

REQUEST FOR PROPOSALS (RFP)

for

Advertising Services Management in Peshawar BRT Corridor

Tender No. TPC/BD/RFP/2021/003

Date: February 16, 2021

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TABLE OF CONTENTS

SECTION 1 – DEFINITIONS.....	4
SECTION 2 – NOTICE.....	6
2.1 Introduction.....	6
2.2 Disclaimer.....	6
SECTION 3 - PESHAWAR SUSTAINABLE BRT CORRIDOR SYSTEM DETAILS.....	6
3.1 Background.....	6
3.2 Infrastructure.....	6
3.3 Operations.....	7
SECTION 4 – ADVERTISING SERVICES MANAGEMENT AND QUALIFICATION REQUIREMENTS.....	7
4.1 Required Services.....	7
4.2 Qualification Requirements.....	7
SECTION 5 - BIDDING PROCESS.....	8
5.1 Open Competitive Bidding.....	8
5.2 Planning.....	8
5.3 Information Source.....	8
5.4 Pre-Bid Meeting.....	9
5.5 Questions and Answers on the Request for Proposals.....	9
5.6 Submission of Comments on the RFP/ Service Agreement.....	9
5.7 Formation and Modification in the Composition of a Consortium	10
5.8 Rejection of Proposals	10
5.9 Cancellation of the Bidding Process and Proclamation of the Bidding Process as Unsuccessful	10
5.10 Opening and Evaluation of Proposals	11
5.11 Signing of the Service Agreement.....	11
SECTION 6 – INSTRUCTIONS TO BIDDERS	11
6.1 General Terms that the Proposal Must Fulfil	11
6.2 Proposal Package	11
6.3 Submission of Proposal	12
6.4 Content of Proposal	12
SECTION 7 - EVALUATION	13
7.1 Responsiveness Criteria	13
7.2 Evaluation	14
7.3 Information	14
7.4 Clarification	14
SECTION 8 - GENERAL MATTERS.....	14
8.1 Responsibility of Bidders.....	14
8.2 Confidentiality.....	14
8.3 Proprietary Data.....	15
8.4 Fraud and Corruption.....	15
8.5 Governing Law and Rules.....	16
Schedule 1 Business Structure (partnership/corporation).....	17
Schedule 2 Business Structure (consortium)	18
Schedule 3 Proposal Submission Letter	20
Schedule 4 Financial Offer	21
Schedule 5 Authority to Bid and Designation of Authorized Representative (partnership/corporation)	22
Schedule 6 Authority to Bid and Designation of Authorized Representative (Consortium).....	23
Schedule 7 Affidavit of Integrity Pact.....	24
Schedule 8 Comment Form.....	25
Appendix A Advertising Locations Details	26

SECTION 1 - DEFINITIONS

1.1.1 The following words or terms shall have the following meanings in this Request for Proposals:

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

Bidder means a legal entity and includes a firm, company, partnership, corporation, Consortium or joint venture of firms/companies which participates in the Bidding Process.

Bid Bond has the meaning given to it in paragraph 6.4.7.

Bidding Process or **Bidding** means the process beginning from the publication of the Request for Proposal until the signing of the Service Agreement.

BRT means a flexible, rubber-tired rapid transit mode that combines stations, bus stops, vehicles, services, running ways, and technological elements into an integrated system.

Coercion, Collusion, Corrupt Practices, Fraud, Restrictive Practices and Undesirable Practices have the meanings given to them in paragraph 8.4.2.

Consortium means an unincorporated association of juridical persons bound by contract or law, solidarily 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, solidarily liable in the Proposal and whose interest may be converted into an equivalent equity participation in the corporation that will become a service provider 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:
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 Proposal 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 Bidder 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 Proposal Submission Date, will not be applicable.

KPPRA means the Khyber Pakhtunkhwa Public Procurement Regulatory Authority.

Net Worth means total assets minus total liabilities.

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

Proposal means the bid submitted by a Bidder for the provision of the Required Services.

Proposal Submission Date means the date specified as such in paragraph 5.2.1.

Required Services has the meaning given to it under Section 4 and in the Service Agreement.

Service Agreement means the service contract to be entered into between TransPeshawar Company and a Winning Bidder.

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

TransPeshawar (The Urban Mobility Company) or “TransPeshawar Company” or “TPC” means the entity responsible for BRT project design, procurement, implementation and ongoing BRT operations and management of service contracts, a public Company (Section 42 Company) registered on February 09, 2017 with Security Exchange Commission of Pakistan with address:

TransPeshawar (The Urban Mobility Company), First (1st) Floor, KPUMA Building Main BRT Depot Chamkani, Peshawar, Khyber Pakhtunkhwa, Pakistan.

Winning Bidder means the highest financial responsive bidder meeting the qualification requirement as determined by TransPeshawar Company.

SECTION 2 – NOTICE

2.1 Introduction

- 2.1.1 This RFP is provided to the recipient solely for use in preparing and submitting a Proposal in a competitive tender to procure the Required Services.
- 2.1.2 This RFP is being issued to the Bidders 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 RFP 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 RFP or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of the Peshawar Sustainable BRT Corridor System; 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 RFP or otherwise in connection with Peshawar Sustainable BRT Corridor System.
- 2.2.2 The RFP 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 RFP, in line with the principles of the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 and the Procurement Rules, 2014.
- 2.2.4 The issuance of this RFP does not imply that TransPeshawar Company is bound to appoint a Winning Bidder or enter into a Service Agreement. TransPeshawar Company reserves the right to reject all or any of the Proposals received or otherwise discontinue the Bidding Process at any time.

SECTION 3 - PESHAWAR SUSTAINABLE BRT CORRIDOR SYSTEM DETAILS

3.1 Background

- 3.1.1 The Peshawar BRT system is an important part of the public transport system in Peshawar.
- 3.1.2 The total length of BRT corridor is approximately 28.0 kilometers, with an at-grade section of approximately 12 kilometers and elevated section of approximately 13 kilometers.
- 3.1.3 BRT services provide following the "Direct-Service" concept. According to this concept, routes start outside the BRT corridor, join and then pass along the BRT corridor and leave the corridor at different stations according to their existing route. When running on the corridor, the BRT vehicles pick up passengers from BRT stations, and when running outside BRT corridor, passengers board from curb-side BRT vehicle stops.
- 3.1.4 The system is an "open" BRT system, meaning that passengers validate and pay for their journey using their fare medium (e.g., a contactless smart card) via validators at the BRT vehicle doors.

3.2 Infrastructure

- 3.2.1 Approximately 28.0-kilometre-long corridor for the Peshawar BRT consist of:

- (a) BRT infrastructure (stations, dedicated lanes, depot) designed and built following international best practices and quality standards;
- (b) sidewalks, mixed-traffic lanes and non-motorized transport lane along the BRT;
- (c) improvement of access roads and surrounding areas in favour of non-motorized transport and potential feeder services.

3.2.2 30 BRT stations with an average distance of approximately 900 meters between stations.

3.3 Operations

3.3.1 BRT System operated so that:

- (a) BRT vehicles shall provide a combination of stopping and express services on the trunk routes;
- (b) most stations have passing lanes in order to allow express BRT vehicles to overtake stopping BRT vehicles;
- (c) passengers board onto and alight from BRT vehicles on the right-hand side from stations located in the median of the roadway that is part of the BRT infrastructure, or on the left-hand side from the pavement or comparable when off the BRT infrastructure;

3.3.2 The estimated maximum capacity of the system is approximately twenty thousand (20,000) passengers per direction per hour.

3.3.3 The estimated maximal load during the morning peak hour is approximately five thousand (5,000) passengers per direction per hour.

