

Tender Documents
for
**Purchase of Vehicle to be Scrapped/
Dismantled Under Bus Industry
Restructuring Program in Peshawar BRT**

Date: 13.12.2019

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SECTION 1 - DEFINITIONS

1.1.1 The following words or terms shall have the following meanings in this Tender Documents:

Affiliate means a corporation or entity effectively under the Control of, or in Control of, a Contractor or associated with a Contractor under common ownership and Control.

Contractor means any individual, company, partnership, corporation, Consortium or joint venture or other legal entity which participates in the Bidding Process.

Bid Bond has the meaning given to it in paragraph 4.5.4.

Bidding Process or **Bidding** means the process beginning from the publication of the Invitation to Bid until the signing of the Agreement.

Coercion, Collusion, Corrupt Practices, Fraud, Restrictive Practices and Undesirable Practices have the meanings given to them in paragraph 6.4.2.

Consortium means an unincorporated association of juridical persons bound by contract or law, undertaking by mutual written agreement a common enterprise which is to participate in the Bidding Process.

Consortium Member means any of the juridical persons comprising a Consortium, each having a definite interest in the common undertaking, liable in the Bid and whose interest may be converted into an equivalent equity participation in the corporation that will become a contractor if the Consortium is awarded and accepts the obligation to provide the Required Services.

Control means, for purposes of defining an Affiliate, the power to direct or cause the direction of the management policies of a body corporate whether through: (i) ownership of at least fifty per cent (50%) plus one share of the outstanding voting shares or (ii) ownership of at least twenty per cent (20%) of the outstanding voting shares and (a) possession of at least fifty per cent (50%) plus one share of the voting rights through voting trust or other voting agreements entered into at least one year before the Tender Submission Date or (b) the ability to elect a majority of the members of the Affiliate's board of directors. In determining ownership by a corporation of the shares of another corporation, shares held both directly and indirectly will be counted. If the Contractor or Consortium Member was incorporated only within the last six (6) months, then the requirement herein that the voting trust or other voting agreement should have been entered into at least one (1) year before the Tender Submission Date, will not be applicable.

Financial Offer has the meaning given to it in paragraph 4.4.1.

Winning Contractor means the Best Evaluated contractor as determined by TransPeshawar Company in accordance with evaluation criteria.

KPPRA means the Khyber Pakhtunkhwa Public Procurement Regulatory Authority.

Procurement Rules means the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules of 2014.

Tender means the bid submitted by a Contractor for the provision of the Required Services.

Tender Submission Date means the date specified as such in paragraph 3.1.2.

Required Services has the meaning given to it in the Agreement.

Agreement means the contract to be entered into between TransPeshawar Company and a Winning contractor and attached with this tender document.

Subcontractor means an entity which may be engaged by a Winning Contractor to undertake some of the Required Services.

TransPeshawar (The Urban Mobility Company) or “TransPeshawar Company” or “Employer” means a Public Limited Company registered under Section 42 on February 09, 2017 with Security Exchange Commission of Pakistan having a registered office at TransPeshawar (The Urban Mobility Company), Ali Tower, Second Floor, University Road, Peshawar, Khyber Pakhtunkhwa, Pakistan.

SECTION 2 –NOTICE

2.1 Introduction

2.1.1 This Tender Document is uploaded on KPPPRA and TransPeshawar websites solely for use in preparing and submitting a Tender in a competitive tender to procure the Required Services.

2.1.2 This Tender Document is being uploaded on above mentioned websites by TransPeshawar Company, a public agency under the Government of Khyber Pakhtunkhwa.

2.2 Disclaimer

2.2.1 No employees or consultants of TransPeshawar Company:

(a) make any representation (express or implied) or warranties as to the accuracy or completeness of the information contained in this Tender Documents or other document made available to a person in connection with the tender process for the Required Services and shall have no liability for this Tender Documents or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of this tender; or

(b) will be liable to reimburse or compensate a recipient for any costs or expenses incurred by the recipient in evaluating or acting upon this Tender Documents or otherwise in connection with the project.

2.2.2 The Tender Documents does not constitute a solicitation to invest or otherwise participate in the assignment.

2.2.3 The Bidding Process is conducted through the procedures specified in this Tender Documents, in line with the principles of the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act and the Procurement Rules of 2014.

- 2.2.4 The issuance of this Tender Documents does not imply that TransPeshawar Company is bound to appoint a Winning Contractor or enter into an Agreement. TransPeshawar Company reserves the right to reject all or any of the Tenders received or otherwise discontinue the Bidding Process at any time.

SECTION 3 - BIDDING PROCESS

3.1 Planning

- 3.1.1 The Bidding shall be carried out in accordance with Single Stage – Single Envelope process.

- 3.1.2 The indicative overall planning for the Bidding Process is presented below:

Milestone	Party Responsible	Target Date
Issuance of Tender Documents	TransPeshawar Company	13.12.2019
Pre-Bid Meeting	TransPeshawar Company	23.12.2019 11:00 AM
Upload of Pre-Bid Minutes on websites of TransPeshawar	TransPeshawar Company	24.12.2019
Tender Submission Deadline	Contractor	06.01.2020 04:00PM
Notification of the Results of the Evaluation and Appointment of Winning Contractor	TransPeshawar Company	Tentatively in January, 2020
Signing Date of Agreement and Compliance with other Requirements	Winning Contractor and TransPeshawar Company	Tentatively in February, 2020

3.2 Information Sources

- 3.2.1 The primary sources of information provided to Contractor in relation to this Tender Documents are:

- (a) Tender Documents (the present document);
- (b) Agreement (attached to the present document).
- (c) Pre-Bid Meeting as organised by TransPeshawar Company (cf. Section 3.3);
- (d) Answers to questions raised on the Tender Documents (cf. Section 3.4);

3.2.2 Contractor relying on information from other sources or the public domain do so at their own risk.

3.3 **Pre-Bid Meeting**

3.3.1 A Pre-Bid Meeting shall be organised by TransPeshawar Company to:

- (a) Explain the project, the Bidding Process and the Tender Documents; and
- (b) Receive questions on the Tender Documents.

3.3.2 The pre-bid meeting shall be organised at a date specified in Article 3.1.2.

3.3.3 Minutes of Pre-bid meeting will be uploaded on TransPeshawar website i.e. www.transpeshawar.pk.

3.4 **Questions and Answers on the Tender Documents**

3.4.1 The Contractor shall have the opportunity to ask questions concerning the Tender Documents by the date specified in Article 3.1.2. These questions can only be addressed by email to the following address:

Attention: Mr. Ashfaq Rauf, Manager Operations, TransPeshawar Company.

Email: ashfaq.rauf@gmail.com with cc to fayyazak@yahoo.co.uk

3.4.2 The Contractor's questions shall be treated anonymously.

3.4.3 TransPeshawar Company shall endeavour to respond to all clarification or information requests, however requests received later than Pre-Bid meeting date and time would be left unanswered. Every such clarification delivered to Contractors shall be made in the form of an appendix to the Tender Documents and shall, upon being issued, be sent in the shortest possible time to all Contractors. All such appendices shall automatically become an integral part of the Tender Documents.

3.4.4 All Contractor shall therefore be provided with the same information simultaneously. TransPeshawar Company does not assume any responsibility for emails not received or delivered late.

3.5 **Rejection of Tenders**

3.5.1 TransPeshawar Company has a discretionary right to reject a Tender. Reasons for rejecting a Tender include, but are not limited to, the following:

- (a) The Tender does not contain all elements defined in the instructions;
- (b) The Tender is not submitted before the Submission Deadline;
- (c) The Contractor or the bank which has issued the Bid Bond are insolvent or in the process of liquidation or bankruptcy;
- (d) The amount, format or issuer of the Bid Bond does not meet the requirements;
or

