



AHMEDABAD MUNICIPAL CORPORATION
AHMEDABAD, GUJARAT, INDIA

REQUEST FOR PROPOSAL

SELECTION OF LICENSEE FOR PROVIDING SMART CARD BASED COMMON CITY
PAYMENT SYSTEM (CCPS) FOR CITY BASED TRANSPORTATION SYSTEM,
RECREATIONAL AND AMUSEMENT AREAS OF AMC, MUNICIPAL BILL PAYMENT, UTILITY
PAYMENTS, RETAIL AND OTHER PAYMENTS WITHIN AHMEDABAD MUNICIPAL
CORPORATION

APPENDIX 6 OF RFP PART 1 – DRAFT LICENSE AGREEMENT

FEBRUARY 2016

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A. PRELIMINARY

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

BETWEEN

Ahmedabad Municipal Corporation (the "Authority"/"AMC"), a Municipal Body incorporated under the Bombay Provincial Corporation Act, 1949, responsible for the civic infrastructure and administration of Ahmedabad city and having its office at Sardar Patel Bhavan, Danapith, Astodia Ahmedabad -38001, Gujarat State, India ,which expression shall, unless it be repugnant to the context or meaning thereof, include its administrators, successors and assigns; of ONE PART.

AND

_____, a Bank incorporated under the provisions of _____, having its registered office at _____, AND _____, hereunder referred to as the "Licensee" or "CCPS Licensee" which expression shall unless repugnant to the context include its successors and permitted assigns, of the OTHER PART.

The Authority and the Licensee are hereinafter individually referred to as "Party" and collectively as "Parties".

WHEREAS:

- A. Authority intends to implement interoperable payment ecosystem through smart fare media such as Smart Cards which offers integrated electronic payment services to its users by making common smart card based system available to them for services such transit services (i.e. AMTS and BRTS), Municipal Payments, Recreational Services (Kankaria and Sabarmati Riverfront) and Parking facilities as per the scope specified in this Agreement. The initiative would offer tremendous ease and benefits to users by enabling a single instrument powerful enough to cater to all the transit and other needs and enables access to electronic payment infrastructure services to all strata's of society.
- B. As a part of this endeavor, the Authority decided to undertake development and implementation of City based Common Payment System (herein after referred as "Project "or "CCPS Project") through two stage open competitive bidding process (i.e EOI+RFP) in accordance with the terms and conditions set forth in EOI and subsequent RFP .The first stage (the "EOI Stage") of the process involved short listing of interested Bidders based on Eligibility and Qualification specified in Expression of Interest (EOI) document. At the end of this process Authority announced a shortlisted Bidders meeting the requirement of EOI stage, who were be eligible for second stage of bidding process comprising Request for Proposals (the "Request for Proposals" or

“RFP”).

- C. Authority had accordingly invited detailed proposals/bids by its RFP dated _____ from shortlisted Bidder. The Authority had prescribed the detailed technical specifications, functionalities and commercial terms and conditions in its Request for Proposal Document dated _____ for selection of the Licensee for design, development, implementation, operation, maintenance and management of CCPS Project of the Project.
- D. After evaluation of the proposals received, Standing Committee of Ahmedabad Municipal Corporation has accepted the Proposal of _____ Bank vide Resolution No. _____ dated _____ as per the terms and conditions specified in RFP documents subsequent Addendum, terms specified in this Agreement.
- E. Subsequent to approval from Standing Committee, the Authority issued a Letter of Award (LOA) specifying intentions to accept the Bid of _____ through LOA dated _____.
- F. _____ Bank, has accepted the Letter of Acceptance hereunder called the “Licensee”) by its letter dated _____ .
- G. The Authority and the Licensee are hereby entering into this License Agreement to implement the Project of design, development, Installation, commissioning, operation, maintenance and management of CCPS Project in Ahmedabad City on Build , operate, Manage and Transfer basis.

NOW THEREFORE in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, **the Parties agree as follows:**

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively ascribed to them hereunder and other term(s), not defined herein but defined elsewhere in this Agreement shall have the meaning(s) ascribed to such term(s) therein and shall be deemed to have been included in this Section.

“Agreement/ Meaning of the Agreement/ License Agreement” shall have a meaning specified in clause 2 of this Agreement.

‘Arbitration’ means a process of an odd number of persons known as arbitrators, who decide on the solution to a dispute between the signatories to this Agreement.

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

‘Applicable Laws’ means all statutes and laws promulgated or brought into force and effect by the Central Government of India or any State Government(s) or Local Government(s), including regulations and rules made by them, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

‘Applicable Permits’ means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under Applicable Laws in connection with the implementation, maintenance and management of the CCPS Project during the subsistence of this Agreement.

‘Authority’ means Ahmedabad Municipal Corporation (the “Authority”/“AMC”), a Municipal Body incorporated under the Bombay Provincial Corporation Act, 1949, responsible for the civic infrastructure and administration of Ahmedabad city and having its office at Sardar Patel Bhavan, Danapith, Astodia Ahmedabad -38001, Gujarat State, India

“Affected Parties” means parties claiming benefits of Force Majeure and shall have the meaning set forth in Clause 25.1 of this Agreement.

“Authority Event of Default” shall have a meaning specified in clause 24.2 of this Agreement

‘Cure Period/Remedial Period’ means the period specified in this Agreement for curing and remedy of any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- a. Commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice.
- b. Not relieve any Party from liability to pay damages, penalty and/or compensation under the provisions of this Agreement and
- c. Not in any way be extended by any period of suspension under this Agreement.

Provided that if the cure of any breach requires any reasonable action by the Licensee, then it must be approved by the Authority hereunder, and the applicable Cure Period shall be extended by such period.

“License Period”/“Contract Period”/“ Terms or Agreement”/“Agreement Period” shall have a meaning specified in clause 4 of this Agreement.

“Condition Precedent” shall have a meaning specified in clause 5 of this Agreement.

“Confidential Information” shall have a meaning specified in clause 17.3.1(a) of this Agreement.

“Complainant” means any persons including Authority who shall have grievance arose from the development of Project.

“Contract Price” means the aggregate of total rates of all quantities of Hardware and Software and O&M costs during the License Period as provided by Licensee according to Appendix-7 of RFP Part-1. The Contract Price shall thereafter adjusted for additional quantities demanded as per provision of Contract.

“Dispute” shall have the meaning set forth in Clause 26.1 (a)

“Dispute Resolution” means procedure set forth in Clause 26 for resolution of Disputes.

“Default Notice/Notice” means written communication issued by the Party to other party specifying the breach or default of Licensee.

“Defect” means any part of the CCPS Project not completed/functioning as per the Technical and Functional Requirements specified in Scope of Services and Technical Specification Document RFP Part-2.

“Defect Liability Period” shall start from the date of issuance of Project Acceptance/Go Live Certificate and continue till the expiry of the Agreement. During the Defect Liability Period , the Licensee shall be required to operate, maintain and manage the CCPS Project as per the terms of this Agreement.

Expiry Date shall mean the date on which Agreement expires in normal course with the efflux of time or prior Termination.

“Force Majeure Event” shall have the meaning set forth in Clause 25.

“Good Industry Practice” shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the design, development implementation, operation, maintenance, management of a project similar to that of the CCPS Project.

“CCPS Project/Project” shall comprise all hardware and software specified in schedule-1 of this Agreement including call center hardware and software, Control center hardware and software , database, co- branded smart cards etc and any other components specified in RFP Part-2: Scope of Services and Technical Specification Document.

“Insurance” shall have a meaning specified in clause 23 of this Agreement.

“Liquidated Damages” shall have a meaning specified in clause 10.5 of this Agreement.

“Lead Time” shall mean the time available for carrying out Pilot Demonstration as per clause 10.2 and successful implementation of AFCS Project as per Clause 10.4 of this Agreement.

“Licensee” shall mean the person selected pursuant to this RFP for design, development, supply, implementation, operation, maintenance and management of the CCPS Project and with whom the Authority signs Agreement.

“Licensee’s Event of Default” shall have a meaning specified in clause 24.1 of this Agreement.

‘Material Adverse Effect’ means any act or event of either Party which causes a material financial burden or loss to the counter party.

‘Material Breach’ means breach serious enough to destroy the value of this Agreement and to give a basis for an action for breach of Agreement.

“Obligations of the Licensee” shall mean Licensee’s responsibilities specified in this Licensee Agreement with respect to CCPS Project unless such responsibilities/obligations are waived by the Authority.

“Obligations of the Authority” shall mean Authority’s responsibilities specified in this Licensee Agreement with respect to CCPS Project unless such responsibilities/obligations are waived by the Licensee.

“O&M Inspection Report” shall have a meaning specified 12.5(b) of this Agreement.

“Project Acceptance Certificate”/” Go Live Certificate” means the certificate issued by the Authority upon successful completion of quantities of Hardware and Software as specified in Request Order determined through Testing and provided outcome of such Tests determines the Technical Specification and Functionalities of the Hardware and Software are as specified in RFP Part-2 : Scope of Services and Technical Specification document and as per the provisions set forth in clause 10.4 of this Agreement.

“Project Site/ AMC Premises” shall mean the Kankaria ticketing locations, Sabarmati Riverfront Ticketing locations, city civic center ticketing booths and Central Control Center where CCPS System is to be implemented.

Performance Security shall have a meaning specified in clause 8.1 of this Agreement.

Parties’ shall mean the parties to this Agreement and “Party” shall mean either of them, as the context may admit or require.

‘Project Implementation Plan shall mean the plan with specific reference to this Project, which the Licensee is required to furnish as part of this Agreement.

“Request Order” shall have a meaning specified in the clause 10.3 (a) of this Agreement.

“Representation and Warranties of Licensee” shall have a meaning specified in clause 21.1 of this Agreement.

“Representation and Warranties of Authority” shall have a meaning specified in clause 21.2 of this Agreement.

“Scope of the Project” shall have a meaning specified in clause 6 of this Agreement.

“Sub-Contractor” is a person or corporate body who has a Contract with the Licensee to carry out a part of the Project work in the Contract, which includes Project work on the Site.

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

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

‘Termination Notice’ means communication issued in accordance with this Agreement by one Party to the other Party specifying intention of terminating this Agreement.

‘Termination Payment’ means the amount payable by the Authority to the Licensee upon early Termination.

‘Test’ means the Tests carried out by the Licensee to determine the conformity of the Project and Operations and Maintenance procedures to the requirements set in this Agreement.

‘Taxes and Duties’ shall mean all taxes, duties, fees etc. payable as per applicable laws in India in connection with the procurement, development, installation, operation, maintenance and management of Project.

‘Upgrade/Up gradation’ shall mean repair, modification, changing spare of hardware and software, replacement of units etc or software up gradation in order to raise speed, efficiency and/or effectiveness of the CCPS system and achieve a higher performance level of CCPS Project.

“Vandalism” shall mean destroying or damaging project property, deliberately and for no good reason by the persons other than the employee or sub contractor of the Licensee.

All other/Remaining Definitions are specified in **section C of RFP Part- 1**.

1.2 Interpretation

In the interpretation of this Agreement, unless the context otherwise requires:

The singular of any defined term includes the plural and vice versa, and any word or expression defined in the singular has the corresponding meaning used in the plural and vice versa;

A reference to any gender includes the other gender;

Unless otherwise stated, a reference to a Clause, Sub-Clause, Paragraph, Subparagraph, Annexure, Appendix, Exhibit, Attachment, Schedule, Bid Summary or Recital is a reference to a Clause, Sub-Clause, Paragraph, Subparagraph, Appendix, Exhibit, Attachment, Schedule, Bid Summary or Recital of this Tender.

A reference to any agreement is a reference to that agreement and all annexes, attachments, exhibits, schedules, appendices and the like incorporated therein, as the same may be amended, modified, supplemented, waived, varied, added to, substituted, replaced, renewed or extended, from time to time, in accordance with the terms thereof;

The terms "include" and "including" shall be deemed to be followed by the words "without limitation", whether or not so followed;

Any reference to a person shall include such person's successors and permitted assignees;

A reference to a "writing" or "written" includes printing, typing, lithography and other means of reproducing words in a visible form;

Any date or period set forth in this Agreement shall be such date or period as may be extended pursuant to the terms of this Tender ;

A reference to "month" shall mean a calendar month, and a reference to "day" shall mean a calendar day, unless otherwise specified.

The terms "hereof", "herein", "hereto", "hereunder" or similar expressions used in this Tender mean and refer to this Tender and not to any particular Article.

The terms "Article", "Clause", "Paragraph" and "Schedule" mean and refer to the Article, Clause, Section, Paragraph and Schedule of this Agreement so specified;

2. MEANING OF THIS AGREEMENT

This License Agreement ("the Agreement") constitutes a Contract between the Authority and the Licensee under the Indian Contracts Act, 1872. The Agreement shall clearly and expressly constitute the following:

- (1) The Main Body of this Agreement followed by Schedule
- (2) Performance Security in terms of Bank Guarantee no _____ from ____ Bank and dated _____ and valid till _____ provided by Licensee .
- (3) Consortium Agreement.
- (4) Authority's Letter of Award Dated _____ and Request order dated _____ addressed to Licensee.
- (5) Addendum and Response to Queries dated _____.
- (6) RFP document (Part-1 and Part-2) dated _____.
- (7) Any relevant correspondence between the two parties that the signatories have agreed to include as part of the Agreement for validating and clarifying any points in the Agreement, or by way of revised or improved understanding of any terms of the Agreement.

Above documents are deemed to be part of the Agreement. In the event of any discrepancy /

conflict in the terms of the above referred documents or interpretation thereof, the provisions of the more recent document, date wise, shall prevail over the older document.

3. APPOINTMENT OF LICENSEE

3.1 Meaning of License

License constitutes the permission from the Authority to use its brand name in co-branded CCPS card along with rights to get percentage of income generated from the card based transactions in AMC Merchant Services such as BRTS, AMTS, Kankaria, City Civic centers, Sabarmati Riverfront etc which Authority shall share with Licensee in lieu of the performance of scope of work and other obligations specified in this Agreement.

