mentioned in Article above. The Lessee shall not use the site or the Project Facility for any other purpose.

6.2.5.2 The Lessee shall confine its operations to the Project Site. The Lessee shall take all necessary precautions to keep persons and equipment within such areas, and to keep and prohibit them from encroaching, damaging or degrading or affecting adversely the neighbouring / DMRC areas or otherwise cause any interference to the employees, representatives and agents of DMRC.

(a) If any infringement as defined under this article occurs, as determined by DMRC, DMRC will issue a notice to rectify the infringement within a stipulated time. If the infringement is not rectified within the stipulated time, a fine upto Rs. 1.0 lakh (Rupees One Lakh Only) for each infringement, will be imposed by DMRC, alongwith additional time for rectification of such infringement.

The Lessee is required to introduce and observe at all times, appropriate measures for safety, security and orderliness on the premises granted to the Concessionaire.

6.3 OTHER OBLIGATIONS

6.3.1 The Lessee undertakes to complete the Project within 3 (Three years) from the date of signing of the Lease Agreement.

The Lessee undertakes to pay all the municipal taxes, service tax, maintenance charges, statutory taxes, statutory dues, local levies and all other applicable taxes and charges, in respect of the Project Site from the date of signing of the Lease Agreement , in accordance with statutory provisions, rules and regulations. Property Tax of the leased area shall be paid by Lessee directly to the respective authority at applicable rates.

6.3.2 Lessee shall obtain all statutory clearances from DMRC and concerned agencies/authorities for tree cutting and other purposes etc.

6.3.3 The Lessee shall follow all prevailing norms of Property development mentioned under MPD-2021 including all corrections / revisions are required to be followed by the Lessee.

6.3.4 The Lessee shall make use of available ground coverage and floor area as permitted under MPD-2021.
6.3.5 It is clarified that the Lessee shall be solely responsible for the development, maintenance and operations of the Project and there shall be no obligation on DMRC in this regard. Accordingly, all responsibilities relating to the Project including without limitation, obtaining the requisite approvals/ sanctions for the Project from concerned local bodies etc., in strict compliance with all construction and municipal laws in relation to the Project, constructing, providing and maintaining necessary utilities and amenities including sewerage, sanitation, electricity and water connection, fire fighting and health safety, other civic amenities and obtaining necessary permissions from appropriate authorities for the same, construction and quality of the Project, safety of site equipment & machinery, staff and labourers etc. shall be to the sole and exclusive liability/ responsibility of the Lessee.

DMRC may agree without any liability thereof to assist the Lessee in obtaining the required approval/permits. In the event of delay or failure in obtaining the required approval/permits, the Lessee shall not be deemed absolved of its own responsibility and DMRC shall not in any way be liable for the approval/permits or for non receipt thereof for any reason whatsoever nor for any loss or damage arising in consequence of such delay or non receipt.

6.3.6 DMRC has no objection is the lessee intends to develop Multiplex or Miniplex in the leased area, however the lessee shall have to abide by the The Cinematograph Act, 1952, along with its latest amendments and obtain approvals from the concerned statutory/regulatory authorities.

6.3.7 The Lessee shall ensure that no structural damage is caused to the existing buildings and other permanent structures in the surrounding area and on site as a result of its activities or any of its agents, contractors, tenants, etc.

6.3.8 The Lessee shall take all reasonable steps to protect the environment (both on and off the Project Site) and to limit damage and nuisance to people and property resulting from construction and operations, within guidelines specified as per Applicable Laws and Applicable Permits.

6.3.9 The Lessee shall make reasonable efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of the Lessee’s obligations under this Agreement.

6.3.10 The Lessee shall take all reasonable precautions for the prevention of accidents on or about the Project and provide all reasonable assistance and emergency medical aid to accident victims.

6.3.11 Lessee shall during execution of Works, keep the Project Site free from all unnecessary obstruction, and store the Equipment or surplus materials dispose of such equipment or surplus materials in a manner that causes least inconvenience to the Metro Station and Commuters or otherwise to DMRC’s activities.

6.3.12 The Lessee shall within 30 (thirty) days of achieving ‘Completion’ of the said development in the Project Site remove from the Project Site all surplus
construction machinery and materials, including, without limitation, hazardous materials and wastes, and keep the Project Site in a neat and clean condition, and in conformity with the Applicable Laws; except that the Lessee shall be entitled to retain on any Project Site, until the expiry of the lease period, such equipment, materials and temporary works as required by it for the purpose of fulfilling its obligations under this Agreement in respect of operation and maintenance of the Project.

6.3.13 Operational structures existing in the area, if any, will not be disturbed by Lessee. The setbacks should be planned in such a way that the existing structures should not be disturbed till the alternative one, if any, is not commissioned.

6.3.14 The operational structures of DMRC including station building, ancillary buildings, commercial portion under occupation by DMRC’s Lessee, and area under setbacks and MMI (Multi-Modal integration) etc. will not be handed over to the Lessee at any time.

6.3.15 Lessee will provide safe access passage for station commuters at all times. Passage shall be in accordance with requirements of DMRC during the Lease period.

6.3.16 Lessee shall provide unfettered access to the authorized representative of DMRC and its operation staff for the purpose of maintenance works, if applicable, inside the specified area including the temporary land at all times during the lease period.

6.3.17 The Lessee will have to take statutory clearance from DMRC and other concerned government agencies for removal of existing trees, if any, from the site.

6.3.18 The Lessee shall plan the layout in such manner that it provides access to station and ancillary buildings such as ASS room, Fire sump and pump room etc. all the time, as well as meets the requirement of Bye laws enacted by local bodies.

6.3.19 The Lessee will not cordon off the metro station, and fire access road from project site, by constructing any structure which restrict visibility and may cause obstruction to fire tender route / fire escape area. Lessee will also ensure visibility on the surroundings of metro station from and to the project site.

6.3.20 The shifting of the existing operational structures and utilities, if found during excavation or otherwise, on the subject site shall be done by the Lessee within 6 month period under the supervision of DMRC.
6.3.21 During the construction activities the Lessee shall strictly follow the guidelines issued by DMRC and DMRC’s manuals on Safety, Health and Environment and Safety, Health and Occupational Hazard on construction sites (OHSAS Manual).

6.3.22 Lessee shall ensure the quality of the work and submit Audit Report on Quality of Construction and Material before and after commencing the construction work.