- (e) TransPeshawar Company becomes aware of facts which can influence the free will of contractual parties.
- 3.5.2 The Tender may also be rejected up until signing of the Agreement, in case TransPeshawar Company concludes, in its discretionary right, that one of the following applies:
 - (a) The Tender does not comply with the objectives of the tender or is not in line with the applicable laws (especially in case the Tender proposed is not acceptable to TransPeshawar Company in terms of conditions offered or their alignment with applicable laws and existing practice in the Islamic Republic of Pakistan;
 - (b) There is evidence of collusion/joint agreement between Contractors;
 - (c) There is reason to believe that tender rules have been violated (for example, failure to keep confidential information);
 - (d) There is evidence that the Contractor is trying to gain advantage over other Contractor in an incorrect manner; or
 - (e) The Financial Offer varies significantly from the estimate of TransPeshawar Company.
- 3.5.3 In the event of the rejection of a Tender, TransPeshawar Company shall inform the relevant Tender in a written form, in accordance with the applicable laws.
- 3.6 **Cancellation of the Bidding Process and Proclamation of the Bidding Process as Unsuccessful**
 - 3.6.1 TransPeshawar Company reserves the right to unilaterally cancel or suspend the Bidding Process at all times. In case of cancellation, TransPeshawar Company will inform the Contractors.
 - 3.6.2 The tender may be cancelled at any time prior to the Submission Deadline at no cost to, if TransPeshawar Company determines that this action is in its best interest or that of the Government of Pakistan/Khyber Pakhtunkhwa. Reasons for cancellation include, but are not limited to:
 - (a) Changes in the legislative framework in the Islamic Republic of Pakistan, causing the Bidding Process or the Required Services to become impossible, illegal or economically unviable; or
 - (b) Proposed amendments to the instructions or procedure would be of such magnitude and substance that a new Bidding Process would be desirable.
 - 3.6.3 The Bidding Process may be proclaimed unsuccessful at any time after the Submission Deadline, at no cost to TransPeshawar Company, if:
 - (a) No Tenders have been submitted;
 - (b) The Tenders which have been submitted, in the opinion of TransPeshawar Company, do not meet the criteria, goals and requirements of the Bidding Process; or

- (c) The Winning Contractor refuses to sign the Agreement in the form offered by TransPeshawar Company.

3.6.4 In the event of such rejection of a Tender, or cancellation or proclamation of the Bidding Process as unsuccessful, no Contractor shall be entitled to any claim whatsoever against TransPeshawar Company or the Government of Pakistan/Khyber Pakhtunkhwa for any costs, expenses or damages resulting directly or indirectly from such cancellation of the Bidding Process or rejection of Tender.

3.7 Opening and Evaluation of Tender

3.7.1 The opening of the Tender shall occur fifteen minutes after the Tender Submission Deadline at the address indicated in paragraph 4.3.1. The Contractor may be represented, by not more than two (2) persons, at the opening of the Tender. Tenders for which a notice of withdrawal request has been submitted shall not be opened.

3.7.2 TransPeshawar Company shall evaluate the Tender Documents in accordance with the provisions of SECTION 5. TransPeshawar Company shall then inform all Contractors of the results in writing.

3.8 Signing of the Agreement

3.8.1 The Winning Contractor shall receive an invitation in form of Letter of Award from TransPeshawar Company with the aim to sign an Agreement for Required Services as defined in the Agreement. The Winner Contractor shall, within 21 working days of receipt of Letter of Award, furnish Performance Security in favour of TransPeshawar on prescribed format. The successful Contractor shall immediately sign the agreement with TransPeshawar in the form and manner as prescribed in the Tender Document/Agreement but not later than 07 (Seven) days after submission of Performance Security.

3.8.2 In the event of a withdrawal by a Winning Contractor, TransPeshawar Company may invite the next Contractor to conclude an Agreement for the Required Services.

3.8.3 If a Contractor which was invited by TransPeshawar Company to sign an Agreement withdraws from the Bidding Process, the Bid Bond of the said Contractor shall be called by TransPeshawar Company.

SECTION 4 – INSTRUCTIONS TO CONTRACTORS

4.1 General Terms

4.1.1 All elements of the Tender containing monetary values, whether they apply to business activities in the Islamic Republic of Pakistan or abroad, must be expressed in Pakistani Rupees (PKR).

4.1.2 All documents forming part of the Tender must be written in the English language; copies of legal or similar supporting documents in other languages must be accompanied with a notarised translation.

4.2 Tender Package

- 4.2.1 The Tender must be submitted in a master envelope containing all documents in single envelope.
- 4.2.2 The master envelope must be properly sealed and must be marked with:
- (a) The name and the address of the Contractor;
 - (b) The address of TransPeshawar Company as indicated in paragraph 4.3.1;
 - (c) The warning: "Do not open before <insert Tender Submission Deadline>";
 - (d) The wording: "Master envelope – "Tender Documents for Purchase of Vehicles to Scrapped/ Dismantle Under Bus Industry Restructuring Program in Peshawar BRT".
- 4.2.3 In the event of any discrepancy between integer and words, the later shall prevail.

4.3 Submission of Tender

- 4.3.1 The Tender must be delivered to TransPeshawar Company on or before the Submission Date and time (**January 6, 2020 at 4:00 PM PST**) at the following address:

Attention: Mr. Fayyaz Khan, Chief Executive Officer, TransPeshawar Company.

Address: TransPeshawar (The Urban Mobility Company), Second Floor, Ali Tower, University Road, Peshawar, KPK, Pakistan.

- 4.3.2 The Tender must be submitted in person or via registered post mail or via courier, in closed envelopes. The Tender shall be considered submitted upon physical receipt by TransPeshawar Company of the master envelope. TransPeshawar Company shall issue a Tender receipt confirmation, which shall clearly indicate the date and time at which the Tender was received. Late submission, for whatsoever reason, will not be acceptable.

4.4 Content of Tender

- 4.4.1 The Tender shall contain all components listed in the table below. The Tender shall be considered only on the basis of information provided in accordance with this predefined format.

Item	Schedule
Business Structure	Schedule 2 or Schedule 3
Tender Submission Letter	Schedule 4
Authority to Bid and Designation of Authorized Representative	Schedule 5 or Schedule 6
Bid Bond	Schedule 7

Item	Schedule
Financial Offer	Schedule 8

4.5 Tender Documents

4.5.1 The Contractor must submit a **Business Structure** in conformity with Schedule 2 (or, in case the Consortium is a Consortium, Schedule 3).

(a) The Business Structure must be signed and dated by the Authorised Representative.

4.5.2 The Contractor must submit a **Tender Submission Letter** in conformity with Schedule 4.

(a) The Tender Submission Letter must be signed and dated by the Authorised Representative.

4.5.3 The Contractor (or, in case the Contractor is a Consortium, each Consortium Member) must submit an **Authority to Bid and Designation of Authorized Representative** in conformity with Schedule 5 (or, in case the Contractor is a Consortium, Schedule 6).

(a) The Authority to Bid and Designation of Authorized Representative must be signed and dated by the Corporate Secretary or equivalent officer of the Contractor (or, in case the Contractor is a Consortium, of the Consortium Member).

4.5.4 The Contractor must submit a **Bid Bond** of Rupees1,000,000 (One Million) bid amount in conformity with Schedule 7 or in Shape of Pay Order or Call Deposit Receipt (CDR). Pay Order or Call Deposit Receipt (CDR) shall be in favour of **Chief Executive Officer TransPeshawar**. In case of Bid Bond in conformity with Schedule 7, Bid Bond shall be in the name of JV, if any.

(a) The Bid Bond must be provided by a Schedule Bank in Pakistan.

(b) The Bid Bond can be claimed by TransPeshawar Company in case of:

(i) Withdrawal from the Bidding Process between the Tender Submission Date and the signing date of the Agreement;

(ii) Effective Date of the Agreement not reached within the timeframe and conditions specified in the Agreement;

(iii) Failed to submit Performance Security within prescribed time;

(iv) Exclusion from the Bidding Process by TransPeshawar Company in case of any wilful misconduct such as Corrupt Practice, Collusion, Coercion, Fraud, Fraudulent Practice, Undesirable Practice or Restrictive Practice.

(c) Within seven (7) days after the submission of Performance Security by Winner Contractor, TransPeshawar Company shall release the Bid Bond to all Contractors. The Bid Bond of the Winning Contractor shall be released on the submission of Performance Security.

- (d) The Bid Bond must be signed and dated by the Corporate Secretary or equivalent officer of the bank providing the Bid Bond.

4.6 Financial Offer

4.6.1 The Contractor must submit a **Financial Offer** in conformity with Schedule 8.

- (a) The Financial Offer must be signed and dated by the Authorised Representative.

SECTION 5 - EVALUATION

5.1 Responsiveness Criteria

5.1.1 Prior to evaluation of Financial Offer, TransPeshawar Company shall determine whether each Tender is responsive to the requirements of the Tender Documents. A Tender shall be considered responsive only if:

- (a) the Tender is received by the Tender Submission Deadline;
- (b) the Tender contains all the information (complete in all respects) as requested pursuant to this Tender Documents;
- (c) the entity is registered in Pakistan and have valid registration in any Provincial or Federal Government department (Tax number/ NIC for individual or registration with registrar of firms or registration with SECP etc);
- (d) is on Active Tax Payer list;
- (e) Registered with Khyber Pakhtunkhwa Revenue Authority;
- (f) Affidavit that the entity is not Blacklisted; and
- (g) the Tender does not contain any condition or qualification(s).