3.2 Appointment of the Licensee

Subject to and in accordance with the provisions of this Agreement, the Authority hereby appoints, on a non-exclusive and non transferable basis, the Licensee and the Licensee hereby accepts its appointment to design, development, Installation, commissioning, operation, maintenance and management of CCPS Project in Ahmedabad City on Build , operate, Manage and Transfer basis in accordance with the terms of this Agreement and subject to the Applicable Laws.

3.3 Undertaking

In consideration of the rights, privileges and benefits conferred upon the Licensee, and other good and valuable consideration expressed herein, the Licensee hereby accepts this Agreement and agrees and undertakes to perform/discharge all of its obligations and conditions in accordance with the this Agreement inclusive of RFP terms and matters incidental thereto or necessary for the performance of any or all of the obligations of the Licensee under this Agreement, and bear and pay all costs, expenses and charges in connection with, or incidental to the performance of its obligations in accordance with the terms contained herein.

4. TERMS OF AGREEMENT/CONTRACT PERIOD/LICENSE PERIOD

- (a) The Contract Period/ License Period shall be the period between the Date of Signing of the Agreement and Seven Years (7 years) from the date of issuance of Project Acceptance/Go Live Certificate for the first Request Order.
- (b) The Agreement shall remain in force for a period of Seven Years (7 years) from the date of issuance of Project Acceptance/Go Live Certificate for the first Request Order , provided that in the event of earlier termination of the License Agreement, this period shall ending with the date of termination of the License Agreement (the "Contract Period/License Period"). The Project Acceptance/ Go Live Certificate of the first Request Order shall be issued upon completion of supply, installation and commissioning of the quantities of Hardware and Software specified in first Request Order as per the terms

specified in this Agreement. Authority shall issue separate Request Orders specifying the quantities of Hardware, Software for different Services such as City Civic Centers, Kankaria, parking ,Sabarmati Riverfront etc.. Such Request Order shall also specify the location at which Hardware and Software are to be installed and commissioned. Details pertaining to Request Order is specified in clause 10.3.

- (c) Extension of the services beyond this period can be done upon mutual consent at terms which may be discussed and fixed thereupon.
- (d) The first Request Order shall be issued within one (1) week from successful Pilot Demonstration of CCPS Project. Successful Bidder is required to do a Pilot Demonstration within 4 weeks from the date of issue of Letter of Award (LOA).

5. CONDITION PRECEDENT

The award of the Contract shall be subject to the satisfaction or waiver of the following Conditions Precedent (the “**Conditions Precedent**”):

- (a) The following Conditions Precedent shall be satisfied by the Licensee :
 - (i) Furnishing of the Performance Security as stipulated in clause 8 of this Agreement.
 - (ii) Successful Pilot Demonstration within 4 weeks from LOA as per the provisions specified in clause 10.2 so as to meet all the technical specifications and functional requirements of CCPS Project as specified in the RFP Part-2.
- (b) The following Conditions Precedent shall be satisfied by the Authority.
 - (i) Provide the License with access to the Project Site for the quantities as specified in the Request Order for the purposes of the supply, implementation, commissioning, operation, maintenance and management of the CCPS Project within reasonable time period.
 - (ii) Provide the Business Rules/ Fare table/any other information required in timely manner as required by the Licensee.
 - (iii) Provide approval of submittals as specified in RFP Part-2.
- (c) The Parties shall make all reasonable endeavors to satisfy the Conditions Precedent as provided in Clause 5 (a) and (b) within the stipulated time period.
- (d) The Parties shall notify each other in writing on the progress made in satisfying the respective conditions precedent. Each Party shall promptly inform the other Party when any Conditions Precedents for which it is responsible has been satisfied.

(e) Non-fulfillment of Conditions Precedent.

(i) In the event of non-fulfillment of the conditions precedent specified in Clause 5 (a) and (b) above for reasons beyond the control of the Authority or the Licensee or reasons other than for as a result of breach of this Agreement by any Party or due to Force Majeure, the time period for satisfaction of such conditions precedent may be extended by mutual consent of the Parties through writing or the period during which Force Majeure Event subsists.

(ii) Delay by Authority

In the event of non fulfillment in full by the Authority of any of the Conditions Precedent contemplated in Clause 5 (b) within the stipulated time period or within such extended time that the Parties have agreed upon, and provided such Conditions Precedent has not been waived through mutual agreement of the Parties, then the Licensee shall have ;

(1) the right to terminate this Agreement by giving 30 days written notice to the other Party, provided prior to issuance of such Termination Notice, the either Party shall grant 30 (thirty) days or reasonable period to other party for Remedial Measures to cure and satisfy the Condition precedents and/or make representations, and may after the expiry of such Remedial Period on non remedy of breach/default in meeting the Condition Precedent at the satisfaction of the Authority within the Remedial Period , whether or not it is in receipt of such representation, or repeated failure to remedy the default/breach and if the conditions precedent are not satisfied or waived within such period, upon expiry of such Remedial period or extended period mutually agreed upon , the either Party shall issue Termination Notice providing 30 days time stating the intention of the termination (the "Termination Notice") to other Party and then terminate the Contract.

(2) The rights to receive the Performance Security submitted to Authority in the event of Termination.

(iii) Delay by Licensee

In the event of non fulfillment in full by the Licensee of any of the Conditions Precedent contemplated in Clause 5 (a) within the stipulated time period or within such extended time that the Parties have agreed upon, and provided such Conditions Precedent has not been waived through mutual agreement of the Parties, then the Authority shall have ;

(1) the right to terminate this Agreement by giving 30 days written notice to the other Party, provided prior to issuance of such Termination Notice, the either Party shall grant 30 (thirty) days or reasonable period to other party for Remedial Measures to cure and satisfy the Condition precedents and/or

make representations, and may after the expiry of such Remedial Period on non remedy of breach/default in meeting the Condition Precedent at the satisfaction of the Authority within the Remedial Period , whether or not it is in receipt of such representation, or repeated failure to remedy the default/breach and if the conditions precedent are not satisfied or waived within such period, upon expiry of such Remedial period or extended period mutually agreed upon , the either Party shall issue Termination Notice providing 30 days time stating the intention of the termination (the “Termination Notice”) to other Party and then terminate the Contract.

(2) Rights to encash the Performance Security in the event of Termination.

(iv) Upon the termination of this Agreement under this Clause, the access to or possession of the Project Site granted to the Licensee shall forthwith terminate, and the Licensee and the persons claiming through or under it shall immediately hand-over the Project Site , without any demur or delay to the Authority, free and clear from any encumbrances, irrespective of any outstanding mutual claims between the Parties or claims of any person.

6. SCOPE OF WORK

The scope of the project (the “Scope of the Project”) is specified hereunder. Detailed Scope of work is specified in Scope of Services and Technical Specification, RFP-Part-2.

A. Investment, Design, Development, Procurement, Supply, Integration and Implementation of CCPS

(i) Invest, Design, Development, procurement, supply, integration and implementation of Open Loop EMV Compliant smart card based City based Common payment solution to following AMC services.

Services to be Covered	Nodal Agency/ Department in AMC
Kankaria Lake	Kankaria Lake Development Front
Sabarmati Riverfront	Sabarmati Riverfront Development Corporation Ltd (SRFDCL)
Municipal Payments	At AMC’s City Civic Centers.
Parking	AMC run Parking’s
Bus Rapid Transit System (BRTS)	Ahmedabad Janmarg Limited (AJL)
City Bus Services	Ahmedabad Municipal Transport Services (AMTS)

The scope of Licensee shall include only card based services such as card issuance/ recharging/ card personalization etc with regards to BRTS and City Bus Services¹.

Above shall also includes all custom clearance, handling and inland transportation of all Hardware/Software under this Contract, till the time the equipment is installed at Project site and all tests completed.

The Bills of quantities required for above services are specified in **Appendix 7**. Details of existing user base of above services are provided in Appendix 8.

- (ii) The CCPS shall comprise the Hardware and Software items specified in schedule 1.

The Bills of quantities required for services are specified in Appendix 7 of RFP Part-1.

The Licensee shall adhere to the detailed Scope of Work, Technical Specifications and functionalities of each component of CCPS Project provided in Part 2 : Scope of Services and Technical Specification Document of this RFP document.

- (iii) Licensee shall at its sole discretion undertake the implementation of CCPS at following places outside the AMC frame work.

- (a) Utility Payments such as Electricity etc.
- (b) Retail /merchant/Grocery outlets.
- (c) Vendors of Recreational activities (Kankaria, Riverfront).

- (iv) Licensee shall be responsible for installation, integration, initialization and startup of the Hardware and software supplied by it.

- (v) Licensee shall undertake Card Personalization Task.

- (vi) Licensee shall also ensure interoperability of Co-branded EMV Smart Cards on Kankaria , Sabarmati Riverfront, BRTS, City Bus Services, and outside AMC network using the open standard common specifications in future.

B. Providing Interfacing protocols, APIs of Card Host, CCHS, and Smart Cards for integration with Transit AFC.

- (i) Licensee shall provide/share all required APIs and interfacing protocols of Card Host, CCHS, Smart Cards to Authority appointed AFC Service Provider in order to facilitates integration with Transit AFCS.

- (ii) Authority appointed AFC Services Provider shall undertake complete Integration Responsibilities with Licensee's Card Host, CCHS, and Smart Cards where as Licensee shall facilitate such integration by providing any support required apart from sharing of required APIs and Interfacing Protocols.

¹ AMC initiated a process of selection of Service Provider for ITMS & AFCS for BRTS and City Bus Services separately

- (iii) Licensee shall establish the real-time connectivity of AFC Data centers/Servers residing in Control Center with Bank's CCHS Servers /data centers for sending details/information pertaining to card based transaction.
- (iv) Licensee shall have to ensure timely sending of transaction settlement data from its CCHS servers to AFC Service Provider's servers residing in Control Center for reconciliations of transactions settled. Bank shall undertake complete reconciliation responsibilities.

C. Transaction settlement , Cash Collection and Deposit

- (i) Licensee shall undertake complete smart card based and cash based Transaction settlement and reconciliation responsibilities.
- (ii) Licensee shall collect the cash collected at BRT Bus Stations, AMTS Terminals, City Civic Centers, Kankaria and Sabarmati Riverfront at the end of the day and/or the amount received from card based transaction and deposit into AMC's Merchant account on T+2 day (settlement). Where 'T' is date on which money collected.
- (iii) Licensee shall settle the all transaction done up to 11:00 PM daily. The share of transactions so settled shall be transferred to account of AMC Merchants in T+1 day.
- (iv) The Cash Collection timing shall be decided in mutual consultation between the parties based on requirement of respective department.
- (v) The Cash Collection Business at AMC Service Points such as Kankaria, SRFDCL, City Civic Center, AMTS, BRTS etc shall be transferred to the Licensee after successful implementation of CCPS in all services including in AMTS and BRTS (i.e. integration with AMTS and BRTS Transit AFC).Up to this point only card based transaction shall be routed through the Licensee. Cash collection at different service points are defined as follows.
 - (a) Kankaria : Collection of cash at Gates and AMC runs amusement activities.
 - (b) SRFDCL: Collection of cash at Parks, Gardens and other amenities
 - (c) City Civic Centers : Collection of cash and not cheques.
 - (d) BRTS/AMTS : Collection of cash at BRT Bus Stations/ AMTS Terminals
- (vi) For any delay in settlement of daily cash collection/card based transaction to AMC Merchant's accounts beyond T+2 days, the Authority reserves the right to deduct the Damages as amount by charging interest rates of **12% per annum** for a additional period for which cash settlement is delayed.
- (vii) Licensee shall undertake reconciliation of cash collected and transaction reported. Licensee shall have to provide explanation for any discrepancy found.

D. Establishing Marketing Channels

- (i) Licensee shall set up approx. 1000 card recharging, dispensing and/or municipal bill payment services through its network of service providers within the city limit. This could be set up at stores, side stores, grocery stores where users shall avail all card

recharging and dispensing services. The idea is to spread the availability and thereby maximizing the use of the CCPS System.

- (ii) setup of web enabled and mobile app based online card money top-up over dedicated web channel with payment gateways and other banking channels.
- (iii) Offer mobile wallet for cashless electronic transfer.
- (iv) Develop loyalty program to maximize the use of CCPS System.

E. Maintenance and Management of CCPS during Contract Period

Licensee shall maintain and manage all Hardware and Software forming part of the CCPS Project during the Contract/License Period to ensure the availability of the CCPS System in accordance with the provisions of the Scope of Services and Technical Specification RFP Part-2, Service Levels specified in RFP Part-2 and guidelines and specifications as may be stipulated time to time by the Authority.

F. Setting up Operation and Maintenance of CCH and other required central processing systems at its own location during License Period

- (i) The Licensee shall set up central systems (to install and host the required hardware and software of central system of CCPS Project) at its own locations and carry out centralized monitoring and supervision of Operation, Maintenance and Management of CCPS Project during the License Period.
- (ii) The scope shall include centralized monitoring and supervision of operation and functionality of CCPS System components (all hardware and software), handling ticketing related queries from commuters through help desk/call center, providing detailed MIS reports and other aspects as specified RFP Part-2.

G. Ensuring continuity of CCPS

- (i) Licensee shall ensure continuity of CCPS in case of any stoppages of failure as per the scope, Technical Specifications and Functionalities specified in part: 2 Scope of Services and Technical Specification of this RFP.
- (ii) Licensee shall also establish backup system to make up for any loss of database.

H. Customer support to resolve Co-branded smart card users queries/issues

- (i) Licensee shall establish customer care/call center to support over POS, Phone, Internet for queries pertaining to card issuance, personalization, renewal, refunds, card not working in Non transit environment, recharge or deduction related queries, expiry of cards customer account management and customer support with payment gateway.
- (ii) Whereas Authority appointed AFC Service Provider shall resolve the queries pertaining to card not working in transit system/deduction related queries in transit.