6.3.23 Lessee shall design the proposed Property development building for design life of 90 years or higher.

6.3.24 Lessee shall also indemnify DMRC against any damages / claims due to any loss of life or property due to construction / operation of the property development project.

6.3.25 Lessee shall strictly adhere to the extant bye laws, rules issued by the local authority during entire lease period.

6.3.26 Lessee shall study the Traffic Impact Assessment of the project and provide the amenities / service area / parking etc. to cater the additional demand generated due to commissioning of the Project.

6.3.27 The Lessee will have to satisfy himself for business prospects, development parameters and applicable norms, and certify that he has made site visit and conversant to the site proposed for property development before undertaking the bid submission process in the subject area. No compensation, claim or damages will be entertained by DMRC in this regard. The Lessee shall develop the project facilities and thereafter operate and maintain them throughout the Lease Period. The act of granting permission to develop the Project Facility at the Site and to Lease the use of the Project Facility or any part thereof shall not vest or create any proprietary interest in the Project Facility or any part thereof including any permanent fixtures, fittings, etc. installed in the structure of the Project Facility in favour of the Lessee or any Sub-Lessee.

6.3.28 The Lessee shall be solely liable for the above mentioned obligations/responsibilities and in case any liability, on account of Lessee’s failure to comply with the above, falls on DMRC, the Lessee shall fully indemnify DMRC.

6.4 INSURANCE

6.4.1 The Lessee shall ensure full insurance cover as per the standard practice in the industry, covering all the applicable risks in respect of the Project and the Constructions.
6.4.2 The Lessee shall ensure the timely payment of the premium of the policies taken by it, at its own cost. The Lessee will submit the copy of the receipt of the payment of premium to DMRC as and when requested by DMRC.

6.5. TREASURES / FOSSILS

In the event of discovery by the Lessee or its employees during the progress of the work of any treasure, fossils, minerals or any articles of value or interest, the Lessee shall give immediate intimation of such treasure or things to the DMRC and the same shall become the property of the Government/DMRC.

The Lessee shall not claim right, title or interest on such things at any time.

6.6 Structure Design and Quality Assurance of Development Project

6.6.1 Before start of construction of the Development Project, the Lessee shall prepare a Development and construction Plan specifying different phases in which the Lessee proposes to construct the Development Project. The Development Plan shall be in accordance with applicable laws and lease agreement. The Development Plan and any subsequent modifications therein should be submitted to Nodal Officer for approval and no works shall be undertaken at site without approval of Nodal Officer of DMRC.

6.6.2 The Lessee shall at all times, obtain and maintain all applicable Permits, which are required by applicable law, to undertake the Project.

6.6.3 The Lessee shall prepare drawings for the proposed developments at the Site complying with the requirements of the agreement, applicable laws and applicable permits and prior to submitting the same to the concerned Government Authority for obtaining applicable permits, the lessee shall submit the drawings of the development project to the Nodal Officer for his approval. The Nodal Officer shall either approve the Drawings or ask for more details within 60(sixty) (thirty) days of submission of the Drawings. Once approved by the Nodal Officer, the Lessee shall not be entitled to make any alterations or additions to the approved drawings without prior approval in writing of the Nodal Officer by following the above procedure.

6.6.4 The structural design and preparation of structural drawings of the project shall be got done by lessee through a competent and reputed structural engineer, name of which shall be got approved from Nodal Officer of DMRC in advance, before assigning the design work to him. Further, the proof check of design and drawing shall be got done from IIT, NIT, or any other reputed Agency / institution of repute the name of which shall be got approved from Nodal Officer of DMRC in advance.

In addition, DMRC may demand structural design or any drawing at any stage of project for review and scrutiny.
6.6.5 The lessee during the project development stage shall furnish to DMRC all specifications, guidelines, standards and design criteria to be adopted by them along with any changed or new applicable specifications for approval of DMRC.

6.6.6 The approval of plans / drawings by the Nodal Officer in terms of clauses above, shall however in no event amount to certifying the conformity of drawings with applicable law or discharge the lessee from its responsibility of complying with the requirements of the agreement, applicable laws and applicable permits. After obtaining the applicable permits the lessee, shall submit a certified copy of such applicable permits to the Nodal officer within 7 days.

6.6.7 The Lessee shall, appoint a Project Manager who shall supervise and be overall in-charge of all construction activities being undertaken by the Lessee at the Site during the Construction Period. The Project Manager shall be the site representative of the Lessee for interaction with the authorised representatives of DMRC visiting the Site during the Construction Period. In case the Project Manager is not available at the Site, he shall ensure that its authorised agent is available for the Project, who shall, present himself to the Nodal officer or Nodal officer's representative and orders given by the Nodal officer or the Nodal officer's representative to the authorised agent shall be deemed to have the same force as if they had been given to the Project Manager.

6.6.8 The Lessee shall not commence any work upon the Site, except securing the Site through fencing/boundary wall until approval of requisite plans from the Nodal Officer of DMRC and the Government Authorities. Within 15 (fifteen days) of receipt of right of access of the Site, the Lessee shall secure the Site with steel hoarding of height not less than 1.8 meter on all sides with access controlled gate in a manner approved by the Nodal Officer. The steel hoarding should have smooth painted surface with a pre approved design bearing names and logo of Project, DMRC, and the Lessee. No construction debris, equipments, material should be kept outside the enclosed Site without specific permission of DMRC. Any activity related to construction shall not block the adjacent roads in the Circulating area at any time and shall not hinder passenger or vehicle movement or cause congestion.

6.6.9 Adherence to Specifications and Drawings: The whole of the work shall be executed in perfect conformity with the Specifications and approved drawings. If Lessee performs any works in a manner contrary to the Specifications and approved Drawings or any of them and without such reference to the Nodal Officer, it shall bear all the costs arising or ensuing there from and shall be responsible for all loss to DMRC.

6.6.10 The Lessee shall undertake the Project using due care and diligence in a professional manner, using sound engineering design and project management principles and supervisory procedures in accordance with best industry practices and for that it shall retain, engage and consult qualified and experienced professionals and consultants with good credentials and experience in relation to a project similar to the Project, which is the subject matter of the Agreement.
6.6.11 The Lessee will ensure that all materials, equipment, machinery etc. installed and/or used at the Site will be of sound and high quality, that all workmanship shall be in accordance with best industry practices applicable at the time of installation, construction or repair and that each part of the construction will be fit for the purpose for which it is required.