5.1.2 TransPeshawar Company reserves the right to reject any Tender which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by TransPeshawar Company in respect of such Tender.

5.2 Evaluation Criteria

5.2.1 TransPeshawar Company shall evaluate the Tender Documents in accordance with the following criteria:

- (a) a responsive Tender Documents; and
- (b) Among the bidders having responsive Tender Documents and having submitted a compliant Financial offer, the bidder offering the highest **lumpsum price** to the employer shall be appointed as the Winning Contractor/best evaluated bid.

5.3 **Information**

5.3.1 Any information contained in the Application shall not in any way be construed as binding on TransPeshawar Company, its agents, successors or assigns, but shall be binding against the Contractor if any contract is subsequently awarded to it under the Bidding Process on the basis of such information.

5.4 **Clarification**

5.4.1 TransPeshawar Company may, at its sole discretion, seek clarifications and ask for supporting documents from any Contractor regarding its Tender. Such clarification(s) must be provided within the time specified by TransPeshawar Company for this purpose. Any request for clarification(s) and all clarification(s) must be sent by email, at the address specified in paragraph 3.4.1.

5.4.2 If a Contractor does not provide clarifications sought under paragraph 5.4.1. within the prescribed time, its Tender may be rejected. In case the Tender is not rejected, TransPeshawar Company may proceed to evaluate the Tender by construing the particulars requiring clarification to the best of its understanding, and the Contractor shall be barred from subsequently questioning such interpretation of TransPeshawar Company.

SECTION 6 - GENERAL MATTERS

6.1 **Responsibility of Contractors**

6.1.1 Notwithstanding any information given in the Tender Documents and any additional communication from TransPeshawar Company, including supplemental notices and bid bulletins, it is the sole responsibility of any Contractor to:

- (a) be fully acquainted with the laws, requirements, terms, and conditions of the Bidding Process;
- (b) examine all the bidding documentation, including all instructions, annexes, forms, schedules, terms, specifications, and drawings; and
- (c) familiarize itself with all existing laws, decrees, acts, rules, and ordinances of Islamic Republic of Pakistan, whether national or local, which may affect the provision of the Required Services.

6.2 **Confidentiality**

6.2.1 Information relating to the examination, clarification, evaluation and recommendation for the Contractor shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising TransPeshawar Company in relation to or matters arising out of, or concerning the Bidding Process.

6.2.2 TransPeshawar Company shall treat all information submitted as part of the Tender in confidence and shall require all those who have access to such material to treat the same in confidence.

6.2.3 TransPeshawar Company shall not divulge any such information, unless it is directed to do so by any statutory body that has the power under law to require its disclosure or to enforce or assert any right or privilege of the statutory body and/or TransPeshawar Company.

6.3 **Proprietary Data**

- 6.3.1 All documents and other information supplied by TransPeshawar Company or submitted by a Contractor to TransPeshawar Company shall remain or become the property of TransPeshawar Company.
- 6.3.2 Contractor must treat all information related to the Bidding Process as strictly confidential and must not use it for any purpose other than for preparation and submission of a Tender.
- 6.3.3 TransPeshawar Company will not return any Tender Document or any information provided along therewith.

6.4 **Fraud and Corruption**

- 6.4.1 It is TransPeshawar Company policy to require that procuring entities and employers (including beneficiaries of public funds), as well as Contractors, suppliers and contractors under PPP or public-funded contracts, observe the highest standard of ethics during the procurement and execution of such contracts.
- 6.4.2 In pursuit of this policy, TransPeshawar Company:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:

Coercion means harming or threatening to harm, directly or indirectly, persons, or their property to influence their involvement in the Bidding Process, or affect the execution of the Agreement.

Collusion means a scheme or arrangement between two or more Contractors, with or without the knowledge of the government, designed to establish financial offers or prices at artificial, non-competitive levels.

Corrupt Practice means the offering, giving, receiving, or soliciting, of anything of value to influence the action of a public official in the Bidding Process or in contract execution and includes inter alia bribery, extortion or coercion, which involves threats of injury to person, property or reputation.

Fraudulent Practice means a misrepresentation of facts in order to influence the Bidding Process or the execution of a contract to the detriment of the procuring entity, and includes collusive practices among Contractor (prior to or after the submission of Tender) designed to establish bid prices at artificial, non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.

Restrictive Practice means any act, scheme, plan or agreement such as forming a group, clique, cartel, trust, syndicate, combine, pool and the like or arriving at any understanding or arrangement among Contractors, Consortium Members, Subcontractors, or the Affiliates of any of these entities, with the objective of restricting, subverting or manipulating a full and fair competition in the Bidding Process.

Undesirable Practice means (i) establishing contact with any person connected with or employed or engaged by TransPeshawar Company with the objective of

canvassing or lobbying or (ii) in any manner influencing or attempting to influence the Bidding Process.

- (b) will exclude from the Bidding Process any Contractor found to be engaging or having engaged in any Corrupt Practice, Collusion, Coercion, Fraud, Fraudulent Practice, Undesirable Practice or Restrictive Practice in competing for the provision of the Required Services; and
- (c) will denounce to relevant authorities any Contractor found to be engaging or having engaged in any Corrupt Practice, Collusion, Coercion, Fraud, Fraudulent Practice, Undesirable Practice or Restrictive Practice in competing for the provision of the Required Service, which may result in the Agreement being cancelled and/or such Contractor incurring civil and criminal liability under the applicable laws and regulations and being declared ineligible, for a period of ten (10) years, to be awarded any PPP or public-funded contract in the Islamic Republic of Pakistan.

6.5 **Governing Law and Rules**

- 6.5.1 The provisions of Islamic Republic of Pakistan shall govern all matters relating to this Tender Documents.

Schedule 1 Comment Form

Name of Contractor: _____

Comment 1

Subject	
Location in Tender Documents (clause and page number)	
Original wording in Tender Documents	
Comment / motivation for amendment	
Suggested amended wording	

Comment 2

Subject	
Location in Tender Documents (clause and page number)	
Original wording in Tender Documents	
Comment / motivation for amendment	
Suggested amended wording	

Comment 3

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 4

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 5

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 6

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 7

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	

Comment / motivation for amendment	
Suggested amended wording	

Comment 8

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 9

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

Comment 10

Subject	
Location in Agreement (clause and page number)	
Original wording in Agreement	
Comment / motivation for amendment	
Suggested amended wording	

For and on behalf of (*name of Contractor*)

(*signature of Authorized Representative*)

(*name, title and date*)

Schedule 2 Business Structure (Individual/partnership/corporation etc.,)

To be submitted by a Contractor which is an individual, partnership or corporation and etc.

Name of Contractor: _____

Contact Information of Contractor:

Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

For and on behalf of (*name of Contractor*)

(*signature of Authorized Representative*)

(*name, title and date*)

Schedule 3 Business Structure (consortium)

To be submitted by a Contractor which is a Consortium

Name of Consortium: _____

Consortium Members

	Member	Other member	Other member
Name			
Percentage Interest in the Consortium			
Type of Legal Entity (corporation/ partnership)			

Notes: 1) *Insert columns as necessary to table above*

2) *Attach supporting attested documents*

Contact Information of Consortium Members

Consortium Member	
Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

Consortium Member	
Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

Consortium Member	
Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

(Insert tables as necessary)

For and on behalf of *(name of Contractor)*

(signature of Authorized Representative)

(name, title and date)

Schedule 4 Tender Submission Letter

To be submitted by the Contractor

I, (name), (citizenship), of legal age, with office address at (address), as the Authorized Representative of (name of Contractor), hereby certify for and on behalf of (name of Contractor) that:

1. (name of Contractor) is bidding for the provision of the Required Services for Purchase of Vehicles to be Scrapped/ Dismantled under Bus Industry Restructuring Program in Peshawar BRT and hereby submitting its Tender, which shall remain valid and binding upon (name of Contractor) for a period of one hundred twenty () days from the Tender Submission Date;
2. (name of Contractor) confirms that all statements made and the information and documents provided in its Tender, including statements made by all Consortium Members, their Affiliates and proposed Subcontractors, are true and correct, and any misrepresentation or false statement made therein shall be a ground for its disqualification;
3. (name of Contractor) authorizes TransPeshawar Company to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Tender, and to seek clarification from its clients and bankers regarding any technical and financial aspects; (name of Contractor) also permits third parties to supply information required to verify statements and information submitted in its Tender;
4. (name of Contractor) acknowledges the right of TransPeshawar Company to reject its Tender and to cancel the Bidding Process at any time, without incurring any liability, and accepts all the terms and conditions of the Request for Tenders;
5. (name of Contractor), including all Consortium Members, their Affiliates and proposed Subcontractors, have not at any time during the Bidding Process engaged in any Corrupt, Fraudulent, Coercive, Undesirable, or Restrictive Practices, nor have a Conflict of Interest;
6. (name of Contractor) waives any right to and shall not seek or obtain any restraining order, writ of injunction or prohibition or any other form of coercive judicial, quasi-judicial or administrative writ, process or issuance against TransPeshawar Company inconvenient the Bidding Process; and
7. (name of Contractor) acknowledges that TransPeshawar Company is undertaking this Bidding Process in the performance of its functions to ensure the provision of a critical basic necessity and that, therefore, the provision of the Required Services is of paramount public interest and importance and that TransPeshawar Company will suffer serious and irreparable damage on account of any breach by (name of Contractor) of these undertakings, and agree that the breach of these undertakings shall result in (name of Contractor)'s automatic disqualification from the Bidding Process.