(iii) Licensee and AFC Service Provider shall coordinate with other to resolve the cards related queries.

I. Training and handholding support to Authority's Staff.

(i) Licensee shall organize workshop for Senior Management officers of Authority on CCPS overview.

(ii) Licensee shall train the staff of the Authority for service fees collection fare collection operation (ticketing operation) at non transit AMC services with regards to functioning of POS machines, validators for issuing tickets/smarts cards, POS Operation, safety of CCPS equipment during operation hours. Such training shall include and not limited to loading, recharging, card issuance and other activities as directed by the Authority.

(iii) Provide training to Authority Appointed service fees collection staff/ticketing staff at AMC Premises with regards to functioning of POS machines, validators for issuing tickets/smarts cards, POS Operation, safety of CCPS equipment during operation hours.

J. Insurance

Licensee shall procuring Insurance cover and maintaining the same during the Contract Period as per provisions set forth in clause 23 of this Agreement.

K. Performance and fulfillment of all other obligations and responsibilities of the Licensee and conditions in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Licensee under this Agreement.

7. CONSORTIUM CONDITIONS

DELETED

8. PERFORMANCE SECURITY

8.1 Performance Security

The Licensee hereby assures, entrusts and covenants unto the Authority that:

(a) Licensee shall furnish Performance Security to Authority for securing the due and faithful performance of its obligations under the Licensee Agreement, on or before the date of signing of Agreement (the "**Execution Date**") , an unconditional and irrevocable bank guarantee for amount **Rs 1.5 crore (One Crore and Fifty Lakh)** in favour of the "**Municipal Commissioner, Ahmedabad Municipal Corporation**" , from any of Approved Banks to Authority and payable at Ahmedabad ("**Performance Security**").

(b) Performance Security in the form of a bank guarantee shall be irrevocable and valid for the entire License Period and an additional period of 90 (Ninety) days thereafter.

(c) Provided that if the contract is terminated for reasons other than which can be attributable

to the Licensee or Licensee Event of Default, the Performance Security, shall, subject to the Authority's right to receive amounts, if any, due from the Licensee under this contract, be duly discharged and released to the Licensee.

8.2 Encashment of Performance Guarantee

- (a) The Authority shall be entitled to encash the Performance Security fully or partially as the case may be, through a notice of 30 days ("Encashment Notice") under the following circumstances:
- (i) Non payment of any dues by the Licensee to the Authority as required to be paid under License Agreement including damages as provided.
 - (ii) An Event of Default not being remedied in Remedial Period by the Licensee despite notice as provided in this Agreement.
 - (iii) Non removal of deficiencies during the Handover period as specified in the License Agreement.
- (b) Provided the extend of such encashment shall be no greater in amount than that required to remedy the circumstances warranting encashment stipulated above and provided further that in case of any encashment of the Performance Security pursuant to the Encashment Notice, the Authority may return the amount so encashed if the circumstances requiring the encashment have been remedied to the full satisfaction of the Authority.
- (c) The provision under this Sub-Clause authorizing the Authority to encash the Performance Security shall be exercisable in addition to and without prejudice to the Authority's right to do so under any other similar provision in this Agreement permitting encashment.

8.3 Fresh Performance Security

In the event of the encashment of the Performance Security by the Authority pursuant to Encashment Notice issued, the Licensee shall within 20 (twenty) days of the Encashment Notice furnish fresh Performance Security to the Authority of the amount that deducted to remedy damages, failing which the Authority shall be entitled to terminate Licensee Agreement by giving 30 days notice in accordance with the provisions herein.

9. ROLES AND RESPONSIBILITIES

9.1 Roles and Responsibilities of Licensee

The Roles and Responsibilities specified hereunder and elsewhere in the License Agreement shall constitutes the Roles and Responsibilities /Obligations of Licensee with respect to CCPS Project (the "Licensee's Obligations") unless such obligations are waived by Authority.

- (a) Act as Principal Issuer, Acquirer and Settlement Bank for CCPS Project.
- (b) Develop and commission CCPS Project as per the scope of work specifies in clause 6 and deploys the co-branded open loop smart cards in Authority services such as transit services (AMTS & BRTS), Municipal Payments at City Civic Centers, Municipal Parking, Kankaria and Sabarmati Riverfront.

- (c) Ensure functional integration of Project Components and also facilitates integration with transit AFC by sharing necessary interfacing protocols and cooperating with the Authority appointed ITMS& AFC Service Provider.
- (d) The Licensee through proposed solution shall ensure;
 - (i) Vendor-independent delivery of modules / equipments as far as possible. Use of Standard Commercial off the Shelf products and software, encouraging use of non-proprietary items.
 - (ii) Proven hardware platform ;
- (e) Ensure reliability, availability, maintainability and safety requirements of the system by analysis, testing and system demonstrations.
- (f) Respond to requests for clarifications of information made by Authority as well as Authority appointed ITMS& AFC Service Provider and provide all information, data, records, documents etc as required by Authority, from time to time and respond to all notices, letters, and communications received from the Authority within the given time frame with complete and full replies.
- (g) Set up communication system to facilitate smooth and bidirectional data transmission between AFC Data centers/Servers residing in Authority's Control Center Bank's CCHS Servers /data centers for sending details/information pertaining to card based transaction as per the technical and functional requirements specified in Scope of Services and Technical Specification Document RFP-Part-2.
- (h) Ensure timely sending of transaction settlement data from its CCHS servers to AFC Service Provider's servers residing in Authority's Control Center for reconciliations of transactions settled. Bank shall undertake complete reconciliation responsibilities.
- (i) Complete all functions associated with the project completion in the time specified and obtain Project Acceptance Certificate as per terms of this Agreement.
- (j) Collect the Cash from different services such as BRT Bus Stations, AMTS , City Civic Centers , Kankaria and Sabarmati Riverfront at the end of the day as per the requirements of different department and deposit cash in standard T+2 days.
- (k) Ensure settlement of card base transactions in T+2 days.
- (l) Provide revenue reporting on AMC smart card program including access to statutory and regulatory reports
- (m) Carry out all responsibilities pursuant to BRT Bus Station, AMTS Buses, AMTS Terminals and Clearing House as per the Responsibility Matrix specified in Schedule 3 of this Agreement and Technical Specification specified in Part-2 : Scope of Services and Technical Specification Document of RFP.
- (n) Co-operate with all other Licensees and Vendors of Authority and facilitate their operations for integrated and inter-operable CCPS.

- (o) Handle the operations, Maintenance and management of CCPS Project and ensure continuity of CCPS project by establishing provision of Disaster Recovery/back up in case of any stoppages.
- (p) Establish backup system to make up for any loss of database.
- (q) Submit the documents as specified in clause 10 as well as the operational Documents specifying Type of Accounts required and settlement procedures etc as per the Project requirements.
- (r) Establish the marketing channels as stipulated hereunder for recharging, dispensing and/or bill payment services as per the provision of scope of work.
 - (iii) Top-up/recharging/E- KYC/ Balance Enquiry services through e-payment gateways (web, Mobile etc.,) and other banking channels.
 - (iv) Set up marketing channels at stores, side stores, grocery stores where users shall avail all card recharging and dispensing services as per scope of work for maximizing the use of CCPS System..
- (s) Market the concept and increase card penetration by introducing innovative loyalty program or any other program.
- (t) Ensure deployment of Helpdesk to address issues related to Smart Cards.
- (u) Implement the changes in business rules as per directives of Authority.
- (v) Abide by all Applicable Laws including labour laws, minimum wages, PF , ESIC and Applicable Taxes including Service Tax, etc during the License period.
- (w) Deploy adequate numbers of qualified and skilled manpower and participate in all the meetings, committees etc. as directed by the Authority from time to time.
- (x) Appoint a Project Manager responsible for the implementation, operation, maintenance and management of CCPS , who shall also interface and act as single point contact with the Authority for all matters concerning the performance on this Agreement and the Licensee shall share his name and contact details with the Authority.
- (y) Ensure efficient services, polite and courteous behavior and conduct towards end users and to the staff and representative of Authority. In case of any of Licensee's employee or staff members being found guilty of any unreasonable offenses, the Licensee shall be liable for any misconduct of its staff and upon request from the Authority, the Licensee shall take appropriate actions. It shall be clarified that any such actions towards staff members shall not absolve the Licensee from its obligations.
- (z) Take all precautions to ensure that the CCPS Project including all software and hardware involved remains safe and secure in general and free from attacks arising from attempted

manipulation, fraud, break down, compromising of data security, malware and virus attacks or damage due to neglect or omission.

- (aa) Ensure smooth transfer of all hardware, customised software, equipments, Standard third party Software forming the part of CCPS Project except proprietary Software to Authority at the end of the License Period.
- (bb) The Licensee shall also get approved third party auditor to carry out security audit of the database and CCPS system on half yearly/yearly basis during the License Period as per the direction of the Authority and furnish report/certificate thereof to Authority as an evidence. Licensee shall also required take prompt measure to rectify any bug/default found during such audit.

Performance of each activity, responsibilities and obligations specified elsewhere in Licensee Agreement and Part 2 Scope of Services and Technical Specification during the License Period.

9.2 Roles and Responsibilities of Authority

The Roles and Responsibilities specified hereunder and elsewhere in the License Agreement shall constitute the Roles and Responsibilities /Obligations of Licensee with respect to CCPS Project (the "*Authority's Obligations*") unless such obligations are waived by Licensee.

- (a) Lay down the policies /business rules/Fare tables/any other required information relating to Smart Card Fare Collection System. Tentative Business Rules are specified in Schedule 4 of this Agreement.
- (b) Finalizing detailed Bills of Quantities. A hardware and Software quantity as envisaged at this stage is specified in Appendix- 7 of RFP Part-1.
- (c) Approve the Project Implementation Plan, Operational Documents or any other submittal submitted by the Licensee, provided Licensee incorporated suggestions made by the Authority or its representative. Any approvals herein above by the Authority shall not absolve the Licensee from its obligations and responsibilities under this Agreement.
- (d) Provide to the Licensee necessary Project Site at City Civic Centers, Kankaria, Sabarmati Riverfront for due and punctual performance of its obligations.
- (e) Coordinate between various Departments of AMC who would be primary users of CCPS System for smooth operation.
- (f) Work closely with Licensee and providing clarifications sought by Licensee.
- (g) Ensure Physical security of equipment installed at various AMC premises.
- (h) Bear the electricity expense at AMC premises.
- (i) Formulate SLA monitoring System to judge Licensee's performance.
- (j) Carry our Testing and acceptance of the system as per the Tests specified in RFP Part-2.

- (k) Make payments to Licensee as per Payment terms.
- (l) Make regular payment to Licensee such as percentage of income generated from the card based transactions in AMC Merchant Services such as BRTS, AMTS, Kankaria, City Civic centers, Sabarmati Riverfront etc which Authority shall share with Licensee
- (m) Carry out all responsibilities pursuant to, Kankaria, Sabarmati Riverfront, City Civic Centers as per the Responsibility Matrix specified in Schedule 3 of this Licensee Agreement.
- (n) Undertake PoS/ticketing operation at AMC premises such as City Civic Centers, Kankaria, Sabarmati Riverfront, RT Bus stations, AMTS Buses, etc.
- (o) Attempt to grant in a timely manner all such approvals, permissions and authorizations which the Licensee may require or is obliged to seek from the Authority in connection with commissioning, operation and maintenance of the CCPS Project and the performance of the Licensee's obligations under this Agreement;

10. PROJECT IMPLEMENTATION

10.1 Submission of Documents

- (a) The Licensee shall provide to the Authority clear project implementation plan and end-use requirement document and other documents specified hereunder within the 4 weeks of LOA.
 - (i) Project implementation Plan shall include details of the project implementation team and benchmarks and timeline of delivery of equipment, installation of equipment, integration and setting up of the Central Control Centre (at its own location) for tentative Request orders specified in clause 10.3.
 - (ii) Solution design and architecture document of complete CCPS System, System Requirement specification document, Hardware and Software Documentation and Drawing, user acceptance Test Plan and operational manual of each component of CCPS after studying the solution requirement as per relevant provisions of Part-2 of RFP.
 - (iii) operational Documents specifying Type of Accounts required and settlement procedures etc
- (b) Each submittal specified in sub clause (a) above, should contain sufficient information to determine that each component of CCPS project complies with the Technical Specifications and functional requirements specified in RFP Part-2.
- (c) Licensee shall incorporate inputs and suggestions received from Authority or Authority appointed supervision consultant in all submittals. Upon approval by the Authority and after the signed off, the same shall form an integral part of the Licensee Agreement.

Approval of any such submittals shall not absolve the Licensee from its responsibilities and obligations specified in this Agreement.

10.2 Pilot Demonstration

- (a) Licensee shall have to develop and customize the software system as per the system requirement specification document.
- (b) Licensee shall have to carry out a Pilot Demonstration as per the scope specified hereunder within 4 weeks from the date of issuance of Letter of Award.
 - (i) Demonstration of EMV card usage and transit rules using HHT and few reports.
 - (ii) Pilot Demonstration on test environment specified in RFP Part-2 and demonstration of the integration process on same.
- (c) Delay in Pilot Demonstration in time period provided herein above and extended time period agreed upon by Parties and provided such delay is not beyond control of the Licensee or due to reasons attributed to Authority or due to Force Majeure, then the Authority shall have rights as specified in clause 5 (e) (iii).
- (d) After setting up the Pilot Demonstration the Licensee shall inform the Authority/ its authorized representative who shall conduct demonstration / testing of the quantities involved in Pilot Demonstration to test their conformity to Technical Specifications and functionalities requirements as per the Tests specified in RFP-Part 2 and user acceptance test document. The system shall be checked for full functionality in an integrated environment through test run and tests specified in RFP Part-2 and user acceptance test document. Upon successful outcome of the same, Authority/ its authorized representative shall issue Request Order within One week.
- (e) In case outcome of Pilot Demonstration shall not provide desired output/functionality of the CCPS Project as per the Technical Specification and functionality requirement in RFP Part-2, then the Authority shall provide adequate time for removal of bugs and any other inconsistencies to match the Technical Specifications and Functional requirements specified in RFP Part-2. In case of repetitive failure or un-successful outcome in achieving desired result by the Licensee in extended period during the Pilot Demonstration, then the Authority would be at its discretion to consider all remedial measures including termination.