SECTION 4 – ADVERTISING SERVICES MANAGEMENT AND QUALIFICATION REQUIREMENTS

4.1 Required Services

4.1.1 Summary

TransPeshawar intends to outsource advertising management services which includes provision, installation, operation/sub-letting and maintenance of advertising items (Street light poles streamers, Pillar streamers, SMDs and pedestrian bridge banners) at designated outdoor advertising locations across the BRT corridor. The advertising locations include, but not limited to, street light poles, overhead bridge pillars, and pedestrian bridges start at Tehkal Payan BRT Bus station to Karkhano Market BRT Bus Station. Advertising spaces along with technical specification of advertising items are indicated as **Appendix-A**.

4.1.2 Objectives

- (a) Utilizing advertising locations in way that optimize advertising effectiveness and revenue generation;
- (b) Reflecting modern advertising approaches that create an attractive environment for the travelling public; and
- (c) Reflecting designs that are integrated into the BRT corridor facilities, aesthetically pleasing and consistent with the BRT corridor finishes and other surrounding facilities.

4.1.3 Detailed Tasks

- (a) Street light poles streamers, Pillar streamers, SMDs and pedestrian bridge banners will be utilized for occupying advertising spaces;

- (b) The services provider shall provide, install, operate/sub-let and maintain advertising items including provision of electrical connections at designated advertising locations;
- (c) Inspections and cleaning of all advertising items and taking all necessary actions to maintain the advertising items in “as new” condition;
- (d) No advertising space will be permitted blank at any time. The blank advertising space will be utilized for hoisting public service content/BRT promotional material or filler content to supplement current advertising spaces.

4.2 Qualification Requirement / Criteria

- 4.2.1 The bidder meeting the following criteria shall be considered qualified for consideration of financial price:
- (a) Registered as a firm/company with registrar of firms or SECP (In case of JV mandatory of all members) with date of registration not later than January 1, 2017;
 - (b) Registered with FBR (NTN & STRN) and reflected on the Active Tax Payer List of FBR (In case of JV mandatory of all members);
 - (c) Registered with KPRA for Sales Tax on Services (In case of JV mandatory of all members);
 - (d) Minimum average annual turnover (AATO) or recurring revenues demonstrated by audited financial statements or financial statement for the last three (03) years to the amount of PKR.10 Million (In case of JV meet one member or both members collectively);
 - (e) Service provider is not blacklisted from any provincial or federal public entity/department (In case of JV apply to all members);
 - (f) Submission of Bid Bond to the amount of PKR.100,000/- in shape of Demand Draft (DD), Call Deposit Receipt (CDR), or Banker Cheque in favour of “Chief Executive Officer TransPeshawar”;
 - (g) Submission of Schedule 1 through 7 in conformity with prescribed templates.

SECTION 5 - BIDDING PROCESS

5.1 Open competitive bidding

- 5.1.1 The bids are invited under national competitive bidding through **Single Stage One Envelope** bidding procedure.

5.2 Planning

- 5.2.1 This Request for Proposals introduces the Bidding Process for the procurement of Required Services. The overall planning for the Bidding Process is presented below:

Milestone	Party Responsible	Date/Deadline
Issuance of Request for Proposal (RFP)	TransPeshawar	16-02-2021
Pre-Bid Meeting	TransPeshawar	23-02-2021 11:30 AM (PST)
Clarification and Questions/Comments submission	Bidders	23-02-2021
Uploading of Pre-Bid Minutes	TransPeshawar	24-02-2021

Proposal Submission Deadline	Bidders	09-03-2021 02:30 PM (PST)
Notification of the results of the Evaluation and Appointment of Winging Bidder	TransPeshawar	Tentatively in March, 2021
Signing Date of Service Agreement and Compliance with other Requirements	Winning bidder and TransPeshawar	Tentatively in March, 2021

5.3 Information Sources

5.3.1 The primary sources of information provided to Bidders in relation to this Request for Proposals are:

- Request for Proposals (the current document);
- Service Agreement (attached to the current document);
- Pre-Bid Meeting as organized by TransPeshawar Company (cf. Section 5.4).

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

5.4 Pre-Bid Meeting

5.4.1 A Pre-Bid Meeting shall be organized by TransPeshawar Company to:

- Explain the project, the Bidding Process and the Request for Proposals; and
- Provide an opportunity for Bidders to visit and inspect the existing infrastructure

5.4.2 The pre-bid meeting shall be organized at a date specified in Paragraph 5.2.1.

5.5 Questions and Answers on the Request for Proposals

5.5.1 The Bidders shall have the opportunity to ask questions concerning the Request for Proposals by the date specified in Paragraph 5.2.1. Questions can only be addressed by email to the following address:

Attention: Mr. Fayyaz Khan

Chief Executive Officer, TransPeshawar Company.

Email: fayyazak@yahoo.co.uk with cc to khalil.ahmed@transpeshawar.pk and alamgir.bangash@transpeshawar.pk

5.5.2 The Bidders' questions shall be treated anonymously.

5.5.3 TransPeshawar Company shall endeavor to respond to all clarification or information requests, however requests received later than date specified in Paragraph 5.2.1 would be left unanswered. Every such clarification delivered to Bidders shall be made in the form of an appendix to the Request for Proposals and shall, upon being issued, be sent in the shortest possible time to all Bidders. All such appendices shall automatically become an integral part of the Request for Proposals.

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

5.6 Submission of Comments on the RFP/ Service Agreement

- 5.6.1 The Bidders shall have the opportunity to submit comments concerning the RFP/Service Agreement before the Comment Submission Date specified in paragraph 5.2.1. Comments shall be submitted in conformity with Schedule 8 and shall be sent by email to the address specified in paragraph 5.5.1. The Bidders' comments shall be treated anonymously.
- 5.6.2 TransPeshawar Company shall endeavor to respond to all comments and may decide to issue a revised RFP / Service Agreement taking some or all of the comments into consideration. Every such response and, if applicable, the revised RFP / Service Agreement shall, upon being issued, be sent in the shortest possible time to all Bidders.
- 5.6.3 All Bidders shall therefore be provided with the same information simultaneously. TransPeshawar Company does not assume any responsibility for emails not received or delivered late.

5.7 Formation and Modification in the Composition of a Consortium

- 5.7.1 Bidders can make Joint Venture / Consortium to meet requirements of the Request for Proposal.
- 5.7.2 TransPeshawar Company will not accept any modification in the composition of a Consortium / JV after Bid Submission.

5.8 Rejection of Proposals

- 5.8.1 TransPeshawar Company has a discretionary right to reject a Proposal. Reasons for rejecting a Proposal include, but are not limited to, the following:
 - (a) The Proposal does not contain all elements defined in the instructions;
 - (b) The Proposal is not submitted before the Submission Deadline;
 - (c) The Bidder 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.
- 5.8.2 The Proposal may also be rejected up until signing of the Service Agreement, in case TransPeshawar Company concludes, in its discretionary right, that one of the following applies:
 - (a) The Proposal does not comply with the objectives of the tender or is not in line with the applicable laws (especially in case the Proposal 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 Bidders;
 - (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 Bidder is trying to gain advantage over other Bidders in an incorrect manner; or
 - (e) The Financial Offer varies significantly from the estimate of TransPeshawar Company.
- 5.8.3 In the event of the rejection of a Proposal, TransPeshawar Company shall inform the relevant Bidder in a written form, in accordance with the applicable laws.

5.9 Cancellation of the Bidding Process and Proclamation of the Bidding Process as Unsuccessful.

- 5.9.1 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 Bidders.
- 5.9.2 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.

5.9.3 The Bidding Process may be proclaimed unsuccessful at any time after the Submission Deadline, at no cost to TransPeshawar Company, if:

- (a) No Proposals have been submitted;
- (b) The Proposals 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 Bidder refuses to sign the Service Agreement in the form offered by TransPeshawar Company.

5.9.4 In the event of such rejection of a Proposal, or cancellation or proclamation of the Bidding Process as unsuccessful, no Bidder 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 Proposal.