For and on behalf of (name of Contractor)

(signature of Authorized Representative)

(name, title and date)

**Schedule 5 Authority to Bid and Designation of Authorized Representative
(individual/partnership/corporation)**

To be submitted by a Contractor which is an individual or partnership or corporation

I, (Corporate Secretary or equivalent officer), hereby depose and state that:

I am a citizen of the (Islamic Republic of Pakistan), of legal age and a resident of (Pakistan);

I am the duly elected (Corporate Secretary or equivalent officer) of (name of Contractor), a (corporation/partnership) organized and existing under and by virtue of the laws of (Pakistan);

At a regular/special meeting of the Board of Directors/Partners of the Firm, held on (date) at (place), in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

1. That (name of Contractor) be, and is, authorized to participate in the Bidding Process and to bid for the provision of the Required Services for TransPeshawar Company;
2. That (name of Representative) be and is hereby appointed as the authorized representative of the Contractor during the Bidding Process, authorized to execute, sign, and receive documents for, and otherwise act in the name of, the Contractor; and
3. That any and all acts done and/or performed by (name of Representative) under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

These resolutions have not been revoked, amended or modified and remain valid and binding on the Contractor;

That the above resolutions are in accordance with the records of the Contractor.

For and on behalf of (name of Contractor)

(signature of Corporate Secretary or equivalent officer)

(name, title and date)

Schedule 6 Authority to Bid and Designation of Authorized Representative (Consortium)

For a Contractor which is a Consortium, to be submitted by each Consortium Member

I, (Corporate Secretary or equivalent officer), hereby depose and state that:

I am a citizen of the (Islamic Republic of Pakistan), of legal age and a resident of (Pakistan);

I am the duly elected (Corporate Secretary or equivalent officer) of (name of Consortium Member), a (corporation/partnership) organized and existing under and by virtue of the laws of (Pakistan);

At a regular/special meeting of the Board of Directors/Partners of the Firm, held on (date) at (place), in which meeting a quorum was present and acting throughout, the following Resolutions were unanimously passed and approved:

1. That the Firm be, and is, through a Consortium consisting of the following Members and their respective nationalities and percentage interests in the Consortium, authorized to participate in the Bidding Process and bid for the provision of the Required Services for TransPeshawar Company;

Name of Consortium Member	Nationality	% Interest

(Insert rows as necessary)

2. That (name of Authorized Representative) be and is hereby appointed as the authorized representative of the Firm, authorized to execute, sign, and receive documents for, and otherwise act in the name of, the Firm;
3. That the Firm in the exercise of its interest in the Consortium hereby authorizes (name of Authorized Representative) as representative of the Consortium during the Bidding Process for the provision of the Required Services, and for such purpose shall have the authority to execute, sign and receive documents for, and otherwise act in the name of the Consortium; and
4. That any and all acts done and/or performed by (name of Authorized Representative) under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

These resolutions have not been revoked, amended or modified and remain valid and binding on the Firm;

That the above resolutions are in accordance with the records of the Firm.

For and on behalf of (name of the Firm)

(signature of Corporate Secretary or equivalent officer)

(name, date and title)

Schedule 7 Bid Bond

To be submitted by the Bank providing the Bid Bond

Whereas *(name of Contractor)* has submitted a Tender for the provision of the "Purchase of Vehicles to be Scrapped/Dismantled under the Bus Industry Restructuring Program" for TransPeshawar Company,

I, *(name)*, *(citizenship)*, of legal age, with office address at *(address)*, hereby declare for and on behalf of *(name of Bank)* that *(name of Bank)* is bound to TransPeshawar Company in the sum of one million Pakistani Rupees (PKR1,000,000) for payment to TransPeshawar Company.

(name of Bank) undertakes to pay to TransPeshawar Company up to the above amount upon receipt of its first written demand, without TransPeshawar Company having to substantiate its demand, provided that in its demand TransPeshawar Company will note that the amount claimed by it is due because *(name of Contractor)* has violated one of the conditions stated in the Request for Tenders.

This Bid Bond will expire, (a) if the Contractor is a Winning Contractor, upon the submission of Performance Security, or (b) if the Contractor is not a Winning Contractor, upon the earlier of (i) seven (7) days after submission of Performance Security by successful Contractors and (ii) thirty (30) days after the expiry date of the Contractor's Proposal i.e. [.....]

Any demand for payment under this guarantee must be received by *(name of Bank)* on or before the date of expiry of the Bid Bond.

For and on behalf of *(name of Bank)*

(signature of Corporate Secretary or equivalent officer)

(name, title and date)

Schedule 8 Financial Offer

To be submitted by the Contractor

I, (name), (citizenship), of legal age, with office address at (address), as the Authorized Representative of (name of Contractor), hereby declare for and on behalf of (name of Contractor) that:

1. (name of Contractor) has examined the information provided in the Tenders (including annexures) and the Agreement;
2. (name of Contractor) has examined the vehicles to be scrapped and made all due diligence in estimation of weights/price envisioned under the Agreement;
3. (name of Contractor) has examined the Tender. Agreement (including its annexures) and confirm that the price is based on scrapping of vehicles and no other use;
4. (name of Contractor) hereby submits its Financial offer, which includes cost of all services mentioned in Tender, Agreement and its attachment (Annexures), which shall remain valid and binding upon (name of Contractor) for a period of one hundred twenty (120) days from the Tender Submission Date; and
5. The Scrapping price/financial offered by (name of Contractor) to the TransPeshawar is of an amount of (integer amount in words) Pakistani Rupees (PKR) as follows: -

Sr. No	Type of Vehicle	No. of Vehicles	Unit Scrap Price offered by Contractor (PKR)	Total Scrap Price offered by Contractor (PKR)
1	Minibus (Mazda)	95		
2	Rocket Bus	40		
3	Ford Wagon	175		

Note: In case of difference between unit price and total price, the unit price calculation will prevail.

For and on behalf of (name of Contractor)

(signature of Authorized Representative)

(name, title and date)

Schedule 9 Affidavit of Integrity Pact

DECLARATION OF FEES, COMMISSIONS AND BROKERAGE ETC. PAYABLE BY THE SUPPLIERS/CONTRACTORS OF GOODS, SERVICES & WORKS

[Name of Contractor/operator] hereby declares its intention not to obtain or induce the procurement of any contract, right, interest, privilege or other obligation or benefit from Government of KPK (GoKP) or any administrative subdivision or agency thereof or any other entity owned or controlled by it (GoKP) through any corrupt business practice.

Without limiting the generality of the foregoing, [Name of Contractor/operator] represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or including the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoKP, except that which has been expressly declared pursuant hereto.

[Name of Contractor/operator] certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with GoKP and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[Name of Contractor/operator] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to GoKP under any law, contract or other instrument, be voidable at the option of GoKP.

Notwithstanding any rights and remedies exercised by GoKP in this regard, [Name of Contractor/operator] agrees to indemnify GoKP for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoKP in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by [Name of Contractor/operator] as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoKP.

Signature & Stamp

Subscribed and sworn to me this _____ day of _____ 2019

REQUIRED SERVICES

1. Background

TransPeshawar (TPC) is public owned company established under Section 42 of the Companies Act 2017 and has been tasked for implementation of Bus Industry Restructuring Program (BIRP), in addition to other tasks in Peshawar BRT.

Government of Khyber Pakhtunkhwa (KPK) has taken initiative to revamp the urban bus transport system in provincial capital of the province. In this regard, the Government of KPK has started construction of Bus Rapid System (BRT) in 2017. The corridor is 27-kilometer-long with 30 stations and will be connected through Feeder and Direct routes of about 55 kilometers. Because of integration of Direct Routes into main BRT corridor, the system is known as 3rd Generation BRT System. The BRT system will have 220 buses which includes 18-meter (65 numbers) and 12-meter long buses (155 numbers).