10.3 Request Order and Phasing

- (a) The Authority shall issue an Order in writing, indicating the number of units of Hardware and Software to be supplied along with the location (Project Site) within the AMC Premises where these are to be installed. The Authority shall continue to issue such request until the full quantities of Hardware and Software specified in Appendix-7 of RFP Part-1 is

exhausted (the “Request Order”) during the License period.

- (b) Upon getting the Request Order, the Licensee shall promptly and as soon as possible within the Lead Time specified in the Request Order, supply, install and implement specified numbers of hardware and software at stated Project Site and commissioned the same.
- (c) The Authority shall specify the Lead Time in Request Order. The Lead Time of Request Order shall be decided in discussion with the Licensee before the Request Order is placed. Authority’s decision in this regard shall be final but reasonable time shall be provided to the Licensee. Delay or non performance will form the basis for application of Liquidated Damages. Tentative Number of Request Orders and Lead Time as envisaged at this point of time is specified in sub clause (d) hereunder.
- (d) Separate Request Orders for different Services such as City Civic Centers, Kankaria ,Sabarmati Riverfront , smart cards for BRTS and AMTS shall be issued. Tentative Phasing for implementation for guidance of the Licensee is as follows. It may be emphasized that this phasing is indicative and not binding.

Services	Approximate Time for Request Order from Successful Pilot Demonstration	Tentative Scope/ Approximate Sizing	Tentative Lead Time .
Kankaria	0-1 Month	Commissioning of CCPS in Kankaria	1 month
Sabarmati Riverfront	0-1 Month	Commissioning of CCPS in Sabarmati Riverfront	1 month
City Civic Centers	0-1 Month	Commissioning of CCPS in City Civic Centers	1 months
Service Delivery Points	0-1 Month	Commissioning of POS	2-3 months
BRTS/AMTS	0-2 Months	Issuance of smart cards	2-3 months
AMC run Parking	2-3 Months	Commissioning of CCPS in all AMC run Parking.	1 month

Authority shall endeavor to issue all remaining Request Orders within six months of successful and timely implementation of first Request Order.

The above is a tentative/approximate schedule as envisaged at this point of time and the Authority retains the full right to make changes / additions to this or simultaneous implementation in more than one services.

- (e) Licensee shall provide weekly/fortnightly/Monthly Progress Report as per the direction of Authority.

10.4 Testing and System Audit during Implementation of CCPS Project

- (f) Upon completing the supply, installation and commissioning of the hardware and software quantities specified in Request Order, the Licensee shall do a test run for the entire CCPS system, remove any shortcomings and resolve any bugs in hardware, software, and communication network .
- (g) After successful test run as specified hereinabove (a), the Licensee shall inform the Authority/ its authorized representative who shall conduct demonstration / testing of the CCPS System installed to test their conformity to Technical Specifications and functional requirements as per the Tests specified RFP –Part-2, user acceptance test manual and Good Industry Practice.
- (h) The system shall be checked for full functionality in an integrated environment through test run and tests specified herein above (b). Upon successful outcome of the Test results , the Authority/ its authorized representative (i.e. independent consultant or third party system auditor) shall issue a Project Acceptance Certificate/Go Live Certificate (the “Project Acceptance Certificate/Go Live Certificate”). No certificate shall be issued against only delivery, partial installation or incomplete commissioning for quantities specified in Request Order. Authority shall issue Request Order wise Project Acceptance Certificate/Go Live Certificate upon successful test outcome as specified in (a) and (b) hereinabove. The Authority shall issue Project Acceptance / Go Live Certificate separately for each Request Order.
- (i) The Authority shall appoint an independent consultant or third party auditor capable of auditing IT systems envisaged as part of CCPS Project implementation. The Licensee shall be required to provide necessary information to the third party auditor/ independent consultant to facilitate testing and audit of hardware, software and processes related to CCPS during the Project Implementation.

10.5 Liquidated Damages

- (a) The Licensee agrees that Liquidated Damages specified in sub clause (b) hereunder are fair and genuine pre-estimate of damages and not by way of penalty and agree to not to dispute the same in future in any manner.
- (b) In the event of delay by the Licensee to comply with the Lead Time requirements as stipulated in clause 10.3 (d) of this Agreement or mutually extended Lead Time ,then the Liquidated damages shall apply @0.056% of value of the per day delay of equipment/device to be supplied, installed and commissioned specified in Request Order (the “**Liquidated Damages**”). Total Liquidated Damages applicable under this clause shall be limited to 5% of the value of the equipment/device in software or hardware to be supplied, installed and commissioned for which Request Order is placed.
- (c) Liquidated Damages shall not be applicable in case delay caused due to Force Majeure events or reasons attributable due to delay in part of the Authority for handover of project site or furnishing business rules/fare tables or any other approvals required under this

Agreement.

11. QUANTITY VARIATION

- (a) The Variation in individual Hardware and Software items of quantities (as specified in Appendix-7) permitted provided it shall not exceed $\pm 30\%$ (i.e increase or decrease of 30%) in quantity of each individual item.
- (b) The Licensee shall have to execute additional Hardware and Software item within the variation limits specified in (a) above at as per the commercial terms specified in this Agreement.
- (c) The commercial terms for the quantities of Hardware and Software items exceeding the variation limit shall be as per the clause 33 of this Agreement.

12. OPERATION, MAINTENANCE AND MANAGEMENT OF CCPS PROJECT

12.1 Defect liability period

- (a) The Defect Liability Period for a CCPS Project shall start from the date of the issuance of Project Acceptance Certificate/Go Live Certificate of first Request Order and shall continue till the expiry of contract (the " Defect Liability Period").
- (b) Licensee shall bear defect liability for its goods and services including all Hardware, Software, Goods supplied and installed by it. All such items forming part of the CCPS Project shall be free from defects in the design, engineering, Materials, and workmanship that prevent the System and/or any of its components from fulfilling the Technical and Functional Requirements during the License Period.
- (c) Licensee shall abide by maintenance terms as specified in clause 12.2 hereunder during the License Period.

12.2 Maintenance Terms during the Defect Liability Period.

Licensee shall provide operation, maintenance and management services towards CCPS Project during the Defect Liability Period against the Commercial Terms. The Maintenance Terms are inclusive of spares during the Defect Liability period. Followings shall constitute the Maintenance Terms, obligations and responsibilities of the Licensee during Operation and Maintenance (the "Maintenance Terms");

- (a) Maintain and manage all hardware and software forming part of the CCPS project including Control Center Operation all time during the Defect Liability Period as per Good Industry Practice, Service Level Agreements specified in RFP Part-2, provisions of this Agreement , Applicable Laws and Applicable Permits, and manufacturer's guidelines and instructions and specification provided in RFP Part-2: Scope of Services and Technical Specification Document.
- (b) Ensure smooth operations and functioning of CCPS Project during all time of Contract Period by employing adequate maintenance measure as per Good Industry Practices.

- (c) Take responsibility for any defect or failure of CCPS Project Components comprising of Hardware and Software due to defective design, material or workmanship, manufacturing or development defects or latent defect or normal wear and tear within the design limit, during the Contract Period.
- (d) The rectification, change of spare of hardware and software units, replacement of Hardware and Software, modification and software upgrades shall have to be undertaken by the Licensee to cure the faults/defects/deficiency in order to raise speed, efficiency and/or effectiveness of the Software and Hardware and/or non functioning devices/hardware and achieve a higher performance level of CCPS Project within the Remedial Period specified by the Authority. Liability of the damages due to Vandalism as per clause 16(b) shall remain with the Authority.
- (e) Make available standby items and inventories for all Project parts and/or equipment at Ahmedabad.
- (f) Deploy relatively vandal proof equipment/Hardware as it shall be deployed in heavy public use environment. The damages to equipments owing to regular wear and tear under field conditions, damages or failure owing to exposure to outdoor conditions such as moisture, heat, mechanical, electrical or electronic failure, faulty manufacture shall be the liability of the Licensee during the License Period.
- (g) Deploy required number of competent technical manpower /engineers/ supervisors along with necessary spare parts, standby items and inventories of all parts of CCPS Project during the Defect Liability period at its own cost for evaluation of performance, operation, maintenance and management of the CCPS Project and its components in order to maintain the Minimum Service Levels specified in RFP Part-2 all time during the License Period. These technical personnel shall also undertake periodic investigation of defects and failures and carrying out modifications as and when required during the Contract Period.
- (h) Resolve any bugs, technical problems with regards to AMC Service Fees collections/ticketing operation (POS/Validators) at Project Site on urgent basis and ensure that ticketing operation/ AMC Service Fees collections operation shall not get affected owing to technical issues.
- (i) Undertake routine and periodic maintenance including carrying out rectification, modification , software upgrades , Patches updation, change of spare, replacement of hardware/software items if need so arise so as to maintain the Service Levels and Technical & Functional Requirement specified in RFP Part-2 all time during the License Period.
- (j) Ensure uptime and availability of CCPS Project, all times during the License Period, at AMC Premises in relation to the Service Levels.
- (k) Prepare a Standard Operating Procedure (SOP) for different cases/events and train its own staff/Authority's staff for the same. This SOP document shall be submitted to Authority for its review.

- (l) Prepare a Maintenance Manual and other manuals specified in Part-2 of this RFP in consultation with Authority or its Supervision Consultant specifying the detailed operation plan, methodology and time period of regular and preventive maintenance, comprehensive information of equipment, hardware, software used in CCPS Project, operation procedure of each system installed, the repair and maintenance procedures of each component and hardware of the CCPS Project, procedures for diagnosis, removal of bugs and replacement of any item of equipment, diagnosis procedures of faults and procedures for removing it and replacing. These manuals shall become part of this Licensee Agreement.
- (m) Provide all MIS report specified in RFP Part-2: Scope of Services and Technical Specification Document and any other reports required by Authority.
- (n) Take all precautions to ensure that the CCPS Project including all software and hardware involved remains safe and secure in general and free from attacks arising from attempted manipulation, fraud, break down, compromising of data security, malware and virus attacks, physical attacks or damage due to neglect or omission.
- (o) Provide training and handholding support to Authority as follows;
 - (i) Arrange Workshop for senior managers for imparting knowledge of functioning of CCPS Project.
 - (ii) Provide training to Authority Appointed service fees collection staff/ticketing staff at AMC Premises with regards to functioning of POS machines, validators for issuing tickets/smarts cards, POS Operation, safety of CCPS equipment during operation hours.
- (p) Ensure that any premises/Project Site provided by Authority to the Licensee for the purpose of carrying out its obligations shall be used solely for the purpose of carrying out the functions intended and obligations placed under this Agreement and not for any other purposes.
- (q) The Licensee shall not permit anti social activities/illegal activities on Project Site during the License Period. Any liabilities arise as consequences of such event shall be borne by the Licensee. On occurrence of such event, the Licensee shall solely responsible for legal remedies and Authority may consider Termination on occurrence of such event.
- (r) Take prompt and reasonable action for redressal of each complaint received from users including complaints received by Authority related to card issuance, personalization, renewal, refunds, card not working in Non transit environment, recharge or deduction related queries, expiry of cards customer account management and customer support with payment gateway
- (s) Licensee shall be liable for any kind of damage to equipments and the user of the CCPS Project caused by poor maintenance, delay in any repair/maintenance works/ or replacement need for normal wear and tear during the License Period .

- (t) Collect the cash at the end of the day as per scope of services and complete the settlement of cash collected and card based transaction occurred on T+2 day. Undertake reconciliation of cash collected and transaction reported.
- (u) Abide by all obligations and responsibilities related to maintenance requirement specified in Technical Specification set forth in Part-2 of Scope of Services and Technical Specification Document of RFP.
- (v) Due compliance with the conditions and most provided for under contract for the execution and performance of this Agreement.

12.3 Payment of Damages due to breach in Service Levels during Operation, Maintenance and Management of CCPS Project

- (a) The Licensee agrees that Damages specified in sub clause (b) hereunder is fair and genuine pre-estimate of damages and not by way of penalty and agree to not to dispute the same in future in any manner.
- (b) The Licensee shall require to pay damages for non adherence to Service Levels (SLA) as specified in RFP Part-2. The amount of Damages shall be decided during the preparation of Project Implementation Plan based on following principles;
 - 1. Frequency of breach of SLA
 - 2. Magnitude of amount of damages
 - 3. Non adherence to remedy within Remedial Period.
- (c) The payment of damages shall not absolve the Licensee from performing its obligations as specified under this Agreement.
- (d) Damages under this clause shall not be applicable in case breaches caused due to Force Majeure events or reasons attributable due to the Authority /Authority event of Default.

12.4 Monthly Status Report

- (a) Licensee will put in place a monitoring mechanism and also undertake inspection to monitor functioning and performance of all components of CCPS Project and furnish the data of performance as per the different types of MIS reports and information requirement specified RFP Part-2 regularly on daily/weekly/monthly basis to the Authority as per direction of Authority.
- (b) The Licensee shall take prompt actions necessary to maintain or improve the availability and performance of the services and to rectify the fault, defect or malfunctions found in hardware and software during such inspection provide progress report of all such actions to Authority.
- (c) The Licensee shall provide quarterly reports at regular interval during the Defect Liability Period stating in reasonable detail the compliance of functionality, performance and

standard of each Project Component i.e hardware and software with Technical Specifications, functionalities and Minimum Service Levels specified in RFP Part-2. Licensee shall also provide reports of regular maintenance and up gradation undertaken, actions taken to maintain and improve availability and performance, action taken progress report on removal of bugs, deficiency, fault ,defect , change of spare, replacement of hardware/software items and shall promptly give such other relevant information as may be required by the Supervision Consultant or authorized representative of the Authority.