6.6.12 Nodal Officer of DMRC or his representative shall be entitled to, but not obliged to do so, without being required to give prior written notice to the Lessee, inspect the Site. The Nodal Officer and the Nodal Officer's representative shall also at all times have free access to every part of the works and to all places at which materials for the works are stored or being prepared. The lessee shall provide all necessary assistance including accompanying the DMRC's representative during such inspections, providing information, plans and other details of the Project as asked for by the DMRC's representative. Based on such inspections, DMRC may, without being obliged to do so, issue, if found necessary, instructions to the lessee for addressing the deficiencies noted at the site in terms of the agreement. The Lessee shall comply with such instructions within 30 (thirty) days of receipt of such instruction.

6.6.13 The lessee shall keep one copy of drawings and specifications and such other documents as may be required by DMRC at the site, in good order for Nodal Officer or his representative.

6.6.14 Quality assurance: The Lessee shall arrange to have a quality assurance system and engage PMC / Independent Engineer to audit adherence to prescribed codes/manuals guidelines applicable for the specific project. The names of PMC / Independent Engineer shall be got approved from Nodal officer of DMRC in advance. Lessee shall also make available to DMRC all reports of their PMC/Independent Engineer regarding quality audit and the compliance thereof. Compliance of the Quality Assurance system shall however not relieve lessee of his overall duties and responsibilities for executing the works as per prescribed standards.

Nodal Officer of DMRC or his representative however shall also be entitled to audit any aspect of the works and their observations shall be binding on the lessee.

6.6.15 Ownership of drawings and specifications:- All drawings and specifications and copies thereof approved by DMRC shall be deemed to be the property of DMRC and shall not be used on other works without express approval of DMRC.

6.6.16 Compliance to Nodal Officers Instruction:- The Nodal Officer of DMRC or his representative shall have the right to instruct the lessee for rectifying defects in materials, equipments workmanship, housekeeping, quality or the temporary or permanent works at any time.

6.6.17 The Lessee shall be obliged to comply with such instructions. No alteration in or additions to or omissions or abandonment of any part of works shall be deemed authorized, except under instruction from the Nodal Officer.
6.8 ASSIGNABILITY AND ENCUMBRANCE

6.8.1 Except for the sub-licensing the use of the built space, facility as per the terms of this Agreement, the Concessionaire shall not assign any of its rights, or interest in this Agreement in favour of any person(s) at any time and for any reasons whatsoever.

6.8.2 The lessee may subject to the first and paramount charge of the DMRC over the receivables from the sub-licensees and other users of the built up space and facilities, for the payment of the amounts becoming due to DMRC, create second or further charge over the receivables as security to recognised Financial Institution(s) / Banks for financial assistance and funding of the Project subject to prior written approval of Licensor (DMRC). DMRC reserves the right not to give such approval. The lessee hereby voluntarily and unequivocally agrees not to seek any claim, compensation, damages or any other consideration whatsoever on account of non-issue of such approval.

6.8.3 Under no circumstance, shall the land or building or facilities constructed or installed at the Project Facility or Site be mortgaged, charged or otherwise any lien (including negative lien), charge or encumbrance be created or agreed to be created in favour of any person, including Lenders / Financial Institution(s) / Banks.
ARTICLE 7

7.0 REPRESENTATIONS AND WARRANTIES

7.1 REPRESENTATIONS AND WARRANTIES OF THE LESSEE

The Lessee (in the case of Consortium each member) represents and warrants to DMRC that:

(i) It is duly organized, validly existing and in good standing under the laws of India;

(ii) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(iii) It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;

(iv) It has the financial standing and capacity to undertake the Project;

(v) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(vi) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire Memorandum and Articles of Association or any Applicable Law or any covenant, agreement, understanding, decree or order to which the Concessionaire is a party or by which Concessionaire or any of its properties or assets are bound or affected;

(vii) There are no actions, suits, proceedings or investigations pending or to the Lessee’s knowledge threatened against the Lessee at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may constitute the Lessee Event of Default or which individually or in the aggregate may result in Material Adverse Effect;

(viii) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any government authority which may result in Material Adverse Effect;

(ix) It has complied with all Applicable Law 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;

(x) No representation or warranty by the Lessee contained herein or in any other document furnished by the Lessee to DMRC or to any government authority 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; and
(xi) The Lessee also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that DMRC shall not be liable for the same in any manner whatsoever to The Lessee.

(xii) The Lessee shall make its own arrangements in engagement of its staff and labour and shall at no point represent to or claim that the staff, labour are being recruited for and on behalf of DMRC. The Lessee shall at all times comply and represent to the staff and labour employed / engaged by them the requirement for complying with Applicable Laws and applicable Permits, particularly in relation to safety and environmental regulations.

7.2 OBLIGATION TO NOTIFY CHANGE

In the event that any of the representations or warranties made/given by the Lessee ceases to be true or stands changed, it shall promptly notify DMRC of the same.
ARTICLE 8

8.0 RESTRICTION AND CHANGES IN LESSEE AND SPECIAL PURPOSE COMPANY

8.1 In case the Lessee is an SPC incorporated as per the requirements of the RFP, the members of Consortium shall be required to maintain 100% of the equity of the SPC throughout the subsistence of the Lease Agreement. There shall be no change in the shareholding structure of the SPC during the Lease Period without prior approval of DMRC.

8.2 The members of Consortium of the SPC shall be responsible and liable jointly and severally, for due performance of all the obligations and responsibilities assumed by the SPC under this Agreement.

8.3 The Lead Member shall hold not less than 51% (fifty one per cent) of the equity of the SPC during the subsistence of the Lease Agreement and that each member of the Consortium whose technical and financial capacity was evaluated for the purposes of award of the Project shall hold at least 26% (twenty six per cent) of such Equity during the subsistence of the Lease Agreement. Replacement of the Lead Member shall not be allowed at any time during the subsistence of the Lease Agreement. Any deviation from the above shareholding structure shall expressly be with the prior written consent of DMRC. Further, any change proposed in the equity shareholding pattern of the Consortium in the Special Purpose Company during the Lease Period, within the prescribed limits shall be subject to prior permission of DMRC.
ARTICLE 9

9.0 INDEMNITY

9.1 The Lessee hereby undertakes to indemnify and hold DMRC harmless against all costs, damages, liabilities, expenses arising out of any third party claims relating to non-completion of Project; quality of the Project and the Construction / construction activities, sale/ agreement to sell entered into between the Lessee and end user.