Construction work is implemented through Peshawar Development Authority (PDA) while procurement of buses, procurement of operating company for bus operation, procurement of BRT System Control Goods and Services, and BIRP through TransPeshawar.

Upon completion of the Civil Works, the infrastructure will be handed over by PDA to TransPeshawar for operation of the System. Under the Khyber Pakhtunkhwa Urban Mass Transit Act, Khyber Pakhtunkhwa Mobility Authority can give directions to any person or entity to desist from operation of competing transport system. Therefore, from date of operation, all existing services will be discontinued and old buses/Wagons will not be allowed to ply on routes/ road which offers competition to BRT System. Secondly, since most of the buses have a life of more than 10 years therefore Govt. has decided to scrap the buses/ Wagon.

To mitigate the negative impact of shifting of existing buses from proposed BRT system, the Government of KPK has launched BIRP. Under this Program, owners of buses have been given the option to offer their buses for scrap to TransPeshawar against a certain fee plus business loss.

Under the BIRP Program, Bus and Mazda owners have shown interests to offer their buses for scrapping.

TransPeshawar will accept these Buses/Wagon from existing owners and will give them a purchase price and business loss compensation. After payment, the buses/Wagon will become the property of TransPeshawar. TransPeshawar intends to auction these vehicles (buses and Mazda) and sell these vehicles on scrap price. The

buses/ Wagons are old vehicles and their use in any part of the country or outside the country is not allowed and the Contractor will have only option to scrap these vehicles.

Under this Tender/Contract, TransPeshawar intends to hire a Contractor to purchase these vehicles on scrap value.

2. Details of Vehicles Offered for Scrapping

The number and details of Minibus, Rocket Bus and Ford wagon ("**vehicles**") which are to be provided to the Contractor for scrapping are as follows: -

S.No	Type of Vehicle	Number of Vehicles	Approximate Weight (Kg)
1	Minibus (Mazda)	95	3500
2	Rocket Bus	40	4200
3	Ford Wagon	175	1800

The weights shown in the above table are approximate weights and TransPeshawar does not take responsibility of correctness of these values. Contractor shall make their own due diligence in assessing the scrap value/weights of each type of vehicles.

3. Procedure for Scrapping of Buses

Under the loan agreement signed with Asian Development Bank(ADB), it was agreed between Govt. of KP and ADB that these vehicles are environmental dangerous for Peshawar and will be scrapped under the Peshawar BRT financing. The alternate use of these vehicles shall in no case be allowed except scrapping. Furthermore, the buses shall be scrapped in accordance with the following procedures: -

- 3.1 Prior to scrapping, a video footage and picture shall be taken of the Bus /Wagon which shows the number plate/ registration number, chassis number and engine number of the bus.
- 3.2 Main parts (frame, body and engine) of the vehicles shall be separated and scrapped in the presence of TransPeshawar. Shifting of such parts from Scrapping yard shall not be allowed.
- 3.3 The scrapping of vehicle shall not start without presence of TransPeshawar staff. Frame of the vehicle shall be cut in at least 10 relatively equal pieces,

body in 15 relatively equal pieces and engine in 8 relatively equal pieces in front of TransPeshawar or its authorized staff(Photo). Contractor shall also cut in additional pieces if required by TransPeshawar or its authorized staff.

- 3.4 Hazardous material / liquid shall be removed prior to start of cutting and dispose-off according to applicable law.
- 3.5 Contractor shall prepare video footage and photo of the bus along with its details before proceeding and during cutting process of above parts.
- 3.6 Before start of the commencement of cutting of the engine, the engine and chassis number shall be removed from the engine of the vehicle. Picture and video footage shall be produced before and after removing engine and chassis number of every vehicle brought for scrapping.
- 3.7 TransPeshawar reserve the right to add additional procedures for scrapping of buses/wagons to achieve objective of the contract.

4. Contractor Responsibilities

Roles and responsibilities of Contractor are as follows: -

- 4.1 Contractor shall make available at least 10 Kanals land with closed boundaries in which the vehicles shall be kept after handing over of buses/Wagons. This place shall be used for scrapping/ dismantling ("**Scrapping Yard**").
- 4.2 Contractor shall make available land and machinery required for scrapping not later than one month of contract signing.
- 4.3 Contractor shall make available land for scrapping of buses within three Kilometres of Chamkani Depot, Kamboh Adda, Pishtakhara Chowk, or Hayatabad Depot or other area approved by TransPeshawar.
- 4.4 Contractor shall scrap the buses in accordance with procedure mentioned in Clause 3 above.
- 4.5 Provide payment in advance for each batch of buses to TransPeshawar.
- 4.6 Contractor shall scrap 95 number of Minibus (Mazda) 40 number of Rocket Buses and 175 number of Ford Wagons. The number of these vehicles may be increased or decreased by 35% in total. Contractor shall accept vehicles in batches. Actual No. of vehicles will be communicated that the time of signing of contract.
- 4.7 Provide TPC access to the area designated for scrapping of buses at any time. TPC staff shall be authorized to take photos and videos/record videos of the scrapping process, equipment etc.

- 4.8 Contractor shall at least make available land, equipment and resources to scrap at least 25 buses per 15 days.
- 4.9 Contractor shall also be responsible for the availability of the following equipment / facilities which are required for scrapping of buses: -
- a) Temporary office space in yard for record keeping and monitoring
 - b) Provision of scrapping equipment (gas cutting machine etc.)
 - c) Establishment of four parallel stations for scrapping
 - d) Meet power requirements and perishable inputs like oxygen cylinders etc.
 - e) Provide lighting inside the scrapping yard.
 - f) Any other items which are required for scrapping in accordance with the contract.
- 4.10 Contractor shall ensure that safe, clean and hygienic environment. Contractor shall also be responsible to provide fire extinguisher and first aid facilities inside the scrapping yard.
- 4.11 Contractor shall at its own cost comply with all labour, employment, occupational health and safety regulations and standards applicable to the Functions/ Services.
- 4.12 Contractor shall be responsible for the safety of their staff during scrapping process.
- 4.13 Contractor shall be liable and abide by all the available federal, provincial and local laws especially environmental and labour Laws. Contractor shall be responsible for any of the required certificate, permit, registration, permission etc. for the task/ function/ responsibility to perform as per Agreement.
- 4.14 Contractor shall be responsible for the security of the vehicles handed over to the contractor in the scrapping yard.
- 4.15 Contractor shall depute qualified and skilled staff for scrapping process.
- 4.16 Contractor shall furnish a dismantle certificate (Appendix-D) to TPC of each vehicle mentioning that the vehicle provided is dismantled/scrapped in accordance with the Policy/procedure.

5.0 TransPeshawar Responsibilities

Roles and responsibilities of TransPeshawar(TPC) are as follows: -

- 5.1 TPC reserve the right to increase /decrease the number of vehicles for scrapping by 35 %.
- 5.2 Supervise the scrapping of vehicles and ensure that vehicles are scrapped in accordance with approved policy/ procedure.
- 5.3 Make available to Contractor the vehicles in batches and each batch shall not be more than 25 vehicles. Next batch will be make available if: -
 - a) Scrapping of previous batch is completed; and
 - b) Payment of next batch is made in advance.
- 5.4 Vehicles shall be handed over to the Contractor in the Scrapping yard designated by the contractor for scrapping in Peshawar which must be available within one Kilometre from Chamkani Depot or Hayatabad Depot or other area agreed/approved by TransPeshawar.
- 5.5 Original/duplicate documents of vehicles, keys etc. shall remain property of TransPeshawar and shall not be handed over to Contractor as part of scrapping process under this contract. In addition, the ownership of vehicle shall not be transferred to the Contractor.

APPENDIX D

Vehicle Scrapping Certificate

This is to certify that the vehicle with following particulars has been scrapped by this contractor (i.e. the vehicle scrapping company). The vehicle can no longer be used on road or re-assembled into a vehicle.

Particulars of Scrapped Vehicle

Chassis number: _____.

Engine number: _____.

Registration mark: _____.

Name of registered owner: _____.

Date and location of vehicle scrapping: _____.

_____.

Date of vehicle scrapping: _____.

Location of vehicle scrapping: _____.

The information provided above is true and correct. We understand that, if we knowingly make any statement or provide any information in this certificate which is false in any material particular, we shall be liable under any legal action.

Name of vehicle scrapping contractor: _____.

Registered address: _____.

Business Registration Certificate number: _____.

Telephone number: _____.

Signature by representative of vehicle scrapping contractor (with Stamp):

Signature _____.

Stamp _____.