12.5 Inspection and System Audit during Operation and Maintenance

- (a) The Authority may appoint an independent consultant/Supervision Consultant or third party auditor capable of auditing and testing IT systems envisaged as part of CCPS Project. The Licensee shall be required to provide necessary information to the third party auditor to facilitate testing and audit of hardware, software and processes related to CCPS during the License Period.
- (b) The Supervision Consultant /independent consultant/ third party auditor appointed by the Authority or authorized representative of the Authority shall inspect the compliance of functionality of CCPS Project at every six (6) months during the License Period and can cause the Licensee to carry Tests as specified in RFP Part-2. It shall make a report of such inspection (the "O&M Inspection Report") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Technical Specifications, Functionality Requirement , Minimum Service Levels and other requirements and send a copy thereof to the Authority and the Licensee within 7 (seven) days of such inspection.
- (c) Upon receiving such Report, the Licensee shall be entitled to take appropriate and prompt actions to cure the defects or deficiency including software upgrades, hardware replacement found during such inspection in O&M Inspection Report within the Remedial Period specified in O&M Inspection Report, if not so specified, shall be specified by the Authority in consultation with Licensee.

12.6 Authority's right for remedial measure

In the event that the Licensee fails to repair or rectify any defect or deficiency or bugs in the CCPS Project so found during inspection within the Remedial Period specified in O&M Inspection Report and over and above of repetitive notices and repetitive failure of system, then the Authority shall carry out such repairs or rectifications at cost of Licensee. The Authority shall be entitled to recover such costs from the Licensee. Recovery of such cost shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

13. TRAINING AND HUMAN RESOURCE DEPLOYMENT

13.1 Training

- (a) The Licensee shall be responsible for the selection, engagement and training of its personnel in all work with regard to the performance of this Agreement.
- (b) The Licensee shall design and offer different training program and training material

addressed to need of different disciplines and needs of the personnel employed.

- (c) All the training courses shall be conducted at training centre set up by the Licensee.
- (d) Each personnel or staff member of the Licensee shall be deployed on the Projects upon completion of training and issue of the training completion certificates.
- (e) The Licensee shall also offer training program at its own costs to
 - (i) Authority staff enable them to understand the operation of CCPS Project.
 - (ii) Authority Appointed fare collection operator's staff/ticketing staff at AMC Premises with regards to functioning of functioning of POS machines, validators for issuing tickets/smarts cards/ smart card top-up, POS Operation, safety of CCPS equipment during operation hours
- (f) The Licensee shall prepare Standard operating Procedures for every situation including unique situations with regards to functioning of the CCPS Project and train its own/Authority's staff.

13.2 Human Resource Deployment

- (a) The Licensee shall be responsible for deployment of trained and qualified staff members during Project Implementation and Defect Liability Period.
- (b) The Licensee shall appoint a Project Manager who acts as a single point of contact and shall be responsible for all deliverable of this Agreement. The Project Manager shall also act as representative of the Licensee.
- (c) The Licensee shall deploy the experienced and qualified experts for Network and Infrastructure expert, banking experts, hardware maintenance experts, operation, database and software experts and other experts. if required then deploy additional staff to ensure satisfactory services and work with regard to performance of this Agreement .Any replacement of technical personnel only if their relevant qualifications and abilities are substantially equal to or better than existing competent technical personnel.
- (d) If the Authority asks the Licensee to remove a person who is a member of the Licensee's staff or work force, stating the valid reasons, the Licensee shall ensure that the person leaves the Project Site within seven days and has no further connection with the CCPS Project in the Contract.
- (e) The Licensee shall abide by all Applicable Laws including labour laws, minimum wages, PF, ESIC and Applicable Taxes including Service Tax, etc for the Human Resource deployed by them. There shall not be employee and employer relationship between the manpower deployed by the Licensee (either permanent or contractual employee) and the Authority through this Contract. The Licensee shall solely liable for any liabilities arising due to breach in labour laws including minimum wages, PF , ESIC and Applicable Taxes.
- (f) The Licensee shall be solely responsible for any liabilities arising to act or death, injuries of employee deployed by Licensee or its sub contractor or any third party damages due to act of omission of Licensee or its employee.

14. SCALABILITY OF THE CCPS PROJECT AND INTEGRATION

- (a) Licensee shall ensure the scalability of the Project so as to include additional services other than those provided in scope of the work for similar commercial terms .
- (b) The Project shall be scalable enough to include the Metro Project also.
- (c) The Licensee shall ensure scalability and compatibility of the all sub systems as per the terms set forth in RFP Part 2: Scope of Services and Technical Specification Document.
- (d) Ensure/Facilitates Integration of equipment/hardware supplied it or by other vendors for CCPS Project.

15. SECURITY OF INFORMATION GENERATED FROM PROJECT

The Licensee shall take all necessary steps to ensure security, safety, confidentiality and integrity of data and keep Authority informed of all such steps taken from time to time.

15.1 Reliability of Information

The Licensee undertakes to guarantee the authenticity of information submitted to Authority as a part of MIS Report any other information demanded by Authority during the License period.

15.2 Integrity of Information

The system shall have routine checks for the verification of integrity of information. Errors detected will be automatically corrected, in order to prevent propagation of invalid data across the database. Duplicated or incomplete transactions will be detected and corrected, without causing the CCPS Project to come to a halt. If there is interruption in communication, the part of the system affected shall be repaired immediately and record the error.

15.3 Security and Encryption of Information Stored and other database

- (a) The Licensee shall take all other necessary measures to protect the database generated from the CCPS Project.
- (b) The Licensee shall implement highly protected, hierarchical access control system to control to access of CCPS System to only to authorized personnel.
- (c) The Licensee shall take all necessary steps to ensure security, safety, confidentiality and integrity of Database and shall not share or transfer any information from the Database to any person except with prior written consent of Authority.
- (d) The Licensee shall ensure that appropriate firewall is implemented to protect the Database and CCPS Project component from external access and outside connections.

15.4 Security audit of CCPS Project

The Licensee shall also get approved third party auditor to carry out security audit of the database and CCPS system on half yearly/yearly basis during the License Period as per the direction of the Authority and as per the provisions of RFP Part-2 and furnish report/certificate thereof to Authority as an evidence. Licensee shall also require take prompt measure to rectify any bug/default found during such audit.

16. DAMAGE TO HARDWARE/CCPS PROJECT COMPONENTS

- (a) Hardware and CCPS Project Components delivered and installed by the Licensee shall be deployed in heavy public use environment and is required to last rough usage in outdoor conditions. All such Hardware and CCPS Project Components shall be designed to be vandal proof/vandal resistance. Damage to Hardware and AFCS Project Components due to regular wear and tear under field conditions, damage or failure due to exposure to outdoor conditions such a moisture and heat, faulty manufacture, latent manufacturing defects within design limit ,mechanical, electrical or electronic failure, shall be the liability of the Licensee during the License Period. In such case, Licensee shall repair, change the spare of the unit or replace the unit such that the repaired /replaced unit has full functionality during the period of the Licensee agreement. It is responsibility of the Licensee to ensure that all equipment/hardware/software continues to function as per functionality specified in Technical Specification and maintain the Service Levels during the Defect Liability Period. All costs towards repair/modification/changing spare/replacement shall be borne by the Licensee.
- (b) Damages due to Vandalism, tampering of equipment by Authority staff or Authority appointed staff and damage due to accidents of any kind shall be the liability of the Authority. In such case, Authority shall request the Licensee to repair/replace the damaged unit and reinstall the same. All costs towards the same shall be reimbursed by the Authority to the Licensee less of insurance proceeds.

17. OWNERSHIP OF PROJECT AND INTELLECTUAL PROPERTY RIGHTS

17.1 Ownership of the CCPS Project

- (a) The ownership of all Hardware, equipments, Goods and all Software installed and commissioned and forming part of the CCPS Project shall remain vested with the Licensee during the License Period.
- (b) At the end of the License Period or early Termination due to Licensee/Authority Event of Default, the ownership of all Hardware, equipments, goods , customized software, standard software licenses, Third party software licenses forming part of the CCPS Project, software except proprietary software and hardware shall be transferred to the Authority.
- (c) In cases where the customized hardware/software is developed and installed exclusively

for the Authority, the ownership of all such hardware and software shall be transferred to Authority at the end of the License Period or early Termination due to Licensee/Authority Event of Default and source code if any shall be deposited by Licensee to Authority.

- (d) The Software Licenses of all third party software and standard Hardware shall be transferred to the Authority the end of the License Period or early Termination due to Licensee/Authority Event of Default.
- (e) Authority shall remain sole owner of the Database designed, developed and maintained by Licensee all times during the License period. Authority shall own any and all data created out of the CCPS Project at all the times, i.e. both during and after the expiry / termination of the Licensee Agreement. Licensee shall not have any claim on and for such data and shall not for any reason withhold such data from Authority.
- (f) Licensee shall exercise all due caution to protect and maintain the data created out of CCPS Project.
- (g) Licensee shall not share, sell or in any manner use the data created by Licensee out of this Project otherwise than in accordance with the terms of the Licensee Agreement.

17.2 Intellectual Property Rights

- (a) The Intellectual Property Rights in all Standard and Proprietary Software and Hardware shall remain vested in the owner of such rights. The Authority shall have rights to use the same during the License Period exclusively for purposes of effective implementation, operation and maintenance of the CCPS Project. Authority shall not assign license, or otherwise voluntarily transfer its contractual rights to any other third party without approval from the Licensee provided such assignment is required for performance of the CCPS Project.
- (b) The Intellectual Property Rights of customized hardware/software which is developed and installed exclusively for the Authority shall remain with the Licensee during the License Period and shall be transferred to Authority at the end of the License Period or early Termination due to Licensee/Authority Event of Default as the case may be. The Licensee shall handover the source code for all customized software correspond 100% to the operational module to the Authority and shall be verified and certified by an independent agency as identified by the Authority. The Licensee shall have the right to possess and use the same during the License Period exclusively for purposes of effective implementation, operation and maintenance of the CCPS Project and shall not assign license, or otherwise voluntarily transfer its contractual rights to any other third party without approval from the Authority.
- (c) After the expiry of Contract in natural course or early termination of the License Agreement due to Licensee/Authority Event of Default, the Licensee shall have no right, title or interest in or to any work including without limitation the designs, software, programs, modifications or derivative works developed and customized for the Authority by Licensee for the CCPS Project for any purpose whatsoever.
- (d) The Software License for the Licensee's Proprietary Software shall end after the expiry of the Contract or early termination of the Licensee Agreement. The Software Licenses for

Standard Software procured from third party (Operating system, Database, Storage and any other Standard Software) shall not end prior to License Period.

- (e) In case where pre existing software or hardware are customized/modified for Authority use by the Licensee, the IPR for the same shall rest with the Licensee only. In such cases Licensee agrees to provide Authority the rights to use this product even beyond the Licensee Agreement at terms no costlier than those at which such products are available to similar customers in the market. Authority may demand evidence of pre-existence of any such product.
- (f) For purposes of this Agreement and the Licensee Agreement the terms “software”, and “software programs/ Software License” shall include without limitation the source code, object code, any and all related design concepts and ideas, specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided to Authority by the Licensee in relation to the CCPS Project pursuant to the Licensee Agreement. The terms “firmware” and “hardware” shall include without limitation the designs, drawings, specifications, custom designed electronic devices, documentation, technical information and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided to Authority by Licensee in relation to the CCPS Project pursuant to the Licensee Agreement.
- (g) Authority may in its sole discretion allow the marketing of any and all product(s) developed specifically for the Authority in relation to the CCPS Project by Licensee to a third party. Provided however that such marketing shall be done only after prior consultation with Authority in which event the parties shall arrive at an understanding which shall be set forth in writing in a Memorandum of Understanding (“MOU”) between the Authority and the Licensee before taking up such activity. The MOU shall clearly state the terms of / for such marketing activity, the responsibilities of Licensee and Authority respectively as well as financial implications thereof.

17.3 Confidentiality

17.2.1. Confidential Information

- (a) the "Receiving Party" (either the Authority or the Licensee) shall keep confidential and shall not, without the written consent of the other party to this Contract (“the Disclosing Party”), divulge to any third party any documents, data, or other information of a confidential nature (“Confidential Information”) connected with this Contract, and furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of this Contract. Notwithstanding the generality of the foregoing, Confidential Information shall include any proprietary or confidential information of Authority relating to the CCPS Project or services provided under the Licensee Agreement in relation thereto and information relating to Authority’s business or operations.
- (b) Disclosing Parties shall not without Receiving Parties’ prior written consent use, copy or remove any Confidential Information ,except to the extent necessary to carry out

Disclosing Parties obligations hereunder. Upon expiry or termination of the Licensee Agreement, Parties shall return materials containing Receiving Parties Confidential Information.

17.2.2. Confidentiality Exceptions

The Obligations of Parties pursuant to clause 17.3.1 above, however shall not apply to the information which;

- (a) now or hereafter enters the public domain through no fault of the Receiving Party;
- (b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
- (c) Otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.

18. SHARING OF PROGRAM PROTOCOL

- (a) The Licensee shall be required to furnish all interfacing protocols, APIs related to hardware and software being implemented within scope of CCPS Project to Authority before getting the final sign-off on the deliverables. The documentation shall be provided in a way that allows Authority to enable any ITMS & AFC Service Provider to integrate their services with Licensee's Card Host, CCHS, and Smart Cards.
- (b) The protocol documentation shall clearly state all interface requirements including the software dependency, communication protocols, networking diagrams and APIs.
- (c) In the event of dispute or new vendors getting added to the system at a later date, it shall be obligatory to share Communication and program protocols of the equipment supplied by Licensee in the interest of interoperability. The Licensee shall be solely responsible for any delay on account of lack of inter-compatibility between different parts of the system due to non sharing of such program protocols.
- (d) Non submission of Interfacing protocols and APIs shall be considered as Event of Default leading to Termination.
- (e) The deliverables specified in (a) above shall be the part of deliverables of the CCPS project and delivery shall be considered to be complete when the above too is satisfied.