9.2 The Lessee hereby undertakes to indemnify DMRC against all losses and claims in respect of death or injury to any person or loss or damage to any property which may arise out of or in consequence of the execution and completion of works and remediing defects therein, and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

9.3 The Lessee hereby undertakes that DMRC shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Lessee or any of its contractors/sub contractors. The Lessee shall indemnify and keep indemnified DMRC against all such damages and compensation; all claims proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

9.4 The Lessee hereby undertakes to indemnify, defend, save and hold harmless the DMRC and its officers, servants, agents, etc. (the “DMRC Indemnified Persons”) against any and all suits, proceedings, actions, demands and claims from Property Purchasers and /or Sub-Lessees for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Lessee of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Lessee to any Property Purchasers and /or Sub-Lessees or from any negligence of the Lessee under contract or tort or on any other ground whatsoever.

9.5 Survival on Termination

The provisions of this Article shall survive Termination.
ARTICLE 10
TERM AND TERMINATION

10.1 Term

This Agreement shall continue to operate and be binding on the Parties for the Lease Period of 50 years commencing from the Commencement Date, unless terminated earlier in accordance with the provisions of this Article 10.

10.2 Termination by DMRC

DMRC, in its sole discretion, may terminate this Agreement due to any of the following events of default by the Lessee (hereinafter called the "Lessee Event of Default"):

a) The Lessee has failed to perform or discharge any of its obligations in accordance with the provisions of this Agreement, unless such event has occurred because of a Force Majeure Event, or due to reasons solely attributable to DMRC without any contributory factor of the Lessee;

b) If at any time during the Lease Period, any payment, assessment, charge, lien, penalty or damage herein specified to be paid by the Lessee to DMRC, or any part thereof, shall be in arrears and unpaid for a continuous period of 180 days;

c) The Lessee has failed to submit security deposit for renewed amount six months before the date of the expiry of existing Security Deposit.

d) Any representation made or warranties given by the Lessee under this Agreement is found to be false or misleading;

e) The Lessee has engaged or knowingly has allowed any of its employees, Sub Lessee, agents, contractor or representative to engage in any activity prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement;

f) The Lessee has been adjudged as bankrupt or become insolvent;

g) The Lessee has created any encumbrance, charges or lien in favour of any person or agency, over the Leased Area, save and except as otherwise expressly permitted under this Agreement;
h) A resolution for voluntary winding up has been passed by the shareholders of the Lessee;

i) Any petition for winding up of the Lessee has been admitted and liquidator or provisional liquidator has been appointed or the Lessee has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of DMRC, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Lessee under this Agreement;

j) The Lessee has abandoned the Project;

k) The shareholding pattern of the SPC (being the Lessee) has been changed without obtaining prior written consent of DMRC.

l) In case the Lessee or its Sub Lessee had entered into any Sub Lease Agreement without the prior written consent of DMRC;

Provided that in the event of application under sub-clauses (a) and (b), above DMRC shall give to the Lessee 30 days time to cure the default prior to considering the events specified therein as Lessee's events of default and in the event the Lessee remedies the default to the satisfaction of the DMRC within 30 days, the event will not be considered as a Lessee Event of Default.

In the event of default under sub-clauses (c) to (l), above, the Lessor shall be entitled to terminate this Agreement at any point of time in its sole discretion by giving 30 days notice period to the Lessee. This Agreement shall thereafter automatically stands terminated notwithstanding any further action by either Party. The Lessee shall incorporate these termination clauses in the agreement of sub-lessees. All such sub-lease agreements will stand terminated once this contract is terminated.

10.3 Termination for Force Majeure

The Agreement may be terminated for Force Majeure reasons as specified in Clause 12.5.
10.4 Consequences of Termination

10.4.1 Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon Termination:

i) the Lessee or Sub-Lessee shall cease to have any access to the Leased Space(s). However, DMRC at its own discretion may allow the Sub-Lessees/ end users to continue to have access on mutually negotiable terms & conditions.

ii) surrender all its rights on the Leased Space(s). Transfer all its rights, titles and interest in or over the assets comprised in the Leased Space(s) which are required to be transferred to DMRC in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.

iii) The Leased Space(s) shall have been renewed and cured of all defects and deficiencies as necessary so that the Leased Space(s) is in accordance with the specifications & standards as per the terms of this Agreement.

iv) Hand over to DMRC all documents including as-built drawings, manuals and records relating to development, operation and maintenance of the Leased Space(s) and a certificate from his statutory auditors certifying zero financial encumbrance on the Leased Space(s);

v) At its cost remove from the Leased Space(s) all such moveable assets, which are not taken over by or transferred to the DMRC.

vi) At its own cost, immediately terminate the Sub-Leasing Agreements entered into with Sub-Lessees, without any liability of the DMRC. However, DMRC may in its discretion, instruct the Lessee to assign the Sub-Leasing Agreement in favour of the DMRC, if the DMRC considers appropriate to continue to provide access to the Sub-Lessee on the Leased Space(s).

vii) The Lessee shall, at its cost, transfer to DMRC all such Applicable Permits, which the DMRC may require and which can be legally transferred.

10.4.2 It is hereby agreed between the Parties that the Lessee or the Sub-Lessee or any other person acting through or under them shall not remove any of the facilities at
Leased Space(s) including all equipment and other fixtures attached to the Leased Space(s) and shall remove only movables which can be removed without causing any damage to the structure of the Leased Area.

10.4.3 Both Parties shall at least 6 (six) months prior to the expiry of the normal Lease Period of 50 (Fifty) years or sooner determination as the case may be, promptly agree upon the modalities and take all necessary steps to complete the aforesaid consequences of Termination.

10.4.4 Each Party shall pay the other Party the various payments due as on the date of Termination in accordance with this Agreement.

10.4.5 The Parties shall perform/discharge their respective obligations to be performed or discharged under the provisions of this Agreement on the Termination in entirety, and unless otherwise provided in this Agreement, the cost involved in transfer contemplated shall be shared by the respective Parties.

10.5 Rights of DMRC on Termination

Notwithstanding anything contained in this Agreement, DMRC shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Lessee and/or Sub-Lessee in connection with the Leased Space(s).

In cases of termination of lease agreement due to default of lessee, DMRC shall have the exclusive rights to cut water supply, electricity, sewerage connection to the leased area and also start process for eviction of lessee from DMRC property.