5.10 Opening and Evaluation of Proposals

5.10.1 The opening of the Proposals shall occur fifteen minutes after the Proposal Submission Date at the address indicated in paragraph 6.3.1. The Bidders may be represented, by not more than two (2) persons, at the opening of Proposals. Proposals for which a notice of withdrawal request has been submitted shall not be opened.

5.10.2 TransPeshawar Company shall evaluate the Proposals in accordance with the provisions of SECTION 7. TransPeshawar Company shall then inform all Bidders of the results in writing.

5.11 Signing of the Service Agreement

5.11.1 The Winning Bidder shall receive an invitation in form of Letter of Award from TransPeshawar Company with the aim to sign a Service Agreement for Required Services as defined in the Service Agreement. The Winning Bidder shall, within twenty-eight (28) days of receipt of Letter of Award, furnish Performance Security in shape of bank guarantee to the amount of ten (10) % of total Contract Price in favor of TransPeshawar on prescribed format on yearly renewal basis. The TPC shall, after receipt of the Performance Security from the Winning Bidder, send Service Agreement provided in the RFP, to the Winning Bidder. Within seven (07) working days of the receipt of such Agreement, the Winning Bidder shall sign and date the Agreement and return it to TPC.

5.11.2 In the event of a withdrawal by a Winning Bidder or failure to submit Performance Security, TransPeshawar Company may invite the next Bidder to conclude a Service Agreement for the Required Services.

5.11.3 If a Bidder which was invited by TransPeshawar Company to sign a Service Agreement withdraws from the Bidding Process, the Bid Bond of the said Bidder shall be called by TransPeshawar Company and the next Bidder may be issued Letter of Award.

SECTION 6 – INSTRUCTIONS TO BIDDERS

6.1 General Terms that the Proposal Must Fulfil

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

- 6.1.2 All documents forming part of the Proposal must be written in the English language; copies of legal or similar supporting documents in other languages must be accompanied with a notarized translation.

6.2 Proposal Package

- 6.2.1 The Proposal must be submitted in a single envelope containing relevant documentary evidence and financial quote under Single Stage – One Envelope Bidding Procedure.

- 6.2.2 The envelope must be properly sealed and must be marked with:

- (a) The name and the address of the Bidder;
- (b) The address of TransPeshawar Company as indicated in paragraph 6.3.1;
- (c) The warning: “Do not open before <insert *Proposal Submission Deadline*>”;
- (d) The wording: “Proposal for Management of Advertisement Services in Peshawar BRT Corridor”.

- 6.2.3 The Proposal must contain:

- (a) One (1) complete original set of the Proposal, clearly marked as “**ORIGINAL**”;
- (b) One (1) certified true copy clearly marked as “**COPY NO. __**”; and
- (c) One (1) readable compact disc, flash disks or flash drives containing an electronic copy of each Proposal document, in either Microsoft Word (.doc) or Portable Document Format (.pdf) format. (Optional)

- 6.2.4 In the event of any discrepancy between an original and the copies, the original shall prevail.

6.3 Submission of Proposal

- 6.3.1 The Proposal must be delivered to TransPeshawar Company by the date specified in Paragraph 5.2.1 at the following address:

Attention: Mr. Fayyaz Khan

Address: Chief Executive Officer, TransPeshawar.
TransPeshawar (The Urban Mobility Company), 1st Floor KPUMA Building Main BRT Depot, Opposite NHA Complex, GT Road Chamkani Peshawar.

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

6.4 Content of Proposal

- 6.4.1 The Proposal shall contain all components listed below. The Proposal shall be considered only on the basis of information provided in accordance with below prescribed templates.

- 6.4.2 The Bidder must submit a **Business Structure** in conformity with Schedule 1 (or, in case the Bidder is a JV/Consortium, Schedule 2).

- (a) The Business Structure must be signed and dated by the Authorized Representative.
- (b) In the case of a JV/Consortium, each JV/Consortium Member shall appoint one, and only one, of their number to be the lead member (Lead Member) who shall be authorized by each JV/Consortium Member to represent and irrevocably bind all members of that JV/Consortium in all matters relating to the procurement process for the provision of the Required Services, including, but not limited to, the submission of the Bid on behalf of the Consortium. Lead Member and all partners of the Consortium / Joint Venture must be one of the locally registered firm/company registered with Registrar of Firms/Security and Exchange

Commission of Pakistan. All members shall be jointly and severally liable for the execution of the Service Agreement.

- 6.4.3 The Bidder must submit **Proposal Submission Letter** in conformity with Schedule 3.
- (a) The Proposal Submission Letter must be signed by the Authorized Representative.
- 6.4.4 The Bidder must submit a **Financial Offer** in conformity with Schedule 4.
- (a) The Financial Offer must be signed and dated by the Authorized Representative.
- 6.4.5 The Bidder (or, in case the Bidder 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 Bidder 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 Bidder (or, in case the Bidder is a Consortium, of the Consortium Members).
- 6.4.6 The bidder must submit the **Integrity Pact** in conformity with Schedule 7.
- (a) Integrity Pact must be signed and dated by the Authorized Representative.
- 6.4.7 The Bidder must submit a **Bid Bond** of Rs.100,000/- in Shape of Demand Draft (DD) or Call Deposit Receipt (CDR) or Banker Cheque from schedule bank of Pakistan in favor of **“Chief Executive Officer, TransPeshawar (The Urban Mobility Company)”**.
- (a) The Bid Bond must be provided by the Bidder from 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 Proposal Submission Date and the signing date of the Service Agreement;
 - (ii) Failed to submit Performance Security within prescribed time;
 - (iii) Exclusion from the Bidding Process by TransPeshawar Company;
 - (iv) In case of any willful 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 Winning Bidder, TransPeshawar Company shall release the Bid Bond to all Bidders. The Bid Bond of the Winning Bidder shall be released on the submission of Performance Security;
- 6.4.8 The **following documents** shall also be submitted with the proposal:
- (i) Certificate of Registration as a firm/company with registrar of firms or SECP (In case of JV mandatory of all members);
 - (ii) Certificate of Registration with FBR (NTN & STRN) and reflected on the Active Tax Payer List of FBR (In case of JV mandatory of all members);
 - (iii) Certificate of Registration with KPRA for Sales Tax on Services (In case of JV mandatory of all members);
 - (iv) Audited financial statements or financial statements for the last three (03) years Average Annual Turnover or Recurring Revenues (In case of JV mandatory of all members);
 - (v) Certificate on Judicial Paper to the effect that the Service provider is not blacklisted by any provincial or federal public entity (In case of JV mandatory of all members);
 - (vi) Initials on RFP, Services agreements and all its attachments as token of acceptance of terms and conditions.

SECTION 7 - EVALUATION

7.1 Responsiveness Criteria

- 7.1.1 Prior to evaluation of Proposals, TransPeshawar Company shall determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
- (a) the Proposal is received by the Proposal Submission Deadline;
 - (b) the Proposal contains all the information in prescribed manner and on given formats (complete in all respects) as requested pursuant to this RFP; and
 - (c) the Proposal does not contain any condition or qualification.
- 7.1.2 TransPeshawar Company reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by TransPeshawar Company in respect of such Proposal.

7.2 Evaluation

- 7.2.1 The responsive proposals shall be evaluated in accordance with requirement prescribed under qualification criteria. The responsive proposal meeting the qualification criteria as mentioned above shall be considered for comparison of financial offer. The quarterly payment submitted by the bidder shall be discounted at a rate of 12 % to get present value on bidding date. Bidder with highest present value of Financial bid / offer shall be determined as winning bidder and considered for award of contract.

7.3 Information

- 7.3.1 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 Bidder if any contract is subsequently awarded to it under the Bidding Process on the basis of such information.

7.4 Clarification

- 7.4.1 TransPeshawar Company may, at its sole discretion, seek clarifications and ask for supporting documents from any Bidder regarding its Proposal. 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 5.5.1.
- 7.4.2 If a Bidder does not provide clarifications sought under paragraph 7.4.1 within the prescribed time, its Proposal may be rejected. In case the Proposal is not rejected, TransPeshawar Company may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of TransPeshawar Company.