Vehicle Scrapping Certificate issue date: _____.

Annex C
PERFORMANCE GUARANTEE

(To be printed on Judicial Stamp Paper of Prescribed Fee)

[TO BE ISSUED ON JUDICIAL PAPER OF PRESCRIBED FEE BY BANK LICENSED TO CONDUCT BUSINESS IN THE ISLAMIC REPUBLIC OF PAKISTAN]

This **Performance Guarantee No.** <Insert No.> is made on <Insert date> 2019 (the “**Guarantee**”)

Ref: Letter of Award for Purchase to Scrap/ Dismantling of Vehicle under Bus Industry Restructuring Program in Peshawar BRT dated <Insert date> 2019 (the “**Agreement**”)

Beneficiary: **TRANSPESHAWAR (THE URBAN MOBILITY COMPANY)**, a Public Limited Company incorporated with Security Exchange Commission of Pakistan in February 09, 2017, with company registration No.0105691 and whose registered address is at Ali Tower, Second Floor, University Road, Peshawar, KPK. (“**employer**”)

1. GUARANTEE

- 1.1 We <Insert name of Bank> Bank (the “**Guarantor**”) have been informed that <Insert name of the Company> (the “**Contractor**”) has been awarded the Agreement relating to Purchase to Scrap/ Dismantling of Vehicle under Bus Industry Restructuring Program in Peshawar BRT (the “**Project**”).
- 1.2 The Guarantor hereby irrevocably and unconditionally undertakes to pay to employer on its first demand for payment, without regard to any objections or defences to employer’s demand from the Contractor or any other person, an amount or amounts not exceeding in total **PKR ----- (in words)**.

2 TIME FOR PAYMENT

- 2.1 Any amount demanded by employer shall be paid by Guarantor to employer within seven (07) calendar days of receipt of the employer’s demand for payment stating that the Contractor is in breach of its obligations arising under, out of or in connection with the Agreement and the Guarantor shall have neither the right nor the duty or obligation to challenge the accuracy or sufficiency of such statement or the amount specified in the demand.

3 VALIDITY OF GUARANTEE

- 3.1 This Guarantee shall come into force on the date hereof and shall remain valid until <insert date> whereupon this Guarantee shall expire and be returned to the Guarantor.

4 PAYMENT FREE OF DEDUCTIONS AND WITHHOLDINGS

- 4.1 Any payment under this Guarantee shall be made free and clear of, and without deduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and

by whomsoever imposed.

5 Notices and Demands for Payment

- 5.1 Any demand for payment made under this Guarantee shall be delivered by hand or registered courier and be deemed to be duly made at the time of, and on the date of, delivery.
- 5.2 Any notice given under this Guarantee shall be deemed to be duly given:
 - A. in the case of facsimile transmission, on the date and at the time shown on the transmission report by the machine from which the facsimile was sent, subject to the machine producing a report that the facsimile was sent in its entirety to the contact details of the addressee stated in Schedule 1 (the “**Contact Details**”); and
 - B. in the case of email:
 - (A) at the time of receipt by the sender of an email acknowledgement from the intended addressee’s information system showing that the email has been delivered to the email address of that addressee; or
 - (B) if no email acknowledgement is received, then at the time the email enters an information system which is under the control of the intended addressee (and the addressee shall make available at the request of the sender, evidence of such time); and
 - C. in the case of delivery by hand or registered courier, at the time of and on the date of delivery.
- 5.3 Any notice or demand given or made by employer or the Guarantor relating to this Guarantee shall be in English.

6 ASSIGNMENT

- 6.1 Employer shall have the right to assign the rights and benefits under this Guarantee.

7 DISPUTE RESOLUTION

- 7.1 This Guarantee shall be governed by, interpreted and construed in accordance with the laws of the Islamic Republic of Pakistan. Each Party consents to the jurisdiction of the courts in the Islamic Republic of Pakistan.

EXECUTED for and on behalf of
[GUARANTOR]

.....

(signed)

.....

Name

Witnesses:

SCHEDULE TO THE PERFORMANCE GUARANTEE

<p>For employer: Transpeshawar Company <Address line1> <Address line2> <Address line3> Tel: <Insert employer's telephone number> Fax: <Insert employer's fax number> Email: <Insert employer's email address> For the Attention of <_____></p>
<p>For the Guarantor: <Insert Guarantor's Name> <Address line1> <Address line2> <Address line3> Tel: <Insert Guarantor's telephone number> Fax:<Insert Guarantor's fax number> Email:<Insert Guarantor's email address> For the Attention of <_____></p>

Vehicle Purchase to Scrap/ Dismantle Agreement

between

TransPeshawar (The Urban Mobility Company)

and

(Name of Scrapping Company/Firm/Individual)

Date: 13 December, 2019

Vehicle Purchase to Scrap/ Dismantle Agreement

THIS Agreement of Vehicle Purchase to scrape/ dismantle, is made/ executed onday
of..... 2019

By and Between

TRANSPESHAWAR (The Urban Mobility Company), a company incorporated with Security Exchange Commission of Pakistan on February 09, 2017 with company registration no.0105691 and whose registered address is at Ali Tower, Second Floor, University Road, Peshawar, KPK, Pakistan (“**TPC**”) through its C.E.O; as “**First Party**”.

and

The <name of Company/Partnership/Individual>, a company/partnership/individual incorporated in [.....], with company registration no. [.....] and whose registered address is at [.....] (the “Contractor”) as “**Second Party**”.

TPC and the Contractor, who are signatory of and against whom this agreement is to be executed, are individually, herein referred to as “**First Party**” or “**Second Party**” consecutively, and collectively as the “**Parties**”

Whereas;

- a. **First Party**, is a corporate entity established by the Government of Khyber Pakhtunkhwa Pakistan, responsible for procurement, implementation and ongoing BRT operations in the Peshawar Sustainable BRT Corridor System (hereinafter called “**Peshawar BRT System**”),
- b. **First Party**, is to implement policy of BIRP (Bus Industry Restructuring Program) which is one component of Peshawar BRT System, and
- c. **First Party**, after distribution of Purchase Value and Business Compensation Fund in consideration of the old and obsolete fleet of old public transport vehicles to their owners and transfer of its ownership to TransPeshawar, intends to dispose of and scrap/ dismantle those vehicles with no more utilization for transport purpose.

Now herein to meet two objects in terms of purchase of vehicles in custody of TPC and to dispose of the same by making it unable to be used again as whole or in parts or reassembled for the purpose of transportation and turning it into scrap.

Wherefore Second Party agreed to purchase and scrap/ dismantle those vehicles under the terms and conditions of this agreement by meeting the objects, in implementation of policy of the government of Khyber Pakhtunkhwa.

Part A- General Conditions.

1. Definitions and Interpretations

That, the defined words and expressions, set out in Annex A [Definitions and Interpretation] hereof shall apply to the Agreement. In the event of any inconsistency between the provisions of the body of this Agreement and Annex A, or between any of the Annexes, priority shall be given to the meaning attached in the agreement and thereafter the definition/ meaning which gives more weightage to public interests.

That, in the event of any inconsistency between the provisions of the body of this Agreement and the Annexes, or between any of the Annexes, the conflict shall be resolved according to the following descending order of priority:

- a) The body of this agreement, including Annex A;
- b) Annex B [Required Services];
- c) Tender Documents, including schedules; and
- d) Annex C [Performance Guarantee].

2. Effect of Agreement

That, the Parties hereby agree that this Agreement shall immediately be binding on parties from the date agreement would be signed and considered as the Effective Date of Agreement. Otherwise from the date of "Notice" indicating conditions precedents have been pursued and satisfied and when the activities/functions/ Services are to commence.

3. Conditions Precedent

That, to meet the objects as per standard, First Party of the Agreement, shall issue a Notice indicating the date upon which all the Conditions Precedent have been fully satisfied (and/or waived as applicable) and otherwise when the activities/ functions/ Services are to commence.

4. Appointment and Term of Service.

That, TPC's signing this Agreement shall indicate its appointment of the contractor to perform functions under this Agreement. Such appointment shall only be effective as of the Effective Date. The Second Party hereby accepts the appointment by TPC and agrees to provide the Functions/ Services in accordance with the terms and conditions of this Agreement.

The contractor shall perform the Functions/ Services from the Commencement Date until the Termination Date. Unless this Agreement is earlier terminated, the contractor shall continuously provide the Functions/ Services contemplated under this Agreement for a term of seven (07) months commencing from the Commencement Date. The term shall be extended proportionally by First Party in case of increase of number of vehicles to be scrapped.