10.6 Right to re-market the said Leased Space(s) on Termination

Notwithstanding anything contained in this Agreement, DMRC shall have right to re-market the Leased Space(s) on Termination of this Agreement for any reasons whatsoever.
ARTICLE 11

11.0 GOVERNING LAW, DISPUTE RESOLUTION & ARBITRATION

11.1 GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of India.

11.2 Amicable Resolution

11.2.1 Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the “Dispute”) shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in the clauses below.

11.2.2 Except where otherwise provided for in the Agreement, all questions and disputes arising between the Parties pertaining to or directly or indirectly connected with this Agreement shall in the first place be referred to a sole conciliator who shall be an official of DMRC of the rank of deputy and above (the “Conciliator”).

11.2.3 Upon conciliation as above, in case the Parties reach an agreement, the Conciliator shall make the settlement agreement and give an authenticated copy thereof to each of the Parties (the “Settlement Agreement”). The Settlement Agreement shall be final and binding on the Parties. The Settlement Agreement shall have the same status and effect as arbitration award.

11.2.4 The views expressed, or suggestions made or the admissions made by either Party in the course of conciliation proceeding shall not be introduced as evidence in any arbitration proceedings. The cost of conciliation shall be borne by both the Parties equally.

11.2.5 Any dispute that cannot be settled through conciliation procedure shall be referred to arbitration in accordance with the procedure under Clause 12.2 below.

11.3 Arbitration

11.3.1 If the efforts to resolve all or any of the disputes through amicably resolution fails, then such disputes or differences, whatsoever arising between the parties shall be referred to Arbitration in accordance with the following provisions:

   a. Matters to be arbitrated upon shall be referred to a sole Arbitrator if the total value of the claim is upto Rs.5 million and to a panel of three Arbitrators if total value of
claims is more than Rs.5 million. DMRC shall provide a panel of three arbitrators which may also include DMRC officers for the claims up to Rs.5 million and a panel of five Arbitrators which may also include DMRC officers for claims of more than Rs.5 million. The Lessee shall have to choose the sole Arbitrator from the panel of three and/or one Arbitrator from the panel of five in case three Arbitrators are to be appointed. The DMRC shall also choose one Arbitrator from this panel of five and the two so chosen will choose the third arbitrator from the panel only who shall act as the Presiding Arbitrator. The Arbitrator(s) shall be appointed within a period of 30 days from the date of receipt of written notice/demand of appointment of Arbitrator from either party. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before DMRC for the purpose of obtaining his decision. No decision given by DMRC in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. The arbitration proceedings shall be held in Delhi only. The language of proceedings, that of documents and communication shall be English.

b. DMRC at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrator nominated in the panel along with their professional experience, phone nos. and addresses to the contractor.

c. The award of the sole Arbitrator or the award by majority of three Arbitrators as the case may be shall be binding on all parties.

11.3.2 Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period, till the date on which the award is made.

11.3.3 The cost of arbitration shall be borne by the respective parties. The cost shall, inter alia, include the fees of the Arbitrator(s) as per rates fixed by the DMRC from time to time.

11.3.4 Where recourse to a Court is to be made in respect of any matter, the court at Delhi/ New Delhi shall have the exclusive jurisdiction to try all disputes between the parties.

11.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.
ARTICLE 12
12.0 MISCELLANEOUS

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

If to DMRC:
Address:
Facsimile:

If to Lessee:
Address:
Facsimile:

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

12.2 ASSIGNMENT
The Lessee shall not assign its rights and obligations in whole or in part hereunder without the prior written approval of DMRC.

12.3 VARIATION
Any variation of this Agreement shall be mutually agreed in writing and executed by or on behalf of each of the Parties.

12.4 WAIVER
12.4.1 Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
- shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
- shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
- shall not affect the validity or enforceability of this Agreement in any manner.

12.4.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.
12.5 **FORCE MAJEURE**

12.5.1 **Force Majeure Event**

Any of the following events resulting in material effect on the execution of the Project despite all efforts and prudence by the Lessee, shall constitute a Force Majeure Event

(i) Earthquake, flood, inundation, landslide;
(ii) Storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances;
(iii) Fire caused by reasons not attributable to the Lessee;
(iv) Acts of terrorism;
(v) War, hostilities (whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war;
(vi) Strikes or boycotts, other than those involving either of the Lessee, its subcontractors or their employees, agents, etc.; and
(vii) Any other similar events beyond the control of the Party.

12.5.2 **Notice of Force Majeure Event**

As soon as practicable and in any case within 3 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Party which is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event (the "Affected Party") shall notify the other party of the same, setting out, inter alia, the following in reasonable details:

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

12.5.3 **Performance of Obligations**

The Affected Party shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

(i) Due notice of the Force Majeure Event has been given to the other party as required by the preceding Article 12.5.2;
(ii) The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
(iii) There shall be no termination of this Agreement on account of Force Majeure except as provided in Article 12.5.5;
(iv) Where the Lessee is the Affected Party, the various deadlines set forth in this Agreement and the Lease Period shall be extended by the period for which such Force Majeure Event subsists;

(v) Where the Lessee is the Affected Party, it has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facilities as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with the Good Industry Practice and its relative obligations under this Agreement;

(vi) When the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;

(vii) The Affected Party shall continue to perform such obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement; and

(viii) Any insurance proceeds received by the Lessee shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with Good Industry Practice, unless otherwise agreed to by DMRC.

12.5.4 Cost for remedying Force Majeure Event
Upon occurrence of a Force Majeure Event, the Lessee shall as soon as possible, take all necessary actions to cure the Force Majeure Event at its own cost and expense.

12.5.5 Termination due to a Force Majeure Event
If a Force Majeure Event subsists for a period of 180 (one hundred eighty) days or more within a continuous period of 365 (three hundred sixty five) days, either Party may in its sole discretion terminate this Agreement by giving 30 (thirty) days termination notice in writing to the other Party without being liable in any manner whatsoever.

12.6 SEVERABILITY
In the event of any one or more of the provisions contained in this Agreement being waived, modified or altered, none of the other provisions hereof shall in any way be affected or impaired thereby. If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respects under any Applicable Law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired. Where the provisions of such Applicable Law may be waived they are hereby waived by the Parties to the full extent permitted so that this Agreement shall be deemed to be valid and binding and enforceable in accordance with its terms. If any provisions of this Agreement become invalid, the Parties agree to substitute for such invalid provision a new provision that serves the purpose of the invalid provision to the furthest possible extent.
12.7  **AMENDMENTS**  
This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

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

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

12.10  **EMPLOYEES OF CONCESSIONAIRE**  
The employees/staff of the concessionaire shall not be deemed or construed to be the employees of DMRC. The Concessionaire understands and undertakes that the employees/staff shall make no claim against DMRC for reason whatsoever.