SECTION 8 - GENERAL MATTERS

8.1 Responsibility of Bidders

- 8.1.1 Notwithstanding any information given in the RFP and any additional communication from TransPeshawar Company, including supplemental notices and bid bulletins, it is the sole responsibility of any Bidder 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.

8.2 Confidentiality

- 8.2.1 Information relating to the examination, clarification, evaluation and recommendation for the Bidders 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.
- 8.2.2 TransPeshawar Company shall treat all information submitted as part of the Proposal in confidence and shall require all those who have access to such material to treat the same in confidence.
- 8.2.3 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.

8.3 Proprietary Data

- 8.3.1 All documents and other information supplied by TransPeshawar Company or submitted by a Bidder to TransPeshawar Company shall remain or become the property of TransPeshawar Company.
- 8.3.2 Bidders 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 Proposal.
- 8.3.3 TransPeshawar Company will not return any Proposal or any information provided along therewith.

8.4 Fraud and Corruption

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

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

- i. **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 Service Agreement.
- ii. **Collusion** means a scheme or arrangement between two or more Bidders, with or without the knowledge of the government, designed to establish financial offers or prices at artificial, non-competitive levels.
- iii. **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.
- iv. **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 Bidders (prior to or after the submission of Proposals) designed to establish bid prices at artificial, non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- v. **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 Bidders, 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.

- vi. **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 Bidder 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 Bidder 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 Service Agreement being cancelled and/or such Bidder 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 public-funded contract in the Islamic Republic of Pakistan.

8.5 **Governing Law and Rules**

- 8.5.1 The provisions of Islamic Republic of Pakistan shall govern all matters relating to this RFP.

Schedule 1
Business Structure (Firm/company)

Name of Bidder: _____

Contact Information of Bidder:

Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

For and on behalf of (*Name of Bidder:* _____)

(*signature of Authorized Representative*)

(*name, title and date*)

Schedule 2
Business Structure (JV/Consortium)

Name of JV/Consortium: _____

JV/Consortium Members

	1st Member	2nd Member	3rd Member
Name			
Percentage Interest the Consortium			
Type of Legal Entity (firm/company)			

Notes: 1) *Insert columns as necessary to table above*
 2) *Attach certificate of incorporation, registration with FBR and KPRA.*

Contact Information of JV/Consortium Members

JV/Consortium Member	
Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

JV/Consortium Member	
Address	
Website	
Contact Person	
Telephone	
Fax	
Email	

For and on behalf of (*Name of Bidder:*_____)

(*signature of Authorized Representative*)

(*name, title and date*)

Schedule 3

Proposal Submission Letter

To be submitted by the Bidder on official letter head

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

_____(name of Bidder) is bidding for the provision of the Required Services for Peshawar Sustainable BRT Corridor System and hereby submitting its Proposal, which shall remain valid and binding upon _____(name of Bidder) for a period of one hundred eighty (180) days from the Proposal Opening Date;

_____(name of Bidder) confirms that all statements made and the information and documents provided in its Proposal, including statements made by all JV/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;

_____(name of Bidder) authorizes TransPeshawar Company to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Proposal, and to seek clarification from its clients and bankers regarding any technical and financial aspects; _____(name of Bidder) also permits third parties to supply information required to verify statements and information submitted in its Proposal;

_____(name of Bidder) acknowledges the right of TransPeshawar Company to reject its Proposal and to cancel the Bidding Process at any time, without incurring any liability, and accepts all the terms and conditions of the Request for Proposals;

_____(name of Bidder), including all JV/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;

_____(name of Bidder) 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

_____(name of Bidder) 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 Bidder) of these undertakings, and agree that the breach of these undertakings shall result in _____(name of Bidder)'s automatic disqualification from the Bidding Process.

For and on behalf of _____(name of Bidder)

(signature of Authorized Representative)

(name, title and date)

Schedule 4**Financial Offer***To be submitted by the Bidder on official letter head*

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

1. _____ (name of Bidder) has examined the information provided in the Request for Proposals (including annexures) and the Service Agreement;
2. _____ (name of Bidder) has examined the properties (Advertising Spaces) and made all due diligence in estimation of revenue as well as costs envisioned under the Agreement;
3. _____ (name of Bidder) hereby submits its Financial Offer, for undertaking the Service Agreement, which shall remain valid and binding upon (name of Bidder) for a period of one hundred eighty (180) days from the Proposal Opening Date; and
4. Total rent offered for three (03) years by _____ (name of Bidder) is of an amount of (amount in words & integer) Pakistani Rupees.

Year	Quarter	Rent for Street light poles for display of (6x3ft) Aluminium/Steel framed Streamers fixed at 10-15 ft. height from ground level (As per specification in Appendix A) (QTY 250)	Rent for Double sided (Two-way traffic) Pillar advertisement for display of (10x5ft) Aluminium/Steel frames fixed at 10ft from ground level (As per specification in Appendix A) (QTY 100)	Rent for Digital Pole Streamer P-6 Outdoor SMD for display (6x3ft) fixed at 10-15 ft. height from ground level (As per specification in Appendix A) (QTY 60)	Rent for Double Sided (Two-way traffic) Pedestrian Bridge Banner for display of (50x8ft) Aluminium/Steel framed banner fixed towards two-way traffic (As per specification in Appendix A) (QTY 10)
1	1				
	2				
	3				
	4				
2	1				
	2				
	3				
	4				
3	1				
	2				
	3				
	4				
Sub-Total		I	II	III	IV
Grand Total (I+II+III+IV)					

For and on behalf of _____ (name of Bidder)

(signature of Authorized Representative)

(name, title and date)

Schedule 5

Authority to Bid and Designation of Authorized Representative (partnership/corporation)

To be submitted by a Bidder which is a 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 Bidder*), 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:

That _____ (*name of Bidder*) be, and is, authorized to participate in the Bidding Process and to bid for the provision of the Required Services for TransPeshawar Company;

That _____ (*name of Representative*) be and is hereby appointed as the authorized representative of the Bidder during the Bidding Process, authorized to execute, sign, and receive documents for, and otherwise act in the name of, the Bidder; and

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 Bidder;

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

For and on behalf of _____ (*name of Bidder*)

(*signature of Corporate Secretary or equivalent officer*)

(*name, title and date*)

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

For a Bidder which is a JV/Consortium, to be submitted by each JV/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 JV/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/Company, held on _____ (*date*) at _____ (*place*), in which meeting a quorum was present and acting throughout, the following Resolutions were unanimously passed and approved:

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*)

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;

That the Firm/Company 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

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

Affidavit of Integrity Pact

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

_____ [Name of Bidder] 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 (GoKPK) or any administrative subdivision or agency thereof or any other entity owned or controlled by it (GoKPK) through any corrupt business practice.

Without limiting the generality of the foregoing, [Name of service provider] 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 GoKPK, except that which has been expressly declared pursuant hereto.

_____ [Name of Bidder] 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 GoKPK and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

_____ [Name of Bidder] 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 GoKPK under any law, contract or other instrument, be voidable at the option of GoKPK.

Notwithstanding any rights and remedies exercised by GoKPK in this regard, [Name of service provider/operator] agrees to indemnify GoKPK for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoKPK in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by [Name of service provider/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 GoKPK.