19. OUTSOURCING /SUB CONTRACTING

- (a) Licensee is permitted to outsource the work upon approval from the Authority.
- (b) In the event of failure or breach of any sub-contractor or vendor of the Licensee in

performance of its tasks and functions, the Authority shall have the right to have the services of such sub-contractor or vendor terminated and the Licensee shall forthwith and at no extra cost to the Authority, replace such sub-contractor or vendor or may even undertake to execute the task by itself.

- (c) Outsourcing or Subcontracting does not absolve the Licensee from its obligations.

20. OWNERSHIP OF PROJECT SITE

- (a) Subject to the terms and conditions as contained in this Contract, Authority hereby grants to the Licensee only the right to access and use Project Site/AMC Premises only and exclusively for the purpose of fulfillment of its obligations specified in this Agreement during the License Period.
- (b) Nothing contained herein shall confer or be deemed to confer any right to possession or any other right, upon the Licensee, with respect to the Project Site during the License Period. Nothing contained herein shall confer or be deemed to confer any right for the Licensee to sub-contract, sub-license, lease and sub-lease or make available in any other form the Project Site /AMC Premises provided by the Authority to any Third Party, except as expressly permitted in writing by Authority during License Period.
- (c) The Licensee hereby guarantee that it shall use the Project Site/AMC Premises only and exclusively for the purpose of providing timely services and discharge of its obligation and should not do nor cause any damage or waste in the Project Site/AMC Premises or do any act which will in any way be prejudicial to the rights of the Authority during License Period.
- (d) It is agreed and understood by the Licensee that the rights granted under this Clause to the Licensee by Authority as part of the CCPS Project shall be co-terminus with the Contract Period of this Agreement. Upon early Termination of the Agreement prior to expiry of Contract Period, the Licensee will leave the Project Site/ AMC Premises in the same state and condition as it was during the issuance of Request Order.
- (e) Authority shall retain the title and ownership of any site allotted by the Authority to Licensee for purposes of carrying out Licensee's obligations in relation to the CCPS Project. Such title and ownership of the Authority in any such site shall not pass to Licensee.

21. REPRESENTATION AND WARRANTIES

21.1 Representations and Warranties of Licensee

Licensee hereby represents and warrants that (the "Representation and Warranties of Licensee"):

- (a) the CCPS Project as well products and services implemented under the CCPS Project shall be:
- (i) Compliant with the Technical Specifications and functionalities set forth in RFP Part-2: Scope of Services and Technical Specification Document.
 - (ii) fit and sufficient for the purpose(s) for which they are designed, developed, installed and implemented .

- (iii) be largely free from defects in design, material and workmanship, manufacturing defect, whether latent or otherwise .
 - (iv) neither the CCPS Project including its components nor any use thereof by the Authority will infringe any patent, trademark, copyright, trade secret, or other proprietary right of a third party.
- (b) Licensee hereby further represents and warrants that any services provided hereunder shall be performed in a competent manner and be for any purpose for which Licensee knows or has reason to know the Authority intends to use such service.
- (c) Licensee hereby agrees that the above stated Representations and Warranties
- (i) shall survive the inspection, acceptance and use of the CCPS Project by the Authority;
 - (ii) are for the benefit of Authority and general Public; and
 - (iii) are in addition to any warranties and remedies to which Authority may otherwise agree or which are provided by law.
- (d) it is duly organized, validly existing and in good standing under the laws of India or foreign nation;
- (e) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (f) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of the its scope and obligations;
- (g) it has the financial standing and technical capacity to undertake the CCPS Project;
- (h) the Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (i) it is subject to civil and commercial laws of India with respect to the RFP and Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- (j) the execution, delivery and performance of the 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 Licensee's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (k) there are no actions, suits, proceedings, or investigations pending or, to the Licensee's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may result in the breach of

or constitute a default of the Licensee under the Agreement or which individually or in the aggregate may result in any Material Adverse Effect;

- (l) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in any material adverse effect or impairment of the Licensee's ability to perform its obligations and duties under the RFP and Licensee Agreement;
- (m) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other Civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (n) no representation or warranty by the Licensee contained herein or in any other document furnished by it to Authority or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- (o) no sums, in cash or kind, have been paid or will be paid, by or on behalf of the Licensee, to any person by way of fees, commission or otherwise for securing the Contract or entering into of the Agreement or for influencing or attempting to influence any officer or employee of Authority in connection therewith.

21.2 Representations and Warranties of Authority

Authority hereby represents and warrants that (the "Representation and Warranties of Authority"):

- (a) Authority has full power and authority to grant the RFP and enter into Agreement with Licensee.
- (b) Authority has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- (c) The Licensee Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

22. COMMERCIAL TERMS/ PAYMENT TERMS

22.1 Payment to Licensee

Authority hereby agrees to pay to the licensee the percentage of the value of co-branded smart card based income of AMC Merchant Services such as BRTS, AMTS, Kankaria, City Civic centers, Sabarmati Riverfront etc which Authority shall share with Licensee.

22.1.1. Transaction Income to Licensee

- (a) Authority agrees to pay to the Licensee ____% of the value of co-branded smart card based income of AMC Merchant Services such as BRTS, AMTS, Kankaria, City Civic centers, Sabarmati Riverfront etc which Authority shall share with Licensee.
- (b) The payment as specified herein above shall be made only for the Services where CCPS Project is commissioned and Project Acceptance/Go Live Certificate is issued thereof. For instance if CCPS Project is commissioned in Kankaria and Project Acceptance Certificate issued thereof then payment in terms of percentage of co- branded smart card based of Kankaria shall only be made to Licensee.

22.1.2. Payment Procedures

- (a) Upon Project Acceptance depending on the Request Order and Authority's Services where CCPS Project is commissioned , Authority shall make monthly payment to the Licensee as per clause 22.1.1 herein above , subject to recoveries if any by way of Damages towards Liquidated Damages and the breach in Service Levels or any other charges, deductions or adjustments as per terms & conditions of contract in following manner:
 - (a) The Licensee shall raise regular monthly invoice for payment of Charges as specified in table in sub clause 22.1.1 herein above for Services where CCPS Project is commissioned and submit it to the Authority.
 - (b) Upon receipt of the invoice, the Authority will verify the invoice against the records that has on Operational Services and then make payment subject to deduction by way of Damages towards Liquidated Damages and the breach in Service Levels or any other charges.
 - (c) All payments shall be made by the Authority to the Licensee within 20 days from receipt of the invoice after making any tax deductions at source as applicable under Income Tax law governing in India.

22.2 Tax Liabilities

- (a) The Prices mentioned in the clause 22.1 is exclusive of Service Tax but inclusive of any other directly or indirectly applicable taxes. Service Tax as applicable shall be payable by the Authority to the Licensee based on invoice raised and on submitting the evidence of payment of such Service Tax. Any deviations due to change in the rate of directly applicable taxes and duties except Service Tax would be Liability of the Licensee.
- (b) The Authority shall be entitled to deduct tax at source as may be applicable. The TDS certificate(s) shall be submitted as per the due date specified in the Income Tax Act.

23. INSURANCE

23.1 Insurance during the License Period

The Licensee shall, at its cost and expense, purchase and maintain during the License Period, such insurances as are necessary including but not limited to the following:

- (a) Hardware and Software delivered and installed to the extent possible at the replacement value with Authority as beneficiary.
- (b) Fire and allied natural calamities for the data hardware and soft ware at replacement value with the Authority as beneficiary;
- (c) Licensee 's all risk insurance with the Authority as co-beneficiary;
- (d) Comprehensive third party liability insurance with the Authority as co-beneficiary;
- (e) Workmen's compensation insurance with the Authority as co-beneficiary;
- (f) Any other insurance that may be necessary to protect the Licensee, its employees and the CCPS Project against loss, damage or destruction at replacement value including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (e) with the Authority as beneficiary/co-beneficiary;

23.2 Evidence of Insurance Cover

- (a) The Licensee shall, from time to time, provide to the Authority copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by it in accordance with Licensee Agreement.
- (b) If Licensee shall fail to effect and keep in force the insurance for which it is responsible pursuant hereto, Authority shall have the option to take or keep in force any such insurance, and pay such premium and recover all costs thereof from Licensee.

23.3 Application of Insurance Proceeds

- (a) All moneys received under insurance policies shall be promptly applied by the Licensee towards repair or renovation or restoration or substitution of the CCPS Project or any hardware/equipment/device thereof which may have been damaged or required repair/modification.
- (b) The Licensee shall carry out such repair or renovation or restoration or substitution to the extent possible in such manner that the CCPS Project , or any part thereof, shall, after such repair or renovation or restoration or substitution be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.
- (c) For insurance policies where the Authority is the beneficiary and where it received the insurance proceeds, only such sums as are required from the insurance proceeds for restoration, repair and renovation of the CCPS Project .

23.4 Validity of Insurance Cover

The Licensee shall pay the premium payable on such insurance Policy/Policies so as to keep the insurance in force and valid throughout the License Period and furnish copies of the same to the Authority for each year/policy period. If at any time the Licensee fails to purchase,

renew and maintain in full force and effect, any and all of the Insurances required under this Licensee Agreement, the Authority may at its option purchase and maintain such insurance and all sums incurred by the Authority therefore shall be reimbursed by the Licensee forthwith on demand, failing which the same shall be recovered by the Authority by encashment of Performance Security, exercising right of set off or otherwise.

24. EVENT OF DEFAULT

24.1 Licensee Event of Default

Following events shall constitute an Event of Default by Licensee (the “Licensee’s Event of Default”) unless such event has occurred as a result of a Force Majeure Event:

- (a) If Licensee fails to supply ,install and commission the CCPS Project or items specified in Request Order within the Lead Time specified in Request Order any repeated extension granted thereof , without any valid response or any reasons attributed to breach on part of Authority.
- (b) If Licensee fails to meet the conditions specified in Condition Precedents;
- (c) If Licensee fails to furnish Performance Security and Annual Licensee Fess to the Authority as per the terms of the agreement.
- (d) If Licensee fails to share Interfacing Protocols, program protocols, APIs of Card Host System, CCHS and smart cards etc which are prerequisite for the integration with Transit AFC.
- (e) If Licensee fails to carry out security audit of the CCPS Project as per the provisions of contract.
- (f) If Licensee fails to explain the reconciliation of accounts without any valid reason.
- (g) If Licensee repeatedly fails to settle the account in T+2 day.
- (h) Any representation made or warranties given by the Licensee under this Agreement is found to be false or misleading;
- (i) Non cooperation of Licensee to Authority appointed ITMS&AFC Service Provider to integrate AFCS System with CCHS and Card Host Management System and settlement is delayed on account of such failure .
- (j) The changes/appointment of outsourcing partners/ sub contractor without prior approval of the Authority .
- (k) In the event of repetitive occurrence of offences with respect to breach of any of the Service Levels and Maintenance Terms and its obligations specified in this Agreement and which has Material Adverse Effect on Authority or CCPS Project.
- (l) In case of pre-decided Liquidated Damages or Damages due to breach in Service Levels together exceeds the limit twice the value of Performance Security.
- (m)if Licensee fails to submit documentation and manuals and system protocols, API ,interfaces as specified in RFP.

- (n) Licensee suspends or abandons the operations and/ or implementation of CCPS Project without the prior consent of Authority, provided that the Licensee shall be deemed not to have suspended/ abandoned operation if such suspension/ abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations under this Agreement by Authority or (iii) suspension on account of failure of component and systems provided by other suppliers.
- (o) Licensee repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement.
- (p) Licensee does not abide by the terms of this Agreement.
- (q) If Licensee fails to protect the security of CCPS systems/Project and database.
- (r) If Licensee or any of its staff member are found to be involved in fraudulent and corrupt practices specified in clause 8 of RFP Part-1 or fraudulent practices pursuant to ticketing operations.
- (s) If Licensee fails to make any payments/damages/penalties due to Authority within the period specified in Licensee Agreement or extended period as mutually agreed by the Parties without any valid reason.
- (t) If Licensee could not implement the changes in business rules as per directives of Authority.
- (u) Licensee is in Material Breach of this Agreement or by its own creates circumstances that have Material Adverse Effect on the performance of Authority's obligation with respect to CCPS Project and has failed to cure same within 60 days of notice thereof by the Authority.
- (v) If Services Provider fails to perform its scope, responsibilities and obligations specified in this Agreement repetitively and such breaches not cured/rectified in Remedial Period granted by the Authority.

24.2 Authority Event of Default

Following events shall constitute an Event of Default by Authority (the "Authority Event of Default") unless such event has occurred as a result of a Force Majeure Event:

- (a) If Authority fails to provide Project Site/ AMC Premises for implementation of CCPS Project for a considerably longer period of time.
- (b) Authority repeatedly fails to make any payments due to the Licensee as per clause 22.1 within period specified in Licensee Agreement without any valid reason.
- (c) The Authority repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement.
- (d) Authority or any Governmental Agency is in Material Breach of this Agreement or has by an act of commission created circumstances that have a Material Adverse Effect on the performance of its obligations by the Licensee and has failed to cure the same within 60

days of notice thereof by the Licensee.

- (e) Any representation made or warranties given by the Authority under this Agreement is found to be false or misleading.
- (w) If Authority fails to perform repetitively any other responsibilities and obligation(s) specified in this Agreement.