5. Performance Guarantee

That,

- 5.1. The Second Party shall ensure that it maintains with TPC a valid and enforceable Performance Guarantee until the Second Party has fulfilled all its obligations under the Agreement. The Second Party shall have delivered to TPC as a Condition Precedent the duly executed Performance Guarantee in the form attached hereto as Annex C and in the amount of **PKR _____** (in words) which is equivalent to 10% (ten percent) of the total value of vehicles. The Performance Guarantee shall have a term of one (01) year and shall be renewed or replaced and delivered to TPC no later than thirty (30) days before its expiry, if required. Performance Guarantee shall be renewed in case of extension of duration of the Contract.
- 5.2. The Performance Guaranteed shall be issued by the Scheduled Bank of Pakistan acceptable to First Party.
- 5.3. If the Performance Guarantee is partially liquidated, the Second Party is obliged to replenish the Performance Guarantee in full within seven (7) days of the date of any liquidation thereof. If the Second Party fails to replenish the Performance Guarantee in accordance with this clause, this shall constitute a material breach of this Agreement and TPC shall be entitled to liquidate the remainder of the Performance Guarantee and terminate this Agreement.

- 5.4. Subject to the fulfilment by Second Party of all of its obligations under this Agreement, the Performance Guarantee shall be released by TPC within thirty (30) days after the Termination Date.
- 5.5. All fees, taxes and expenses associated with preparing, providing, issuing, extending, replacing, replenishing or stamping (if applicable) of the Performance Guarantee shall be borne by the Second Party.
- 5.6. Performance Guarantee shall be forfeited by TPC in case of: -
- a) Fails to scrap the vehicles in accordance with approved procedure to the satisfaction of TPC; and / or
 - b) Contractor has a material breach.

6. Payment for Vehicle.

That, consideration fixed against each vehicle shall be paid at once in advance. First Party shall handover vehicles to Second Party in batches as mentioned in Required Services and payment shall be made by Second Party 15 days in advance from hand over through a cross cheque for each batch.

7. Vehicle Scrapping Certificate

That, after payment against consideration of the vehicle with particulars of its formal identity has to be scrapped by the Second Party and issue 'Vehicle Scrapping Certificate' which would indicate that the vehicle can no longer be used on road or reassembled into a vehicle.

8. Tax Liability.

That, Second Party would be liable and subject to all applicable taxes (Federal and Provincial) and applicable local cess, if any.

Part B – Functions and Responsibilities of the Second Party

9. **That,** Second Party shall be financially a strong and viable Part of this agreement; shall be liable to purchase and scrap and dismantle vehicles, against the consideration paid by it, before taking over the vehicle. The vehicle purchased would further be not transferable and selling out except in shape of scrap. It is pertinent to mention that vehicle purchase process would be subject to the following conditions: -

9.1 To perform the Required Services as mentioned in Annex-B of the Agreement.

9.2 Second Party would be liable for any false reporting or misstatement. First Party would be entitled to recover compensation for damage and penalize the Second Party on any violation of the terms of this contract / agreement. Penalty and compensation for damage would be imposed in shape of Charge sheet.

9.3 That, in conducting the process of scraping and dismantling, Second Party would be liable for the third person liability or damage whether it may be legal or contractual. TPC or the First Party would have no concern and shall be considered as absolved from any of the liability accrued.

9.4 Incident Reporting.

That,

- a) should the Second Party become aware of events or circumstances which have prevented, are preventing or will prevent the Contractor from performing his functions and responsibilities, the Second Party shall immediately after becoming so aware, advise TPC of such events or circumstances and also indicate the manner in which the provision of the functions were, or are going to be impacted.
- b) In addition to any obligations under Applicable Laws, the Second Party shall immediately after occurrence of an incident or accident, notify to TPC or its Authorized Representative of any accident relating to the functions as per Agreement in which persons have been injured or killed. The Second Party shall be required to report to TPC in writing within two (2) Business Days of the Contractor becoming aware or where a prudent mind should have reasonably become aware of the incident.
- c) The Second Party shall report any acts of vandalism or damage to the place allocated for standing and scraping and dismantling of the vehicles or any other.

9.5 That, Second Party shall be responsible for keeping the place/ yard (mentioned above) along with equipment/ machinery and fix and fixtures safe and secure. Proper security arrangements by fixing digital cameras, hire security personnel and any other measure suggested/ mentioned by TPC for the performance of its functions without hinderance, is responsibility of the Contractor. Any damage to the individuals, place/yard or vehicles and inability to perform functions specified in this agreement would be shouldered upon and bear by the Second Party.

Part C – Force Majeure, Breach & Termination, Dispute Resolution and Arbitration.

10. Force Majeure

That,

- 10.1 If either Party is prevented in whole or in part from discharging its obligations pursuant to this Agreement as a result of an Event of Force Majeure, such Party shall, as soon as reasonably practicable, notify the other Party accordingly. Either party shall mention a detailed description of the Event of Force Majeure and obligations which are affected and the extent to which the relevant Party cannot perform those obligations. An estimate of the time period which the Event of Force Majeure is envisaged to continue and the measures proposed to be adopted to remedy or minimise the effects of and costs arising from the Event of Force Majeure. If TPC is of the opinion that the measures proposed are not adequate, it shall advise the Contractor by service of Notice.
- 10.2 In the event that Force Majeure affects the Contractor's ability to perform any of its obligations under this Agreement and to the extent that the Functions/ Services, or any part thereof, are suspended, the Contractor shall not be entitled to claim payment from TPC for such suspended Functions/ Services, or any additional costs incurred by the Contractor as a result of the Event of Force Majeure or in relation to any steps taken by the Contractor in mitigating the effects of the Event of Force Majeure.

- 10.3 If an Event of Force Majeure no longer prevents the Contractor from performing its obligations under this Agreement, the Contractor shall be entitled to a reasonable period, taking into account the extent to which it has wound down its operations during the period of Force Majeure, to re-establish the Functions/ Services in compliance with its obligations under this Agreement.
- 10.4 If an Event of Force Majeure continues uninterrupted for more than one hundred eighty (180) days and continues to prevent a Party from performing all of its obligations under this Agreement, either Party shall be entitled to terminate this Agreement upon fourteen (14) days' notice to the other Party, provided that before doing so the Parties shall first have to meet to find a mutually satisfactory solution for remedying such Event of Force Majeure and no Party shall terminate this Agreement unless the Parties are unable to agree on a solution.
- 10.5 Neither Party shall have any liability to the other in respect of the termination of this Agreement as a consequence of an Event of Force Majeure or as a result of any failure to carry out any of its obligations hereunder resulting from an Event of Force Majeure.

11. Breach and Termination

That,

- 11.1 If the Contractor commits a material breach of this Agreement and fails to remedy the breach within ten (10) Business Days after receipt from TPC of a notice calling upon it to do so or such other time as specified by TPC then TPC shall be entitled, in addition to and without prejudice to any other right it may have under Applicable Law or in accordance with this Agreement, to seek specific performance of this Agreement or to terminate this Agreement forthwith on notice to the Contractor and in either event, to recover such damages as it may have sustained.
- For purposes of this Agreement, a material breach shall include but not be limited to the foregoing if the Contractor:
- a) fails to provide or maintain the Performance Guarantee,
 - b) fail to pay the advance payment within a notice period or such extended period,
 - c) in the opinion of TPC, commits a Prohibited Act,

- d) theft of vehicles or critical part such as engine, body or frame, as mentioned in Required Services, while in possession of the Contractor,
- e) delegates, cedes or sub-contracts this Agreement or part thereof in contravention of the provisions hereof without having obtained TPC's prior written consent,
- f) acts or attempts to act in a fraudulent or otherwise illegal manner in obtaining or executing a contract with any government department, provincial administration, municipality, public body, company or person,
- g) violates or attempts to violate any Applicable Law or otherwise commits any criminal act; or
- h) Abandons, suspend functions/ Services or otherwise repudiates the functions/ Functions/ Services or any of its obligations under this Agreement,

11.2 If TPC commits a material breach of this Agreement and fails to remedy the breach within ten (10) Business Days after receipt from the Second Party calling upon it to do so; in addition to and without prejudice to any other right it may have under Applicable Law or under the terms of this Agreement, to seek specific performance of the terms of this Agreement or to terminate this Agreement upon sixty (60) days' notice to TPC and in either event, to recover such costs, losses and damages as it may have sustained.

12. Dispute Resolution

That, any dispute or difference in connection with or in respect of the conclusion or existence of this Agreement, the carrying into effect of this Agreement, the interpretation or application of the provisions of this Agreement, the Parties' respective rights and obligations in accordance with and arising out of this Agreement or the validity, enforceability, rectification, termination or cancellation, whether in whole or in part, of this Agreement, shall be resolved amicably as under.