Signature & Stamp

Subscribed and sworn to me this _____ day of _____ 2021

Schedule 8
Comment Form

Name of Bidder: _____

Individual Clarification Meeting requested: Yes / No

Comment 1

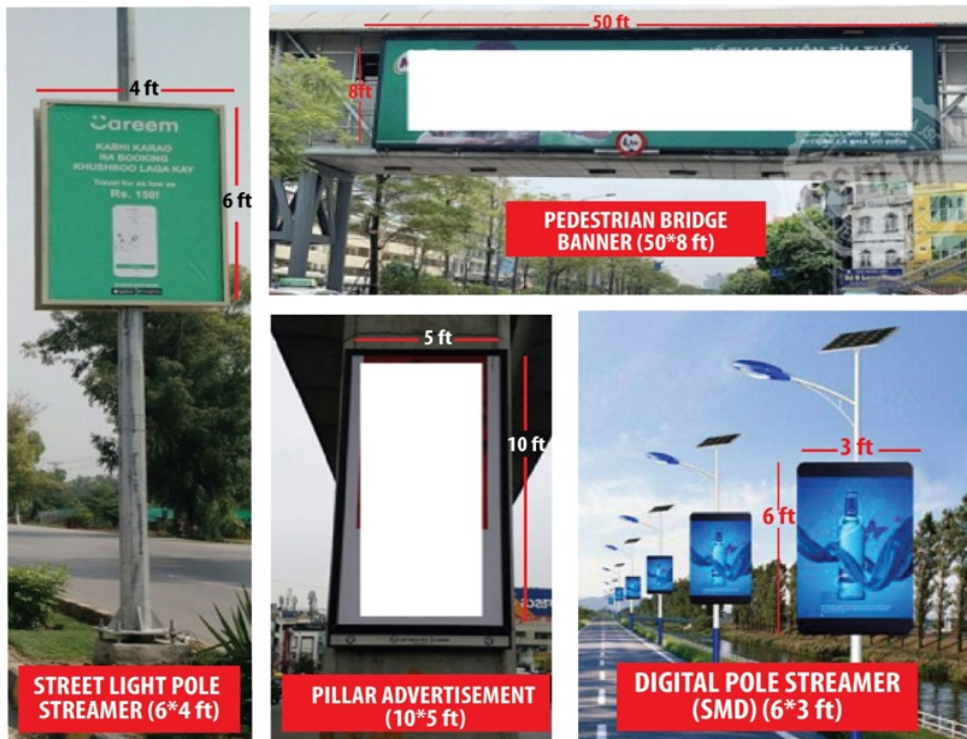
Subject	
Location in RFP (clause and page number)	
Original wording in RFP	
Comment / motivation for amendment	
Suggested amended wording	

Comment 2

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

APPENDIX A

ADVERTISING SPACES



ADVERTISING ITEM SPECIFICATION

<p><u>ITEM # 1:</u></p> <p><u>STREET LIGHT POLE STREAMER:</u> (Light poles assigned after Tehkal Payan station till the start of Tehkal Bala station and in continuation from University Town Junction to Karkhano Market (excluding elevated portion))</p> <ul style="list-style-type: none"> • (Dimension: 6 X 3 ft (72 (H) X 36 (W) Inches) • Outer frame: 2 inches • Corrosion Protection Aluminium/Steel frame with thickness between 18 to 20 gauge. • Shape: Rectangle • Type: Non-Lighting • Installation: Fixed Top and bottom clamps. 	<p><u>ITEM # 2:</u></p> <p><u>PEDESTRIAN BRIDGE BANNER:</u> (Pedestrian bridges assigned from Tehkal Bala to Hospital chowk Station (excluding Mall of Hayatabad station i.e., elevated))</p> <ul style="list-style-type: none"> • Dimension: 50 X 8 ft (600 (W) X 96 (H) Inches) • Corrosion Protection Aluminium/Steel frame with thickness between 18 to 20 gauge. Angle iron for support between the Banner frame and bridge railing shall be 1.5 to 2 inches. Front panel sheet for flex installation shall be at least thickness of 28 gauge. • Shape: Rectangle • Type: Non- Lighting • Installation: to be fixed at all corners with the bridge railing for firm support.
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<p>ITEM # 3:</p> <p>PILLAR ADVERTISEMENT: (elevated bridge pillars assigned for advertisement that are located at multiple locations between Tehkal Payan to Karkhano Market)</p> <ul style="list-style-type: none">• Dimension: 10 X 5 ft (120 (H) X 60 (W) Inches)• Outer frame: 2 inches• Corrosion Protection Aluminium/Steel frame• Gauge• Shape• Type• Installation• Bottom	<p>ITEM # 4:</p> <p>DIGITAL POLE STREAMER (SMD): (Light Poles for installation of SMD assigned from start of Tehkal Bala Station to University Town Junction)</p> <ul style="list-style-type: none">• Dimension: 6 X 3 ft (72 (H) X 36 (W) inches)• Application: Outdoor• Tube Chip Colour: Full colour• Digital Display Screen
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STREET LIGHT POLE STREAMER (6*4 ft)

PILLAR ADVERTISEMENT (10*5 ft)

DIGITAL POLE STREAMER (SMD) (6*3 ft)

PEDESTRIAN BRIDGE BANNER (50*8 ft)

processor):
DVI, HDMI,
el:
deo-
f-line,
rd



TransPeshawar (The Urban Mobility Company)
A company set up under section 42 of the Companies Act, 2017

AGREEMENT FOR ADVERTISING SERVICES MANAGEMENT AT PESHAWAR BRT CORRIDOR

BETWEEN

TRANSPESHAWAR (The Urban Mobility Company)

and

[SERVICE PROVIDER]



SERVICE AGREEMENT

This Service Agreement is made on [Insert date] 2021

Between:

- (1) **TRANSPESHAWAR (THE URBAN MOBILITY COMPANY)**, a company incorporated with Security Exchange Commission of Pakistan on 9 February 2017, with company registration number 0105691, whose registered office is at 1st Floor, KPUMA Building, Near Northern Bypass, G.T Road, Peshawar, KPK, Pakistan ("**TPC**" which expression shall include its successors-in-interest and permitted assigns);

And

- (2) a company/firm incorporated in [●], with company registration number [●], whose registered office is at [●] (the "**Service Provider**").

TPC and the Service Provider are individually referred to herein as a "**Party**" and collectively as the "**Parties**".

WHEREAS:

- (A) TPC being a public sector company assigned with operations of BRT Project including its business development and revenue enhancement. Now, it is required to put in place business strategies for various advertising locations, which would best maximise the returns from those locations.
- (B) TransPeshawar requires services and wishes to acquire it from a Service Provider who shall be responsible for providing Advertising Management Services that include provision, installation, operations and maintenance of advertising items and their technical specification mentioned in **Annex E** at designated outdoor advertising locations across the BRT corridor mentioned in **Annex B**, under the terms and conditions of agreement/ contract (hereinafter called the "**Service Agreement**").
- (C) The Service Provider agrees to use and utilize the locations for advertising purpose with the advertising items (above mentioned) for promoting marketing ventures of its customers against which the Service Provider would pay consideration/rents of quarterly payments in Pakistani currency to TransPeshawar under the terms of the aforementioned agreement.
- (D) the Service Provider agrees to commence its services once the contracts/ agreement between the parties have been concluded and properly executed.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, and other good and valuable considerations, TPC and the Service Provider agree as follows:

PART A – GENERAL

1. Preliminary Matters



1.1 Definitions and Interpretation

1.1.1 The defined words and expressions set out in Clause 1 of Annex A (*Definitions*) hereof and the provisions relating to the construction and interpretation of the Services Agreement set out in Clause 2 of Annex A (*Interpretation*) hereof shall apply to the Services Agreement.

1.2 Effect of this Service Agreement

1.2.1 The Parties hereby agree that this Service Agreement shall immediately be binding on them as of the Effective Date.

1.2.2 TPC shall issue notice to Service Provider giving intimation of submission of quarterly advance rent within 14 days of such Service Notice. Failure to deposit Quarterly advance rent, TPC shall have the right to withdraw partial amount from Performance Guarantee equal to quarterly rent. Service Provider is bound to replenish the Performance Guarantee within the stipulated time else TPC will have the right to cease the contract or opt for other remedy as deemed appropriate.