24.3 Termination due to Event of Default

- (a) Without prejudice to any other right or remedies which the Authority may have under this Contract, upon occurrence of Licensee Event of Default, the Authority shall be entitled to terminate this Contract by issuing a Termination Notice to the Licensee; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Licensee of its intention to issue such Termination Notice and grant 30 (thirty) days or reasonable period to the Licensee to remedy the default ("Remedial Period/Cure Period") and/or make representations, and may after the expiry of such Remedial Period on non remedy of breach/default at the satisfaction of the Authority within the Remedial Period , whether or not it is in receipt of such representation, or repeated failure to remedy the default/breach , the Authority issue Termination Notice providing 15 days time stating the intention of the termination (the "Termination Notice") and then terminate the Contract.
- (b) In the event of termination due to Licensee Event of Default, Authority shall have the right to;
 - (i) Invoke/encash and retain the Performance Guarantee amount in full.
 - (ii) Take possession of the entirety of the infrastructure of the CCPS Project including all project site, hardware and software forming part of the CCPS Project including all Hardware, Customized Software, Standard Software and all third party software licenses procured except the proprietary software and Hardware at no cost to Authority.
 - (iii) Authority shall have rights to appoint another Licensee and transfer the entire infrastructure except proprietary items or part of the infrastructure to any replacement Licensee selected by the Authority in its sole discretion.
 - (iv) Card system shall have to be interoperable with new service provider during the transfer. The Licensee shall provide all the support during the transition period of 6 months during which the users shall use float amount.
 - (v) Licensee shall also deposit the cash collected and amount of transaction settled to AMC.
 - (vi) Licensee shall handover the Project Site to Authority.
 - (vii) Authority shall not be liable to pay any termination payment to the Contractor in respect of such termination.

- (c) Without prejudice to any other right or remedies which the Licensee may have under this Contract, upon occurrence of Authority Provider Event of Default, the Licensee shall be entitled to terminate this Contract by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Authority of its intention to issue such Termination Notice and grant 30 (thirty) days or reasonable period to the Authority to remedy the default ("Remedial Period") and/or make representations, and may after the expiry of such Remedial Period on non remedy of breach/default at the satisfaction of the Licensee, whether or not it is in receipt of such representation, or repeated failure to remedy the default/breach, the Licensee issue Termination Notice providing 15 days time stating the intention of the termination (the "Termination Notice") and then terminate the Contract.
- (d) In the event of termination due to Authority Event of Default,
- (i) Authority shall return the Performance Security to the Licensee in full after deduction of any due payable by the Licensee under this Agreement.
 - (ii) The Licensee shall take back all proprietary Hardware and Software forming part of the CCPS Project.
 - (iii) Authority shall take possession of the entirety of the infrastructure of the CCPS Project including all project site, hardware and software forming part of the CCPS Project including all Hardware, Customized Software, Standard Software and all third party software licenses procured except the proprietary software and Hardware. Licensee shall get depreciated value of Hardware and Software (except proprietary items) less payments already made.
 - (iv) Card system shall have to be interoperable with new service provider during the transfer. The Licensee shall provide all the support during the transition period of 6 months during which the users shall use float amount.
 - (v) Licensee shall also deposit the cash collected and amount of transaction settled to AMC.
 - (vi) Licensee shall handover the Project Site to Authority.
 - (vii) Authority shall have rights to appoint another Licensee and transfer the entire infrastructure or part of the infrastructure to any replacement Licensee selected by the Authority in its sole discretion. Authority also reserves the right to appoint AFC member associated with the Bank, for implementation, O&M through separate agreement at negotiated terms.

24.4 Termination for Insolvency, Dissolution etc.

- (a) Authority may at any time terminate the Agreement by giving written notice to Licensee

without any compensation to Licensee, if Licensee becomes bankrupt or otherwise insolvent or in case of dissolution of firm or winding up of the company, provided that such termination will not prejudice any other rights of the Authority.

- (b) Notwithstanding the generality of the foregoing, On occurrence of Termination due to Licensee's insolvency, dissolution the Authority shall have rights as specified in clause 24.3(b).

25. FORCE MAJEURE

Force Majeure Event means occurrence of any act, event or circumstance or a combination of events and circumstances which affects the Party claiming such Force Majeure Event from performing its obligations under this Agreement ("Affected Party"), which act or event satisfies all the following conditions:

- (i) are beyond the reasonable control of the Affected Party and materially and adversely affects the performance of an obligation by a Party;
- (ii) the Affected Party could not have prevented or reasonably overcome the event or circumstance with the exercise of Good Industry Practices or reasonable skill and care;
- (iii) does not result from the negligence or misconduct of the Affected Party or the failure of such Party to perform its obligations hereunder; and
- (iv) any consequences of which, prevent, hinder or delay in whole or in part the performance by such Party of its obligations under this Agreement.

Force Majeure includes the following events and/ or circumstances to the extent that they or their consequences satisfy each of the requirements set forth in this Clause.

- (viii) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion, or politically motivated sabotage, act of terrorism, Industry wide or state wide or India wide strikes or industrial action which prevents the operation of the Project, Facilities and Facilities sites for a period exceeding a continues period of 15 (Fifteen) days in an accounting year.
- (ix) The occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, fire or explosion, radioactive or chemical contamination or ionizing radiation directly affecting the Project, unless the source or cause of the explosion, contamination, radiation or hazardous substance is brought to or near the Project Site by the Licensee or any affiliate of the Licensee or any Contractor or any such affiliate or any of their respective employees, servants or agents;
- (x) strikes, go-slows and/or lockouts or other industrial action or labour dispute which are in each case widespread, nationwide or political and other than those involving the Licensee, Contractors or their respective employees/representatives or attributable to any act or omission of any of them.

- (xi) Any effect of the natural elements, including lightning, fire, earthquake, unprecedented rains, tidal wave, flood, storm, cyclone, typhoon or tornado, and other unusual or extreme adverse weather or environmental conditions or actions of the elements within India;
- (xii) Epidemic or plague within India;
- (xiii) Compliance with a request from the Authority pursuant to the directions of any Government decree, the effect of which is to close all or any part of the Project Site.
- (xiv) any judgment or order of any court of competent jurisdiction or statutory authority in India made against the Licensee in any proceedings for reasons other than failure of the Licensee to comply with any Applicable Law or Applicable Permits or on account of breach thereof, or of any contract, or enforcement of Licensee Agreement or exercise of any of its rights under of Licensee Agreement by the Authority;
- (xv) any public agitation which prevents the operation of the Facility for a continuous period exceeding 15 (Fifteen) days in an accounting year.
- (xvi) change in Law, only when provisions pertaining to the Clause on Change in Law cannot be applied; expropriation or compulsory acquisition by any Government Agency of Project site or rights of Licensee.
- (xvii) any unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause any consent or approval required by the Licensee.
- (xviii) any event or circumstances of a nature analogous to any events set forth above within India.

25.1 Procedure in case of Force Majeure Event

- (a) If a Party (Affected Party) claims relief on account of a Force Majeure Event, then the Party claiming to be affected by the Force Majeure event shall, immediately on becoming aware of the Force Majeure Event, give notice of and describe in detail:
 - (i) the Force Majeure Event(s) that has occurred;
 - (ii) the date of commencement, nature and estimated duration of such event of Force Majeure Event and
 - (iii) the manner in which the Force Majeure event affects the Affected Party's obligation(s) under this Agreement.
 - (iv) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event
 - (v) any other relevant information.

- (b) Within a reasonable time following the date of such notice of such event of Force Majeure Event, the Affected Party having invoked such Force Majeure Event as a cause for such delay shall submit to the other Party sufficient proof of the nature of such delay or failure and its anticipated effect upon the time for performance.
- (c) No Party shall be able to suspend or excuse the non-performance of its obligations hereunder unless such Party has given the notice specified above.

25.2 Excuse from performance of obligations by Party affected by Force Majeure

- (a) If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations, upon delivery of the notice of the occurrence of a Force Majeure Event to the other Party to the extent it is unable to perform on account of such Force Majeure Event provided that:
 - (b) the Suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
 - (c) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event [and to cure the same with due diligence.
 - (d) When the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder.
 - (i) Where the Affected Party is the Licensee and the Force Majeure Event has the reduced the Licensee incapable /unable to perform the Scope of work, then in such an event the Payment for Services shall stand suspended until such time as the Licensee resumes activities in terms of the Licensee Agreement.
 - (ii) Authority shall not forfeit Licensee's Performance Security or charge liquidated damages or terminate the Licensee Agreement for default, if and to the extent that delay in performance or failure to perform Licensee's obligations under the Licensee Agreement is the result of an event of Force Majeure.
 - (iii) The Authority shall extend the License Period equivalent to the time Period for which Force Majeure subsists.

25.3 Termination in case of Force Majeure Event

If Force Majeure event continues for more than 180 (one hundred and eighty) days then either Party shall have the right to terminate this Agreement by giving a notice of 30 days in respect thereof ("Termination Notice") and the date of which Termination shall become effective will be called the "Termination Date".

25.4 Termination Payment in case of Force Majeure Event

In the event of Termination due to force Majeure;

- (a) Authority shall return the Performance Security to the Licensee in full after deduction of any due payable by the Licensee under this Agreement.
- (b) The Licensee shall take back all proprietary Hardware and Software forming part of the CCPS Project.
- (c) Authority shall take possession of the entirety of the infrastructure of the CCPS Project including all project site, hardware and software forming part of the CCPS Project including all Hardware, Customized Software , Standard Software and all third party software licenses procured except the proprietary software and Hardware. Licensee shall get depreciated value of Hardware and Software (except proprietary items) less payments already made.
- (d) Licensee shall handover the Project Site to Authority.
- (e) Card system shall have to be interoperable with new service provider during the transfer. The Licensee shall provide all the support during the transition period of 6 months during which the users shall use float amount.
- (f) Licensee shall also deposit the cash collected and amount of transaction settled to AMC.
- (g) Authority shall have rights to appoint another Licensee and transfer the entire infrastructure or part of the infrastructure to any replacement Licensee selected by the Authority in its sole discretion. Authority also reserves the right to appoint AFC member associated with the Bank, for implementation, O&M through separate agreement at negotiated terms.

25.5 Allocation of Cost in case of Force Majeure Event not Leading to Termination

Upon occurrence of a Force Majeure Event and both the Parties shall be agreed to not to Terminate the Agreement, then both the parties shall bear their respective cost arising out of such event. The amount of Insurance Proceeds if any shall be applied toward CCPS project.

26. DISPUTE RESOLUTION

26.1 Amicable Solution

- (a) Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to the Licensee Agreement including incompleteness of the Project between the Parties and so notified in writing by either Party to the other (the "**Dispute**") in the first instance shall be attempted to be resolved amicably by the Authority and Licensee in accordance with the procedure set forth in sub-article (b) below.
- (b) Either Party may require the Dispute to be referred to the Municipal Commissioner, Ahmedabad Municipal Corporation and the Chairman of the Board of Directors of the Licensee, for the time being for amicable settlement. Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer

the Dispute to Arbitration in accordance with the provisions of Article on Arbitration below.

26.2 Arbitration

(a) Arbitrators

Any Dispute which is not resolved amicably as provided in Clause 26.1 shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a Board of Arbitration. This Board shall be constituted prior to commencement of Arbitrators and shall comprise two arbitrators and an umpire. Licensee and Authority shall appoint each an arbitrator and an umpire to be appointed by the two arbitrators appointed by the Parties. A Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator, if the other Party fails to appoint its arbitrator, the Party appointing arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996.

(b) Place of Arbitration

The place of arbitration shall be Ahmedabad.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Procedure

The procedure to be followed within the arbitration, including appointment of arbitrator / arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.

(e) Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto hereby waive, to the extent permitted by law, any rights to appeal or to review of such award by any court or tribunal. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction in Ahmedabad only.

(f) Fees and Expenses

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

(g) Performance during Arbitration

Pending the submission of and/or decision on a Dispute, difference or claim or until the arbitral

award is published, the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

27. SEVERABILITY AND WAIVER

- (a) If any provision of this Agreement, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the remainder of the provisions in question which shall remain in full force and effect. The relevant Parties shall negotiate in good faith in order to agree to substitute for any illegal, invalid or unenforceable provision a valid and enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the illegal, invalid or unenforceable provision or part provision. No failure to exercise or enforce and no delay in exercising or enforcing on the part of either Party to this Agreement of any right, remedy or provision of this Agreement shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further such right, remedy or provision or the exercise or enforcement of any other right, remedy or provision.
- (b) In the event of failure or breach of any sub-contractor or vendor of the Licensee in performance of its tasks and functions, the Authority shall have the right to have the services of such sub-contractor or vendor terminated and the Licensee shall forthwith and at no extra cost to the Authority, replace such sub-contractor or vendor or may even undertake to execute the task by itself.
- (c) In the event of failure or breach of any member of a Consortium in performance of its role as proposed during the bidding and as subsequently brought out in the Consortium Agreement, the Authority shall have the right to have the services of such member terminated. Such terminated member of the Licensee Consortium continue to perform all tasks assigned to it to the best of its ability until a replacement is found either through the efforts of the remaining consortium member or through the efforts of the Authority through due process.
- (d) In the event of dispute between the Consortium members with regard to payments, the Authority retains the right to make payment to individual consortium members as per their roles and responsibilities specified in Consortium Agreement.

28. INDEMNITY

- (a) The Authority shall, during the term of this Agreement, indemnify and hold the Licensee harmless from any loss, claim or damage, third party suit, proceedings, judgments, cost and expenses (including reasonable attorney fees) relating to any infringement claim by a third party if the same is based on any Authority materials provided to Licensee by or on behalf of Authority or the access and use by Licensee of any Authority provided software or materials in connection with Licensee's performance of Services hereunder without breaching the terms of this Agreement.

- (b) The Licensee shall defend, indemnify and hold harmless Authority from and against any third party suit, proceeding, judgment, costs and expenses to the extent such action or claim is based on allegation that the services or deliverables as provided to Authority by Licensee and the use thereof by Authority as stated in the Agreement constitutes an infringement of or misappropriation of the copyright, patent, trademark or trade secret rights of any third party. Notwithstanding the foregoing, the Licensee shall have no obligations with respect to any such Infringement Claims if the same arises or results from:
- (i) Licensee's compliance with Authority's specific technical designs or instructions.
 - (ii) Inclusion in a deliverable of any content or other materials provided by Authority and the said infringement relates to or arises from such Authority materials;
 - (iii) Modification of a Deliverable after delivery by the Licensee to Authority if such modification was not made by or on behalf of Licensee; or
 - (iv) Operation or use of some or all of the Deliverable by Authority in combination with products, information, specification, instructions, data, materials not provided by Licensee;
- (c) Each party (in the capacity as Indemnifying Party) will defend, indemnify and hold the other party, from and against any third-party claim, demand, suit, proceeding, cost and expenses therewith to the extent such demand, claim or action relates to or is based on any personal injury, death or damage to property caused by the act or omission of the Indemnifying Party or its agents and representatives, in the performance of this Agreement, unless caused by the gross negligence or willful misconduct of the other party/it's personnel.