**IN WITNESS WHEREOF** the Parties hereto have caused this Agreement to be executed in 4 (Four) counterparts by their duly authorized representatives as of the date and year first above written.

<table>
<thead>
<tr>
<th>For and on behalf of Delhi Metro Rail Corporation Limited</th>
<th>For and on behalf of [ ] Lessee</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] Authorised Signatory Witness:</td>
<td>[ ] Authorised Signatory Witness:</td>
</tr>
<tr>
<td>1. __________________________</td>
<td>1. __________________________</td>
</tr>
<tr>
<td>2. __________________________</td>
<td>2. __________________________</td>
</tr>
</tbody>
</table>
Property Development at Netaji Subhash Place Metro Station of DMRC’s Phase-III Corridor.

(Contract CPD-39)

**SCHEDULE – A**

Site layouts
(To be collected from the O/o ED/Contracts, 5th Floor, Metro Bhawan, Barakhamba Road, New Delhi – 110001)
**SCHEDULE-B**

**FORMAT OF BANK GUARANTEE**

(To be issued by a Scheduled Commercial Bank in India, acceptable to DMRC, on non-judicial stamp paper of appropriate value)

BANK GUARANTEE NO._____________________ dated _____

This Deed of Guarantee made on this day of ....................(month & year) by:

____________________ (Name and address of Bank) of the one part (hereinafter referred to as the “Bank” or “Guarantor”, which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns)

IN FAVOUR OF

The Delhi Metro Rail Corporation Limited (hereinafter called “DMRC”, which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns), having its registered office at Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi-110001 of the other part;

WHEREAS the DMRC has accepted the bid of M/s ______________________ (hereinafter referred to as the “Bidder”, which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) having its registered office at______________________ for the work of______________________ (Name of work).

AND WHEREAS the Bidder under the terms of the RFP document is required to furnish an unconditional irrevocable Bank Guarantee for an amount of Rs._________/- (Rupees ______________ only) as Security Deposit and has thus requested the Bank to issue the said Bank Guarantee in favor of the DMRC.

AND WHEREAS, accordingly the Bank has agreed to guarantee to DMRC the full amount of ______________________ (amount in figures and words) on the terms and conditions stated herein.

NOW THIS GUARANTEE HEREBY WITNESS

1. The Bank, as primary obligor, on receipt of a written demand from DMRC, will pay on the same day to DMRC the aforementioned guaranteed amount or part thereof, without demur, reservation, contest, recourse whatsoever and without need for ascribing any reason to the demand and without any reference to the Bidder or any other person and irrespective of whether the claim of DMRC is disputed by the Bidder or not, merely on the first demand from DMRC stating that
Property Development at Netaji Subhash Place Metro Station of DMRC’s Phase-III Corridor.

(Contract CPD-39)

the amount claimed is due to DMRC by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the RFP document. Any such demand made by DMRC will be conclusive, final and binding on the Bank and the Bank shall pay the amount so demanded without demur notwithstanding any dispute/disputes raised by the Bidder in any suit or proceedings pending before any court, Tribunal or Arbitrator/s relating thereto and the liability of the Bank under this Guarantee shall be absolute and unequivocal.

2. This Guarantee shall be valid upto dd/mm/yyyy and shall not be revoked by the Bank at any time without DMRC’s prior consent in writing. Further the Bank shall be liable to pay the guaranteed amount or part thereof under this Guarantee only and only if DMRC serves upon the Bank a written claim or demand on or before dd/mm/yyyy.

3. This Guarantee is unconditional and irrevocable till such time DMRC discharges this Guarantee by issuing a letter to the Bank in this behalf.

4. The Bank undertakes to pay the amount mentioned herein as principal debtor and not a surety and the DMRC at its option, shall be entitled to enforce this Guarantee during its currency against the Bank, as a Principal Debtor in the first instance, without proceeding against the Bidder and notwithstanding any security or other guarantee that the DMRC may have in relation to the Bidder’s liabilities.

5. The Bank shall not be relieved from its obligations under this Bank Guarantee on account of any variations in the terms and conditions of the RFP Document or Lease Agreement or by extension of time granted to the Bidder or due to any postponement/non-exercise/delayed exercise of any of its rights by DMRC against the Bidder or omission on the part of DMRC or any indulgence by DMRC to the Bidder to give such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving the Bank.

6. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

7. Notwithstanding anything contained herein:

   a) The Bank liability under this bank guarantee shall not exceed Rs. ............ (Rupees in words).

   b) This Bank guarantee shall be valid upto dd/mm/yyyy.

   c) The Bank is liable to pay the guaranteed amount or part thereof only and only if the DMRC serves upon the Bank a written claim or demand on or before dd/mm/yyyy.
IN WITNESS WHEREOF I on behalf of the Bank have signed and sealed this Guarantee on the ____ day of _________ month and year being herewith duly authorized.

For and on behalf of the _____________________ Bank.

Signature of Authorized Bank Official:

Name: 
Designation: 
Stamp/Seal of the Bank: 

Signed, sealed and delivered for and on behalf of the Bank by the above named _____________________ in the presence of:

Signature__________________
Name  __________________
Address   __________________

Signature__________________
Name  __________________
Address   __________________
## Payment Schedule

The Selected Bidder shall follow the following time lines:

<table>
<thead>
<tr>
<th>Stage of Activity</th>
<th>Time Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment of 1\textsuperscript{st} installment of Upfront Lease Fee and Security Deposit</td>
<td>Within 30 days of issue of Letter of Acceptance.</td>
</tr>
<tr>
<td>Signing of Lease Agreement (Commencement Date)</td>
<td>Within 7 days after payment of Upfront Lease Fee and Security Deposit.</td>
</tr>
<tr>
<td>Handing over of Site</td>
<td>Within 180 days of the signing of lease agreement</td>
</tr>
<tr>
<td>Payment of 2\textsuperscript{nd} remaining installment of Upfront fee</td>
<td>Within 36 months of date of signing of lease agreement i.e. before the expiry of construction and fitout period (moratorium period)</td>
</tr>
<tr>
<td>Payment of Annual Lease Fee to DMRC by Developer.</td>
<td>On quarterly basis, within 7 days of the commencement of quarter in advance, after end of moratorium period.</td>
</tr>
<tr>
<td></td>
<td>Delay in payments shall attract interest @ 20 % per annum on outstanding balance on due date</td>
</tr>
<tr>
<td></td>
<td>The quarterly recurring payments for the area leased on concourse floor shall commence after 12 months (1 year) from the commencement date.</td>
</tr>
<tr>
<td></td>
<td>The quarterly recurring payments for the complete leased area shall commence after 36 months (3 years) from the commencement date.</td>
</tr>
</tbody>
</table>
SCHEDULE D

DRAFT LEASE AGREEMENT

This Agreement (‘Agreement’) is made and executed at New Delhi on this ________________, Year.