Any dispute arising in connection with this Agreement may be referred by either Party to the nominated person of the Contractor and the Chief Executive of TPC (or such other senior executives as the relevant Parties may determine) who shall attempt to resolve the matter within ten (10) Business Days of the dispute being so referred to them or within such other time as may be agreed between the Parties.

13. Arbitration

That, If the Parties are unable to resolve the dispute pursuant to prior clause either Party shall be entitled to refer a dispute to arbitration, by notifying the other Party in writing of its intention to do so. The arbitration proceedings shall be carried out under the procedures, rules and regulations of Arbitration Act, 1940 and its successors, and such procedures, rules and regulations shall be deemed to be incorporated into this clause by reference. Any such arbitration shall be subject to the Applicable Law.

13.1 The seat of the arbitration shall be Pakistan and all arbitration hearings shall be held in Peshawar unless otherwise agreed in writing by the Parties.

13.2 Unless otherwise required by TPC, such arbitration shall be conducted in the English language and the award of any arbitrator or arbitral panel, together with the reasons for the determination, shall be written in the English language.

13.3 Unless otherwise required by TPC, all evidence, submissions or documents presented at the arbitration in a language other than in the English language shall be accompanied by a simultaneous English language translation thereof, if oral, or if written, a certified English language translation.

13.4 The arbitrator or arbitral panel shall have full power to open up, review and revise any determinations, decisions or findings in relation to the dispute.

13.5 The obligations of the Parties shall not be altered by reason of the arbitration being conducted during the term of the Agreement.

13.6 Any monetary award in any arbitration shall be denominated and payable in PKR.

13.7 The Parties agree that all interim or final decisions and/or awards of the arbitrator or arbitral panel shall:

13.7.1. be binding on the Parties and shall be given effect and implemented forthwith by them; and

13.7.2. be subject to the confidentiality restrictions in this Agreement and except as provided by agreement between the Parties, may not be publicised or otherwise disclosed provided always that nothing in this clause shall prevent

either Party from applying to any court of competent jurisdiction to enforce the award.

13.8 The Parties hereby expressly agree irrevocably to waive all rights and recourse to appeal or challenge, and neither Party shall request the local courts to open up, revise or review, the final award of the arbitrator or arbitral panel save and except in the specific instances set out in Arbitration Act, 1940.

13.9 Reference of a dispute to arbitration shall not in any way vitiate nor invalidate the Agreement neither shall it be grounds for the Contractor to cease performing its obligations nor for TPC to terminate the engagement of the Contractor under the Agreement and the Contractor shall proceed with its obligations with all due diligence.

Part D – Miscellaneous Matters.

14. Hazardous Substances

That, the Second Party shall ensure that any hazardous materials or equipment used or intended to be used in the provision of the Services are stored safely and in safe keeping in accordance with all applicable Law, ensure that all such materials are properly and clearly labelled on their containers, promptly inform TPC of all such materials being used or stored and comply with any other reasonable requirement of TPC in respect of such materials and equipment.

15. Change in Law

That, the Contractor acknowledges and agrees that it shall take full risk and responsibility for a Change in Law occurring. Notwithstanding the foregoing, if a Change in Law occurs or is imminent that affects the rights and obligations of the Contractor under this Agreement, the Contractor shall notify TPC within fourteen (14) days of the date of such Change in Law occurring or (if earlier) coming to the attention of the Contractor and the Parties shall discuss the effects of the Change in Law and endeavour to arrive at a resolution.

Any resolution reached between the Parties shall be recorded in writing and such record shall be signed by both Parties. The Contractor acknowledges and agrees that any decision to

change the financial accordance with the Agreement or vary the scope of Services as a result of the Change in Law shall be adjusted with mutual consent of the parties.

16. Confidentiality

That, Each Party shall at all times keep in confidence the Confidential Information of the other Party which it may acquire for the purposes of or in connection with this Agreement (whether prior to or after the Commencement Date) and shall not use or permit the use of such Confidential Information and shall ensure that its employees shall not use the Confidential Information, for any other purpose and shall not disclose such Confidential Information to any third party.

Notwithstanding a Party may disclose the Confidential Information of the other Party to such former Party's employees or Authorised Representatives to the extent that such employees or Authorised Representatives need to know the Confidential Information and shall ensure that such employees or Authorised Representatives are aware of and comply with, the confidentiality obligations contained in this clause.

Each Party shall take all such steps as may be reasonably necessary to prevent the Confidential Information of the other Party from falling into the hands of an unauthorised third party. The Contractor shall not make any comments to the media relating to this Agreement and any related matter nor shall it respond to any queries from the media without the prior written approval of TPC.

17. Severance

That, in the event that any provision of the Agreement is held by any judicial or other competent authority to be illegal, invalid or unenforceable that provision shall be severed to the extent necessary to make the Agreement enforceable, and it shall not affect or impair the validity, legality or enforceability of any of the other provisions of the Agreement.

18. Addresses and notices

The Parties choose for the purposes of this Agreement the following addresses:

19.1. TPC: TransPeshawar (The Urban Mobility Company), Ali Tower, Second floor, University Road, Peshawar, Pakistan.

19.2. The Contractor: [•].

19. No agency

That, no provision of this Agreement shall be construed as constituting an agency, partnership, or joint venture between the Parties and neither Party shall have any express or implied mandate to bind the other Party in any way or to represent the other Party unless specifically provided to the contrary in this Agreement, and, for the avoidance of doubt, this clause shall not affect or otherwise derogate from the obligations and powers of the Contractor, as contemplated in this Agreement. The Contractor is an independent contractor performing the Agreement. The Contractor is not an employee or agent of TPC.

20. Amendment

That, except as set out elsewhere in this Agreement, no modification, amendment, addendum or variation to the accordance with the Agreement shall be effective or binding, unless it is made in writing and expressly sets out the modification, amendment, addendum or variation to in accordance with the Agreement, is signed and dated by a representative of each Party.

21. Good faith

That, the Parties shall, at all times, act in good faith towards each other and shall not bring the other Party into disrepute.

22. Assignment

That, the Contractor shall not cede, assign, delegate or transfer any of its rights or obligations under the Agreement, or any part of it, or any benefit or interest therein, to any third party or Entity without the prior written consent of TPC.

Notwithstanding anything to the contrary stated in this Agreement, TPC shall be entitled, without requiring the consent of the Contractor, to cede, assign, delegate or transfer any rights and/or obligations under this Agreement to any third party.

23. Remedies

That, no remedy conferred by this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, by statute or otherwise. Each remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter

existing at law, by statute or otherwise. The election of any one or more remedy by any of the Parties shall not constitute a waiver by such Party of the right to pursue any other remedy.

24. Annexure and Appendices

That, all the Annexures attached, are part and parcel of this agreement. The directions made and formalities to be fulfilled in these annexures are the responsibilities of both the Parties to pursue or otherwise described in this agreement. All annexures are to be filled and kept as record of implementation.

IN WITNESS WHEREOF, the parties have hereunto, have set and subscribed their hands on the day, month and year first hereinabove written, in presence of marginal Witnesses.

For and on behalf of First Party
TransPeshawar
(The Urban Mobility Company)

For and on behalf of Second Party
(Contractor)

Mr. Fayyaz Khan
CNIC No:
Chief executive
TransPeshawar
(The Urban Mobility Company)

Mr. S/O.....
CNIC No:

Witnessed by

Mr.
CNIC No:
Designation:
TransPeshawar
(The Urban Mobility Company), Peshawar.

Witnessed by

Mr.
CNIC No:
Designation:

ANNEX A

Definitions and Interpretations

- 1. Commencement Date** means Notice issued by TransPeshawar to submit advance fee and start services in accordance with the Agreement.
- 2. Conditions precedent**, means hereby those preconditions to be met by the contractor/ Second Party of the agreement, before starting functions/ works or activities of scraping and dismantling under this agreement.
- 3. Charge sheet** means any breach committed by Second Party in violating the terms of this agreement where the First Party would have the right to claim compensation and penalty.
- 4. Effective date** means the date from which the effect or execution of agreement starts until its end.
- 5. Prohibited Act**, means offences mentioned in Pakistan Panel Code or any applicable laws whether special or general.
- 6. Standard procedure** means the process of scraping and dismantling under a proper line up by taking care of individual safety, environment protection, and the surroundings.
- 7. Scrap/ Dismantle** means to dispose of the vehicle into unusable parts, for the purpose not to be reused or reassembled for transport purpose in accordance with the approved procedure.
- 8. Vehicles** means fleet of old public transport system running on the routes Peshawar BRT system and to be scrapped.