29. ASSIGNMENT

Licensee shall not assign, in whole or in part, any right or delegate any duty under the Licensee Agreement to any third party, except with Authority's prior written consent in this behalf. Neither party shall assign or transfer all or any of its obligations under this arrangement including any Statement of Work to any person without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

30. LIMITATION OF LIABILITY

The aggregate liability of the either Party, whether under the Contract, in tort or otherwise, shall not exceed the Contract Price provided that this limitation shall not apply to any obligation of the Licensee to indemnify the Authority with respect to intellectual property rights infringement claims.

31. PROJECT HANDOVER

31.1 Handing Over of Project

Upon expiry of the Agreement by efflux of time and in the normal course or prior termination of this Agreement due to Event of Default or dissolution or insolvency or Force Majeure , the Licensee shall at the end of the Agreement Period or prior termination of this Agreement, as the case may be, hand over free from Encumbrances the peaceful possession of the Project Site, if any provided to the Licensee under administration or otherwise besides any other assets including all Hardware, Customized Software , Standard Software , database and all third party software licenses procured during the subsistence of this Agreement at no cost to Authority except in case of Termination due to Authority Event of Default or Force Majeure where in Authority shall pay depreciated value of Hardware and Software less payment made. Licensee shall also make payments of unused float on co-branded smart cards, cash collected and also handover the database to the Authority.

31.2 Inspection and Removal of Bugs and Deficiency

- (a) The handing over process shall be initiated at least 6 months before the actual date of expiry of the Agreement Period in normal course or during the Notice Period in case of early termination by a joint inspection by the Authority and the Licensee.
- (b) The joint inspection shall be initiated by way of test run of CCPS Project.
- (c) The objective of this stage will be to conduct full tests of the functionality of each piece of Hardware and Software of CCPS Project as a whole, progressively, in order to identify faults, isolate them and rectify them in the most efficient manner in terms of cost and time before handing over to Authority. This Test run shall not be performed on Licensee's proprietary software and Hardware.
- (d) Testing procedure for the inspection of functionality of CCPS Project shall be mutually decided by Authority and Licensee before the handover process.
- (e) Upon completion of Test of the CCPS Project, the Licensee shall submit a comprehensive Test result report to Authority for approval of results. The Test result report shall contain description on testing procedures followed, data used in the tests, output obtain from the tests, failure or modification required to equipments or Systems, declaration asserting compliance with the targets established for that stage, and enumerating each of the tests performed, the dates on which they were performed.
- (f) The Licensee shall be entitled to remove promptly, any bugs or defects observed during the Tests in the CCPS. Such bugs and deficiencies shall be removed and cured respectively in a time period commensurate with type of bugs and defects.
- (g) In case the Licensee fails to carry out the above works, within the stipulated time period, the Authority shall be at liberty to have these works executed by another agency or on its own at the risk and cost of the Licensee. This stipulated time period shall be mutually decided by Authority and the Licensee. Any cost incurred by Authority in this regard shall be reimbursed by the Licensee to Authority within mutually agreed days of receipt of demand. For this purpose, Authority shall without prejudice to any other right/remedy available to it, under this Agreement, have the right to appropriate the Performance

Guarantee and / or to set off any amounts due, if any and payable by Authority to the Licensee to the extent required / available and to recover deficit amount, if any, from the Licensee.

31.3 Recovery of Balance due of Authority from Licensee

The dues payable to Authority by the Licensee on any account, if any, at the end of the Agreement shall be recovered by the Authority from the Performance Guarantee.

32. POST TERMINATION SUPPORT

- (a) In case Authority Intends to proceed for Termination on account of Licensee Event of Default and /or unresolved disputes between the Consortium Members of the Licensee, or due to Authority Event of Default or Force Majeure then the Licensee shall be severally liable for operation, maintenance and management of CCPS project at Agreed payment terms specified in this Agreement till Authority appoints and handover the CCPS Project to new Licensee/Vendor.
- (b) Licensee shall provide support in terms of smooth handing over of database
- (c) Card system shall have to be interoperable with new service provider during the transfer. The Licensee shall provide all the support during the transition period of 6 months during which the users shall use float amount.
- (d) Licensee shall also deposit the cash collected and amount of transaction settled to AMC.
- (e) Licensee shall handover the Project Site to Authority.

33. CHANGE REQUEST AND CONTRACT AMMENDMENTS

- (a) Authority may at any time order the Licensee to make changes within the general scope of the Contract as per following terms.
 - (i) If any such change is beyond the limit of Quantity Variation specified in this Agreement and causes an increase or decrease in the cost of, or the time required for the Licensee's performance of any provisions under the Contract, an equitable adjustment shall be made in the Commercial terms or in the Lead Time, or both, and the Contract shall accordingly be amended on mutually agreed terms. Provided the such terms shall not exceed the prevailing rates charged to other parties by the Licensee and prevailing market rates for similar services.
 - (ii) Any claims by the Licensee for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Licensee's receipt of Authority's change order.
- (b) Any changes having major technical or commercial implications will have to be mutually agreed upon in advance, prior to making the change. For avoidance of doubt , the parties expressly agree that
 - (i) Change Request having major technical and commercial implications shall not be effective

and binding unless agreed in writing and signed by both Authority and Licensee.

- (ii) The charges of such changes shall be agreed in advance agreed under a Change Request shall not exceed the prevailing rates charged to other parties by the Licensee and prevailing market rates for similar services.
- (iii) The Lead Time shall be adjusted for implementing the change Request.

34. MISCELLANEOUS

34.1 Safety

- (a) Licensee shall comply with the Safety Standards for the Project as per the Good Industry Practice.
- (b) Licensee shall be solely liable for safety of its own employee/ manpower deployed by it. Any liability arising out of death/Injury to the Employee/its sub contractor staff deployed for the Project during the subsistence of the Contract shall be responsibility of Licensee.

34.2 Governing Law and Jurisdiction

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

34.3 Survival

Termination of this Agreement (a) shall not relieve the Licensee or Authority of any obligations 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.

34.4 Amendments

This Agreement, together with the terms of the RFP and the Schedules together constitute a complete and exclusive statement 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.

34.5 No Partnership

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

34.6 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 **Authority:**

[Designation],

Ahmedabad Municipal Corporation

ADDRESS OF Ahmedabad Municipal Corporation

Ahmedabad

Fax No.

If to the **Licensee**

The-----,

-----Limited,

-----.

Fax No. -----

Or such address, facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered:

- i. In the case of any communication made by letter, when delivered by hand, by recognized courier or by mail (registered, return receipt requested) at the address, and
- ii. In the case of any communication made by facsimile, when transmitted properly addressed to such facsimile number.

34.7 Language

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

COUNTERPARTS

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

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

SIGNED, SEALED AND DELIVERED

For and on behalf of Authority OF [***] by:

(Signature)

(Name)

(Designation)

(Address)

(Phone No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of Licensee by:

(Signature)

(Name)

(Designation)

(Address)

(Phone No.)

SCHEDULES

SCHEDULE 1: SUMMARY OF HARDWARE AND SOFTWARE ITEMS FOR CCPS PROJECT

Services	Hardware	Software
Kankaria lake	Co – branded smart cards, POS machines, ETMs and Validators at following places <ul style="list-style-type: none"> • Main Entry Exit Gates. • Train Ticketing Booths • Kids City Entry Exit and Ticketing Booth • Butterfly Park Entry Exit and Ticketing Booth. • Kankaria Zoo Entry Exit and Ticketing Booth. 	<ul style="list-style-type: none"> • Interface to Card Host Management System • Clearing House Solution Software as and when required. • Validators/ acquiring terminals software components installed at Kankaria, Sabarmati Riverfront and Municipal Parkings. • web portal- Internet Payment Gateway. • Payment Wallet /Mobile Recharge • Security/Fire wall etc.
Sabarmati Riverfront	Co-branded smart cards, POS machines, ETMs and Validators at following places. <ul style="list-style-type: none"> • Entry Exit Points at Existing Garden. • Entry Exit Points at Bio Diversity Park. • Entry Exit Points at Flower Garden 	
Parking	Co-branded smart cards, POS machines and ETMs at Municipal Parkings.	
Control Centre	Control Centre Hardware including servers, Database, Network, Security, Backup System, Anti-Virus setup etc for AFCS.	
BRTS	<ul style="list-style-type: none"> • Smart Cards • Cards personalization 	
City Bus Services (AMTS)	<ul style="list-style-type: none"> • Smart Cards • Cards personalization 	

SCHEDULE 2: RESPONSIBILITY MATRIX

Project Site Location	Entity	responsibilities
City Civic Centers	Licensee	<ul style="list-style-type: none"> • POS Machines and acquiring terminals/validators for Card issuance and Municipal Bills payment. • Training to staff • Cash Collection at the end of the day shall be deposited to AMC Merchant account in T+2 day • Recurring communication cost • Co-branded card based transaction settlement.
	Authority	<ul style="list-style-type: none"> • Staff for POS Operation. • Physical Security of equipment provided/installed. • Any other facilities required by the Licensee for undertaking its scope
Kankaria	Licensee	<ul style="list-style-type: none"> • POS Machines and acquiring terminals/validators for Card issuance and Municipal Bills payment. • Training to staff • Cash Collection at the end of the day shall be deposited to AMC Merchant account in T+2 day • Recurring communication cost • Co-branded card based transaction settlement.
	Authority	<ul style="list-style-type: none"> • Staff for POS Operation. • Physical Security of equipment provided/installed. • Any other facilities required by the Licensee for undertaking its scope
Sabarmati Riverfront	Licensee	<ul style="list-style-type: none"> • POS Machines and acquiring terminals/validators for Card issuance and Municipal Bills payment. • Training to staff • Cash Collection at the end of the day shall be deposited to AMC Merchant account in T+2 day. • Recurring communication cost • Co-branded card based transaction settlement
	Authority	<ul style="list-style-type: none"> • Staff for POS Operation. • Physical Security of equipment provided/installed. • Any other facilities required by the Licensee for undertaking its scope
Central Control Centre at Bank's Premises	Licensee	<ul style="list-style-type: none"> • Servers & System Software (like Operating System, RDBMS) • Network/LAN. • UPS with batteries, switch, Router, any other networking equipment. • System Administration, Backup, Restore • Hardware and Software maintenance support(24x7) • Communication Setup including connectivity links • Central Applications such as Clearing House Solution, Card host management. • Installation, Maintenance & Support of these applications

Project Site Location	Entity	responsibilities
		<ul style="list-style-type: none"> • Changes in the software as per the business needs of Authority. • Patches updations if required. • Network connectivity • Connectivity with AFC Servers residing in Authority premises with CCHS and card Host Management for the purpose of integration and reconciliation. • Reconciliation of transactions. • System security as per scope of services RFP Part-2. • Training • Centralized monitoring and supervision of operation and functionality of CCPS Project. • Security against malfunctioning and unauthorized access of all sub systems of CCPS Project . • 16-18 hours operations support per day , 7 days a week • Call Center/Help Desk for Resolving CCPS Project related queries. • Recurring communication cost. • Other Responsibilities as specified in the RFP.
	Authority	<ul style="list-style-type: none"> • Providing Business Rules etc. • Authorizations for business rule changes and system updates.
AMTS/BRTS	Licensee	<ul style="list-style-type: none"> • Issuance of Smart Cards/ Recharging of smart cards • Card Personalization.

SCHEDULE 4: TENTATIVE BUSINESS RULES/CHARGES FOR SMART CARDS

Charges for Smart card usage as envisaged at this stage is stipulated below.

Service	Amount	Solution to be provided by	Payable by	Payable to
One Time Card Issuance Charges	Rs. 50 per card	Licensee	Users (Members of the public)	Licensee
Card Personalization	Rs. 25	Licensee	Users (Members of the public)	Licensee
Top up / Loading charges	<ul style="list-style-type: none"> • No Top up/Loading Charges for cards loaded through cash. • Licensee's Regular Loading/Top up charges permitted only for loading done through internet channels using debit / credit cards/online banking channels of non licensee bank. Licensee shall charges such charges from users. 			
Minimum to maximum Loading amount	Minimum Rs. 100 maximum depending on RBI rules	Licensee	Users (Members of the public)	To be collected by Licensee in separated Core banking float account. This shall be transferred to respective merchant's account based on transaction.
Monthly Card Maintenance Fees for usage on the system	No Monthly Maintenance Charges			
Cost of Home Delivery (optional) of Personalized Card	Rs 25	Licensee	Users (Members of the public)	Licensee
Replacement of Already issued AJL card	At actual (AJL shall bear)	Smart cards issued by AJL shall be replaced by Licensee sponsored co branded CCPS card. Replacement will be done at BRTS counters by AJL staff when customer presents the older cards. Value will be transferred to the new CCPS cards.	AJL	Licensee

Above is a tentative charges envisaged at this stage. Authority retains the right to make changes. Above charges are inclusive of all taxes. The Licensee shall not charge any taxes on amount specified in table above

SCHEDULE 5: RATES QUOTED FOR BILLS OF QUANTITIES

SCHEDULE 6: PERFORMANCE SECURITY

SCHEDULE 7: PROJECT IMPLEMENTATION AND TESTING PLAN

SCHEDULE 8: REQUEST ORDER

SCHEDULE 9: LETTER OF AWARD

SCHEDULE 10: RFP DOCUMENT

A. RFP Part-1

B. RFP Part-2

SCHEDULE 11: CORRESPONDANCE BETWEEN AUTHORITY AND LICENSEE