BY AND BETWEEN

Delhi Metro Rail Corporation Limited, a company incorporated under the Companies Act, 1956, having its registered office at Metro Bhawan, Fire Brigade Lane, Barakhamba road, New Delhi 110001, India (hereinafter referred to as "DMRC", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) of the ONE PART;

AND

M/s ___________________________ Ltd., a company incorporated under the provisions of the Companies Act, 1956/2013* (as applicable), having its registered office at ____________________ (hereinafter referred to as the "Lessee" which expression shall unless repugnant to the context include the successors and permitted assigns) of the Other Part

OR

M/s _____________, a Partnership firm, registered under the Indian Partnership Act, 1932 carrying on its business under the name and style as hereinbefore mentioned and having its principal office at _______ (mention full address) and having Registration No.____ dt. _____.

OR

M/s _____________, a Partnership firm, registered under the Limited Liability Partnership Act, 2008 carrying on its business under the name and style as hereinbefore mentioned and having its principal office at _____________ (mention full address) and having Registration No._____ dt. _____.

OR

M/s _____________, a proprietary firm carrying on its business under the name and style as hereinbefore mentioned and having its principal office at _____________ (mention full address)

Hereinafter referred to as “the {Lessee/SPC Company}” (which expression shall, unless excluded by or repugnant to the context hereof, be deemed to mean and include its successors, administrators and permitted assigns) of the SECOND PART.

*in case Selected Bidder is a consortium it is required to incorporate an SPC under Companies Act, 2013.
(DMRC and the Lessee are hereinafter also individually referred to as a 'Party' and collectively as 'Parties').

WHEREAS:

A. DMRC has been established with the principal object of planning, designing, developing, constructing, maintaining, operating and financing Mass Transit and other urban transport and people mover system of all types and descriptions in the National Capital Territory of Delhi and other areas of the National Capital Region (hereinafter called the 'Territory');

B. The Delhi Metro Railway (Operation and Maintenance) Act, 2002 has been enacted by the Parliament to provide for the operation and maintenance, and to regulate the metro railway in the metropolitan city of Delhi and for matters connected therewith and incidental thereto;

C. DMRC has been authorised to develop real estates in and around the metro stations and other places in the Territory and generate revenues there from, for the purpose of part funding of its capital expenditure and to supplement the fare box collection;

D. In pursuance of the above, DMRC is desirous of raising funds for developing Delhi Mass Rapid Transit System by transfer of development rights to a Lessee for the purpose of Property development on the station box of the Netaji Subhash Place MRTS station of DMRC’s phase-III corridor in return for Upfront Lease fee and annual lease fee as specified in this Agreement. For this purpose 5 RCC floors are proposed to be developed above Concourse floor at Netaji Subhash Place MRTS station with a total FAR of 18,452 sqm along with dedicated parking in 2 basements, as more specifically described in Schedule A hereto and in the plan set out in Schedule A hereto (hereinafter called the "Project Site");

E. DMRC invited bids for the Project through open tender and after evaluation of the bids received and after approval of competent authority, DMRC has accepted the bid of the Selected Bidder/Consortium and has issued a Letter of Acceptance (hereinafter called the 'LOA') bearing No. ________ dated ________, requiring inter alia, the Selected Bidder/Consortium to accept the LOA and deposited 1st installment of Upfront Lease Fee i.e. Rs. 20,00,00,000/- only (in Words Rs. Twenty Crores) within 30 days of issue of Letter of Acceptance.

F. {The Consortium has since promoted and incorporated the SPC Company as a limited liability company under the Companies Act 2013, and has requested DMRC to accept the SPC Company as the entity which shall undertake and perform the obligations and exercise the rights of the Consortium under the LOA, including the obligation to enter into this Agreement pursuant to the LOA for executing the Project.}
G. The Lessee/SPC Company has represented that it has requisite skill, financial, managerial & technical expertise and experience to design, develop, operate, finance & maintain a state-of-the-art Property development on the Project Site. The Lessee further represents and warrants that it/they has/have duly fulfilled all the terms and conditions necessary for the execution of this Agreement as per the terms contained in the bidding documents and are in a position to implement the Project as envisaged in the bid and this Agreement;

H. The Lessee/SPC Company has submitted the requisite Upfront Payment/Lease Fee as per the Payment Schedule mentioned at Schedule -C [●] to this Agreement.

I. Pursuant to acceptance of the Lessee's bid and submission of the Upfront Payment/Transfer Fee, the DMRC has agreed to enter into this Agreement with the {Lessee/SPC Company} for execution of the Project subject to and on the terms and conditions set forth hereinafter for development of the Project Site;

NOW THEREFORE IN CONSIDERATION OF THE FOREGOING AND THE RESPECTIVE COVENANTS AND AGREEMENTS SETFORTH IN THIS AGREEMENT, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES AGREE AS FOLLOWS:

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed in Four (4) counterparts by their duly authorized representatives as of the date and year first above written.

For and on behalf of Delhi Metro Rail Corporation Limited

[______________________]

[______________________]

Authorised Signatory

Witness:

1. _________________________

2. _________________________

For and on behalf of [______________________]

[______________________]

Lessee

[______________________]

Authorised Signatory

Witness:

1. _________________________

2. _________________________
SCHEDULE – E
DRAFT BID APPLICATION FORM FOR PROPERTY DEVELOPMENT AT NETAJI
SUBHASH PLACE MRTS STATION OF DMRC’S PHASE-III CORRIDOR’

Form No: __________

DELHI METRO RAIL CORPORATION LIMITED

Application for the “Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III Corridor” New Delhi.