1.2.3 Upon submission of Quarterly payment, TPC shall issue a Commencement Notice mentioning date (Commencement Date) from which monthly rent will start. This date shall not be later than 14 days. From the Commencement date the Service Provider shall manage and use the locations for the purpose under the contract.

1.2.4 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) Letter of Award;
- b) the body of this Agreement, including Annex A;
- c) Request for Proposal

PART B – LOCATION USE AND MAINTENANCE OBLIGATIONS

2. Advertising Location Use

2.1 TPC by signing this agreement shall indicate its consent to grant the Service provider, to use the specified locations for services with the effect as of the Commencement Date or as mentioned otherwise.

2.2 TPC permits the Service provider to use the Locations for the term specified in Clause 2.2 (*Commencement and Term*) of this agreement. The Service Provider cannot require TPC to grant the rights to any 3rd person other than the Service Provider.

2.3 The Service Provider hereby agrees to use the Locations in accordance with the terms and conditions of the Service Agreement and the Applicable Laws, including all applicable labor, environmental and health and safety regulations.

2.2 Commencement and Term:



- 2.2.1 Notwithstanding the Effective Date, the Service Provider shall commence using the Locations on the Commencement Date and shall continue using the Locations for the initial period of [three (3) years] (the "**Initial Term**"), unless this agreement is terminated earlier in accordance with the termination provisions hereof.
- 2.2.2 The Initial Term shall be renewed for a renewal term of [one (1) year] or such other period, unless at least thirty (30) days prior to the expiry of the Initial Term, either Party gives the other Party a written notice of its intention not to renew this agreement.
- 2.2.3 Notwithstanding anything to the contrary herein contained, the Service Provider shall only commence using the specified Locations upon payment of the consideration deposited through applicable and acceptable bank instrument in the name of CEO TransPeshawar for advance quarterly payment calculated based on Annex C (*Rent and Rent Deposit Account*) of this agreement.

3. Hand-over of the Locations

- 3.1 At the time of the hand-over of the Locations, the Service Provider and TPC shall jointly carry out an inspection of the Locations. The state of the Locations shall be recorded in writing and that record shall be signed by TPC and the Service Provider.
- 3.2 The Service Provider acknowledges that prior to the Effective Date, TPC has given the Service Provider the opportunity to inspect, survey and carry out investigations as to the condition of the Locations, and the Service provider accepts the condition of the Locations.
- 3.3 TPC and Service Provider shall also sign joint electricity meter reading of the Locations, if applicable.

4. Advertising Services Management:

- 4.1 The Service provider agrees and undertakes:
- (a) not to use the Advertising Locations other than as agreed in the agreement;
 - (b) to keep the Advertising Locations clean, tidy and clear of rubbish.
 - (c) to make sure that the Advertising Locations are properly maintained in accordance with the terms set out in the Services Agreement;
 - (d) at all times during the term of this Service Agreement, to ensure that the Advertising Locations are kept in a state of good repair and in a satisfactory operational condition and are maintained in accordance with the provisions of this Service Agreement;
 - (e) to get permission or get licence or approval from district, town, any other government agency along with payment of their charges, fees, taxes etc.
 - (f) to keep detailed maintenance and repair records for the duration of this Service Agreement. TPC shall be entitled to audit such records upon giving the Service Provider no less than twenty-four (24) hours' notice;



- (g) not to make any fixation of advertisement, repairs, alterations or changes in the operation hours i.e., 5AM to 11:59PM, apart from repairs, alterations or changes which do not interrupt BRT Services. In addition, prior approval from TPC is required to access the BRT corridor.
- (h) not to make or allow to be made any alterations or additions whatsoever (including external, internal, structural or non-structural) to the Advertising Locations, including electrical, mechanical and plumbing installations, without TPC's prior written approval. Permission for installation mechanism is mandatory requirement;
- (i) not to do or permit to be done on the Advertising Locations anything which is illegal or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to TPC or to Service Provider or any owner or occupier of neighbouring properties;
- (j) to organise the provision of and payment for all services in connection with the Advertising Locations, including insurance, assessments, utility charges, rates, all repairs and services;
- (k) to refrain from interfering with the electrical or plumbing serving the Advertising Locations, except as may be strictly necessary to enable the Service Provider to carry out its obligations of maintenance and repair under this Service Agreement;
- (l) not to cause or permit to be caused any damage to (i) the Advertising Locations, the Properties or any neighbouring properties; and (ii) any property of the owners or occupiers of the Advertising Locations or any neighbouring properties;
- (m) not to obstruct entrances and exits of the Advertising Locations, make them dirty or untidy or leave any rubbish on them;
- (n) to comply with the Applicable Law and with any recommendations of the relevant suppliers/agency relating to the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Advertising Locations;
- (o) to observe any occupancy rules and regulations TPC makes and notifies to the Service Provider from time to time governing the Customer's use of the Advertising Locations;
- (p) to leave the Advertising Locations in a clean and tidy condition and to remove the Customer's equipment and goods from the Advertising Locations at the end of the term of the Service Agreement in accordance with the provisions of the Service Agreement;
- (q) to indemnify TPC and keep TPC indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability in any way arising from: (i) this Service Agreement; (ii) any breach of the Service Provider's undertakings contained in this Clause 4.1; and/or (iii) the exercise of any rights described in Clause 2 (*Advertising Location Use*) of this Service Agreement;
- (r) to ensure the Advertising Locations are thoroughly secured and arrange and manage security for the Advertising Locations, as approved by TPC;



(s) shall be responsible for removing of illegal streamers, posters or other material in area handed over for advertisements and shall take necessary measures to stop or remove unauthorized banners, streamers or such deemed to be inappropriate by TPC;

(t) shall remove any obstruction within 15 minutes which hinders safe bus operation and such prescribed time for unauthorized or inappropriate banners, streamers. If not removed with such prescribed time, TPC will remove at cost and risk of Service Provider.

(u) to ensure display of content at all times. In case the Service Provider does not have any replacement advertisement/content, it may be substituted by displaying public service content after approval from TPC;

(v) agrees to allow free of cost 10% airtime (calculated on monthly basis) to display advertisement content regarding awareness of bus operation or government awareness campaigning videos;

(w) to allow Government based social welfare campaigns or awareness drives free of cost;

4.2 Service Provider shall maintain the following standards at each Advertising Location:

- a) All advertisement locations shall be installed with uniform dimensions and sequence as approved by TPC mentioned in Annex E;
- b) Service Provider shall not encroach corridor for installation, maintenance and replenishment of advertising material without prior approval from TPC;
- c) Depute employee permanently during operation hours for removal of any obstructions along the corridor within 15 minutes response period which effects bus operations. Such instructions may be issued via SMS, email or message etc;
- d) Service Provider shall not interrupt or take such any actions without TPC approval such as power connections, installation in corridor etc;
- e) Service Provider shall make sure to restore or maintain TPC property immediately to original position, if disturbed by Service Provider;
- f) to keep the advertising locations clean, tidy and clear of rubbish;
- g) Shall not allow any advertising content which are prohibited under the Law or local culture and ethical standards or controversial content;
- h) Service Provider shall not do such act or actions which harm passengers of TPC and bus operation;
- i) Service Provider in no way shall deal or discuss or interrupt with other contractors of respective BRT operation.

Notwithstanding anything contained in any other provisions of the Service Agreement or its Annexes; employees, staff members, agents, assignees, labor, worker etc. whether formal or informal being applied for a task or work to do by the Service provider in the performance of its functions. The Service Provider would be responsible and liable for the cost and compensation against any harm, damage, and interference done to BRT Transit System by the aforementioned individuals or persons.



4.3 TPC shall for the purpose of Advertising Service shall:

- a) Be entitled to conduct unscheduled inspections of the Locations to ensure that they continue to be in compliance with the Service Agreement including laws and are in satisfactory operational condition (fair wear and tear excluded). If the Locations are found not to be in compliance with the conditions of agreement or in unsatisfactory condition, TPC shall immediately inform the Service provider and shall, within two (2) weeks, effect the required compliance including repairs/maintenance at its own cost;
- b) Disconnect electricity, if the Service Provider fails to pay electricity bills in accordance with the agreement or Service Provider failed to pay or delayed the quarterly payment;
- c) Impose Liquidated damages @ Rs. 5000 per instance for any violation of the Contract with maximum cap of 10% of the monthly contract value which may adjustable/deducted against mentioned Bank Guarantee;
- d) Recover or demand costs from Service Provider for damages caused to TPC assets;
- e) Be entitled to issue notices to Service Provider for upkeep of the locations and in accordance with the agreement and maintain standards of Advertisement; and
- f) Have the right to issue protocols / procedures for use of pathway or other regulation to use pathway in the BRT Corridor.
- g) TPC with the consent of Service Provider may assign additional locations which can increase location quantities up to 100% of the existing location quantities at any time during the term of agreement. The payment for additional quantities will be based on pro-rata basis for the respective item(s).

5. **Co-operation with Other Contractors**

- 5.1 Where interaction between the Service Provider and any Other Contractors/Service Providers is required in accordance with this Agreement, in practice or in accordance with a Service Notice or Protocol, for the efficient and effective operation of the BRT system, the Service Provider shall co-operate with Other Contractors/Service Providers and shall take such reasonable steps as may be required to formulate the necessary operating procedures and practices by agreement with Other Contractors, in accordance with the Service Notice or Protocol, as the case may be.
- 5.2 Should the Service Provider and Other Contractors fail to reach an agreement as contemplated in clause 5.1, TPC shall be entitled to issue a Protocol to regulate their interaction or make a final determination in the event of a dispute between them, as the case may be.
- 5.3 In all event, notwithstanding the provisions above, TPC shall at all times be entitled to issue Protocols regulating the interaction between the Service Provider and Other Contractors/Service Providers.
- 5.4 The Service Provider shall be obliged to follow and implement such Protocols, which, in the event of a conflict, shall supersede any agreement between the Service Provider and Other Contractors in accordance with clause 5.1 above.



PART C – FINANCIAL MATTERS

6. Rent

- 6.1 The amount of Quarterly Rent shall be as per Annex C.
- 6.2 As consideration the Service Provider shall affect the Rent to TPC on quarterly basis as per condition of contract. The Rent shall (i) be payable, one month in advance at the start of each quarter; (ii) be paid to TPC in favour of “Chief Executive Officer TransPeshawar” or any other payment method agreed to by TPC, without deductions, bank charges, set-off or exchange and exclusive of all charges including Government Taxes.
- 6.3 Upon such payment of the Rent, the Service Provider shall furnish TPC with documentary proof, reasonably satisfactory to TPC, of having affected the same.
- 6.4 In the event that the Rent due and owing by the Service Provider to TPC under this agreement is not paid promptly on due date, then such overdue amount shall, without prejudice to any other rights or remedies which may vest in TPC, attract interest at the SBP interest rate plus three (3) percent, from due date to date of payment. For the purposes of this Clause, "SBP interest rate" means the benchmark interest rate of the State Bank of Pakistan.
- 6.5 In case of delay of quarterly Rent payment beyond two months, TPC reserve the right to liquidate Performance Guarantee by an amount equal of quarterly payment plus liquidated damages mentioned in Clause 6.4 above.

7. Taxes, Duties and Fees

- 7.1 To the extent that the use of the Locations pursuant to this agreement is taxable, the Service provider agrees to bear all taxes, charges, duties and/or tariffs under Local and/or National Laws, except income tax on rent received by TPC from the service provider. In respect of income tax, all requirement related to the Income Tax Ordinance and respective rules should be complied with by the service provider. The Service Provider shall be responsible for assessment and payment of taxes, charges, fee etc. regarding advertisement services to district, town or any other government agency.

8. Utilities

- 8.1 The Service Provider shall be liable to pay to TPC a fix amount of Rs: 233,178/-* per month for 60 SMD units; on account of electricity consumption. Electricity Bill calculation is carried out on the assumption that each SMD shall be rated power 250Watts and shall remain operational for 18 Hours per day. In case any variation in operational hours or SMD wattage, both parties shall mutually finalize the electricity consumption charges as per following:
- = Applicable per unit rate for Commercial facility as per NEPRA plus Generator fuel adjustment charges @ Rs.3 per unit X KW of the SMD unit X No. of SMD units X operational hours X 30 days + applicable GST= [24.5 (Unit Rate (3) + NEPRA Rate (21.5) X 60 (SMD Units) X 0.25 (Unit KW) X 30 (Days) X 18 (No. of Hours)] X 1.175 (GST).



The total electricity consumptions will be updated as per changes in fuel adjustment rate, NEPRA rate, No. of SMD's, change in rated power of SMD and GST only.

- 8.1.1 This option requires modification in existing street light circuitry which shall be the responsibility of the Service Provider and the cost involved shall be borne by Service Provider. The operational hours may be changed if the SMD operations are linked with TPC energy plan of street lights. In this case light circuit modification shall not be required.
- 8.1.2 The cost and risk of permission from government agency for advertisement services will rest with the Service Provider.
- 8.2 Alternatively, TPC shall allow the Service provider to install calibrated/PESCO approved KWH Check meter(s) and associated cabling required for the SMD throughout the stretch at their own risk and cost. In this situation the Service Provider will be responsible for opening and closing of manhole covers, cable pulling, conduit clearing or any additional work related to the agreement. Consumption charges may be calculated as per aforementioned formula. Applicable per unit rate for Commercial facility is as per following formula:

$$= \text{Applicable per unit rate for Commercial facility as per NEPRA plus Generator fuel adjustment charges @ Rs.3 per unit} \times \text{Total units consumed} \times \text{applicable GST} = [24.5 (\text{Unit Rate (3)} + \text{NEPRA Rate (21.5)} \times \text{Total units consumed}) \times 1.175 (\text{GST})]$$

The total electricity consumptions will be updated as per changes in fuel adjustment rate, NEPRA rate, and GST only.

- 8.3 TPC shall do its best provide uninterrupted power supply from PESCO and Generator provided at stations. Service Provider shall be responsible to pay for electricity charges consumed as per above Clause 8.1.

PART D – BREACH AND TERMINATION

9. Breach and Termination

- 9.1 If the Service Provider commits a material breach of this agreement/ contract and fails to remedy the breach within fourteen (14) days after receipt from TPC of a notice calling upon it to do so or such other time as specified by TPC or agreed by the Parties, then TPC shall be entitled, in addition to and without prejudice to any other right it may have under the Applicable Law or in accordance with this agreement, to seek specific performance of this agreement/ contract or to terminate the Service Agreement on notice to the Service Provider and in either event, to recover such damages and losses as it may have sustained, In addition to disconnect the electricity and other utilities.
- 9.2 For the purposes of this Agreement, a material breach shall be if the Service Provider:
- (a) commits a material breach under the Service Agreement; or
 - (b) delegates or sub-contracts this Service Agreement/ contract or part thereof in contravention of the provisions hereof; or