A. PARTICULARS OF BIDDER:

1. Name (In block letters) of individual bidder(s)/Firm/Lead Member of the consortium:

2. Name of consortium members if any: (1) (2)

3. Status of the bidder/firm/Lead Member of consortium whether Public Ltd./Pvt. Ltd. /partnership/Sole proprietorship etc.

4. i) Year of establishment of bidder/firm/Lead Member of consortium
   ii) Year of establishment of other members: a) of Consortium b)

5. Name of the authorised Signatory of the firm/LeadMember of consortium & his designation

6. Official Address of authorized signatory:
   ___________________________________
   ___________________________________

7. Official address of consortium members:
   i) ___________________________________
      ___________________________________
      ___________________________________
   ii) ___________________________________
      ___________________________________
SCHEDULE F
CONSORTIUM AGREEMENT / MEMORANDUM OF AGREEMENT

[On non judicial stamp paper of appropriate value to be purchased in the name of the executants]

This Consortium Agreement/Memorandum of Agreement is executed at New Delhi on this _____ day of ________________, year.

BETWEEN

M/s. ____________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at ___________________ acting through its Managing Director, ____________ duly authorized by a resolution of the Board of Directors dated _____ (hereinafter referred to as the ‘Lead Member’ which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the ONE Part;

AND

M/s. ____________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at ___________________ and Office at ___________________ acting through its Managing Director, ______________, duly authorized by a resolution of the Board of Directors dated ____________ (hereinafter referred to as ‘Participant Member 1’ which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the SECOND PART’

AND

M/s. ____________________, a Company incorporated under the Companies Act, 1956 and having its Registered Office at ___________________ and Office at ___________________ acting through its Managing Director, ______________, duly authorized by a resolution of the Board of Directors dated ____________ (hereinafter referred to as ‘Participant Member 2’ which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the THIRD PART’

(Hereinafter collectively referred to as “Consortium” or “Parties”)

WHEREAS Delhi Metro Rail Corporation Limited (hereinafter referred to as ‘DMRC’) has invited tenders for the “Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III Corridor” (“Project”) in terms of the RFP document issued for the said purpose and as per the conditions stipulated by DMRC for participating in the bid by the Consortium for executing the Project for which the tender has been floated by DMRC.

AND WHEREAS in terms of the bid document the Parties are interested for participating in the bid process by forming a Consortium between themselves.
AND WHEREAS the Parties hereto have discussed and agreed to form a Consortium for participating in the aforesaid bid and have decided to reduce the agreed terms to writing.

AND WHEREAS it is necessary for the members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with submission of the Bid.

NOW THIS CONSORTIUM AGREEMENT / MEMORANDUM OF AGREEMENT HEREBY WITNESS:

A. That in the premises contained herein the Parties having decided to pool their technical know-how, working experiences and financial resources, have formed themselves into a Consortium to participate in the tender process for “Property Development at Netaji Subhash Place MRTS station of DMRC’s Phase-III Corridor” in terms of the tender invited by Delhi Metro Rail Corporation Ltd., (DMRC).

B. That the Parties have represented and assured each other that they shall abide by and be bound by the terms and conditions stipulated by DMRC for awarding the Project to the Consortium so that the Consortium may undertake the Project in case the Consortium turns out to be the Selected Bidder in the bid being invited by DMRC for the said purpose.

C. That the Parties have satisfied themselves that by pooling their technical know-how and technical, managerial and financial resources, the Consortium fulfills the pre-qualification/eligibility criteria stipulated for a bidder, to participate in the bid for the said tender process for executing the Project.

D. That the Parties have agreed to nominate __________ as the Lead Member who shall be authorized to represent the Consortium for all intents and purposes for dealing with the DMRC or its representatives and for submitting the bid as well as doing all other acts and things necessary for submission of bid, which shall be legally binding on all the members of the Consortium who shall be jointly and severally responsible for the performance and obligations in relation to the bid submitted to DMRC and execution of the Project.

E. The Consortium further authorizes the Lead Member to represent the Consortium for all correspondence and communications with the DMRC and any notice or communication served upon the Lead Member shall be deemed to be notice or communication to the Consortium.

F. That the shareholding of the members of the Consortium for this specified purpose shall be as per the Lease Agreement and at present the proposed shareholding shall be as follows:-

(i) The Lead Member shall have _______________________ percent (___%) of share holding with reference to the Consortium for the Project.
(ii) The Participant Member 1 shall have ____________ percent (___%) of share holding with reference to the Consortium for the Project.

(iii) The Participant Member 2 shall have ____________ percent (___%) of share holding with reference to the Consortium for the Project.

G. That in order to fulfill the requirement of the bidding process and also to keep an altogether separate legal entity of the Consortium, the Parties undertake to provide their own nominees as shareholders to the extent of their respective shareholding for the purpose of formation of a Special Purpose Vehicle (SPC) through which the Consortium proposes to undertake the Project.

H. That if any change in the membership of the Consortium be required to be made by the members of the Consortium, the same shall be done with the prior written approval of DMRC, subject to the conditions as may be stipulated by DMRC in this regard and which consent, DMRC shall be entitled to decline without assigning any reason whatsoever.

I. That in order to meet the requirements of bid documents or any other stipulations of DMRC, if it becomes necessary to execute and record any other documents amongst the members of the Consortium, the Parties undertake to do the needful and to participate in the same for the purpose of the Project.

J. That it is clarified by and between the Parties that execution to this Consortium Agreement/Memorandum of Agreement by the Parties does not constitute any type of partnership for the purposes of provisions of the Indian Partnership Act and that the members of the Consortium shall otherwise be free to carry on their independent business or commercial activities for their own respective benefits under their own respective names and styles. This Consortium Agreement is limited in its operation to the Project.

K. That the Parties undertake to specify their respective roles and responsibilities for the purposes of execution of the Project if awarded to the Consortium in the Memorandum & Articles of Association of the proposed Special Purpose Vehicle to be incorporated by the Parties to meet the requirements and stipulations of DMRC.

IN FAITH AND TESTIMONY WHEREOF, THE PARTIES HERETO HAVE SIGNED THESE PRESENTS ON THE DATE, MONTHS AND YEAR FIRST ABOVE WRITTEN.

A1. Managing Director

(----------------)

For (Name of Company)

A 2. Managing Director
Property Development at Netaji Subhash Place Metro Station of DMRC’s Phase-III Corridor.

(Contract CPD-39)

For (Name of company)

A 3. Managing Director

For (Name of company)

WITNESSES:

1. 
2. 