- (c) abandons the Locations or any of its obligations under this agreement; or
 - (d) consistently fails to observe any provision of this agreement/ contract (despite being given notice in relation thereto); or
 - (e) is liquidated, placed under business rescue or is sequestrated (whether provisionally or finally and whether voluntary or compulsorily); or
 - (f) effects a general compromise with its creditors or any other arrangement with its creditors, necessitated by the inability of the Service provider to pay its debts; without informing TPC of its financial viability effecting Service Providers function as per contract.
 - (g) delayed quarterly payment for three months; or
 - (h) or customers of the said Locations interrupts bus operation, interfere or attempts to do so or attempts to restrict entry of passengers to stations; or
 - (i) fails to observe or follow of TPC instructions issued under the agreement after issuance of three notices within a month on same issue; or
 - (j) sign an agreement with third party beyond contractual period.
- 9.3 TPC may at any time without prejudice to any other right it may have under the Applicable Law or in accordance with this agreement, terminate this Service Agreement immediately upon notice to the Service Provider if the Service Agreement expires or is terminated.
- 9.4 In the event of termination or expiration of the Service Agreement:
- (a) TPC shall be entitled to immediately take possession of the Locations and the Service provider shall be required to do all things necessary to this effect, including dismantling of all structures/frames from Locations;
 - (b) the Service Provider shall promptly cause the necessary repair or replacement as per recorded inspection survey to be affected to the Locations at the Service provider's own expense; and
 - (c) any Locations, equipment or other Service Provider's property not removed within ten (10) days after the termination date will be removed by TPC and the costs thereof will be adjusted from the Service provider's account and will be due and payable upon presentation of a relevant invoice. Further, the Service Provider shall be considered as an illegitimate possessor of the Locations and shall be liable for the Rent charged at three (3) times the minimum Rent, for every month that such Locations, equipment or other Service provider's property remain at the Locations.
- 9.5 The Service Provider acknowledges that this agreement shall be terminated immediately upon notice to the Service Provider if the Service Agreement expires or is terminated, unless the Parties agree otherwise in writing. The Service Provider further waives its statutory rights in connection with its right to occupy the Locations at the end of the termination period contained in the agreement.



PART E – MISCELLANEOUS MATTERS

10 No warranties for use or condition

- 10.1 The Service Provider acknowledges that it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by or on behalf of TPC before the date of this agreement as to any of the matters mentioned in Clause 11.1 or Clause 11.2 above.
- 10.2 TPC gives no warranty that the Locations will earn the amount estimated by Service Provider and Service Provider shall do such due diligence at its own cost and risk.

11. Limitation of TPC's liability

- 11.1 Subject to Clause 12.2 below, TPC is not liable for:
- (a) the death of, or injury to the Service Provider, its employees, agent, customers or invitees to the Locations; in terms of compensation or others.
 - (b) damages to any property of the Service Provider or that of the Service Provider's employees, customers or other invitees to the Locations; or
 - (c) any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Service Provider or the Service Provider's employees, customers or other invitees to the Locations in the exercise or purported exercise of the rights granted by Clause 2 (Site Use) of this agreement.
 - (d) Within the scope of the service provider's responsibilities on the ground and/or in the implementation of this contract because of service provider's negligence if there is any harm/damage to TPC property, service provider shall be liable to repairs or bear the expenses or any other damages.

12. Dispute Resolution

12.1 Disputes

For the purposes of this Clause 12, the term "dispute" shall be interpreted in its widest sense and shall include 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. Save as otherwise provided for in this Agreement, any dispute between the Parties arising in connection with this Agreement shall be resolved in accordance with the provisions of this Clause 12.



12.2 Resolution by Chief Executives

Any dispute arising in connection with this Agreement may be referred by either Party to the chief executive of the Service provider and the chief executive of TPC (or such other senior executives as the relevant Party may determine) who shall attempt to resolve the matter within fifteen (15) Business Days of the dispute being so referred to them or within such other time as may be agreed between the Parties.

12.3 Arbitration

If the Parties are unable to resolve the dispute pursuant to Clause 13.2 above, either Party shall refer a dispute to arbitration in accordance with this Clause 13.3 by notifying the other Party in writing of its intention to do so. In case the matter is taken to the arbitration both of the parties will nominate their arbitrators representing from their side and Managing Director Khyber Pakhtunkhwa Urban Mobility Authority (KPUMA) will be the umpire to the arbitrating body.

12.3.1 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 13.3 by reference.

12.3.2 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.

12.3.3 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.

12.3.4 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.

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

12.3.6 The obligations of the Parties shall not be ceased by reason of the arbitration being conducted during the duration of the Agreement.

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

12.3.8 The Parties agree that all interim or final decisions and/or awards of the arbitrator or arbitral panel shall: (i) be binding on the Parties and shall be given effect and implemented forthwith by them; and (ii) 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.

12.3.9 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.

12.3.10 Reference of a dispute to arbitration shall not in any way vitiate nor invalidate the Agreement and the Service provider shall proceed with its obligations under the Agreement with all due diligence.

13. Force Majeure

13.1 For purposes of this clause, "Force Majeure" means an event beyond the control of the Service provider and not involving the Service provider's fault or negligence and not foreseeable. Such events may include, but not restricted to, act of TPC in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes recognized and declared by the political governments i.e., Federal and Provincial Governments.

13.2 That before or after the effect of the aforementioned declarations by the governments, TPC and service provider with their maximum efforts attempt to perform their obligations and coordinate their limitations and restrictions due to force majeure through timely notices. It is also important to notify and inform TPC about the inability of the Service Provider to perform its functions partially or completely and duration shall be mentioned in the said notice or information so that TPC would be able to arrange alternate course of action which shall not be less than thirty (30) days. Further in a condition of where the duration of Force Majeure and its cause remains for limited time, the service provider would be liable to get back to his function subject to TPC prior approval.

13.3 The Service Provider shall not be liable for penalties or termination for default if and to the extent that it's delays in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

13.4 The Service provider shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by Force Majeure event.

14. Communication

14.1 Wherever the Agreement provides for the giving or issuing of approvals, consents, notices or requests, these communications shall be:

14.1.1 in writing and delivered by hand (against receipt), sent by registered mail or courier, or transmitted using any of the systems of electronic transmission agreed between the Parties, including scanned and emailed letters [followed by registered mail]; and



14.1.2 delivered, sent or transmitted to the following address or email address (as applicable) for the recipient's communications:

In the case of TPC:

[Address]

Attention:

[Email]; and

In the case of the Service provider:

[Address]

Attention:

[Email];

14.1.3 provided that: (i) any oral communications shall not become binding upon the Party to whom they are given until they are confirmed in writing; (ii) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and (iii) if the recipient has not stated otherwise, it may be sent to the address from which the communication was issued.

14.2 Any communication addressed in accordance with Clause 12.1 which has been sent by:

14.2.1 registered mail shall be deemed to have been received within [fourteen (14)] days after the same shall have been posted and, in proving such service, it shall be sufficient to produce a registered mail receipt confirming the correct postage address of the addressee in accordance with Clause 14.1; and

14.2.2 electronic mail shall be deemed to have been received on the day of dispatch if dispatched prior to 17.00 hours Pakistan time, but otherwise on the next Business Day, provided that receipt shall not be taken to have occurred if the sender receives an automated message indicating that the email has not been delivered to the recipient.

15. Change in Law

15.1 The Service Provider 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 Service provider under this agreement, the Service Provider 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 Service provider, and the Parties shall discuss the effects of the Change in Law and endeavour to arrive at a resolution.



- 15.2 Any resolution reached between the Parties shall be recorded in writing and such record shall be signed by both Parties.

16. Remedies

- 16.1 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.

17. Confidentiality

- 17.1 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 procure that its employees shall not use the Confidential Information, for any other purpose and shall not disclose such Confidential Information to any third party.
- 17.2 Notwithstanding Clause 17.1 above, 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 17.
- 17.3 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.
- 17.4 The Service Provider 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.

18. Severance

- 18.1 In the event that any provision of the Service 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.

19. No agency

- 19.1 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 intention to bind the other Party in any way or to represent the other Party unless specifically provided to the contrary in this agreement.



19.2 The Service Provider is an independent contractor performing this agreement. The Service Provider and his employees/staff is not an employee or agent of TPC.

20. Corruption and Fraud

20.1 The Service Provider warrants that in entering into the Service Agreement it has not committed any Prohibited Act.

20.2 In the event that the Service Provider is contacted by a Public Official requesting or suggesting that the Service provider act in a manner which would constitute a Prohibited Act, the Service Provider shall immediately provide TPC in writing with full details of the request (including the identity of the Public Official making the request).

20.3 Without prejudice to Clause 20.2 above, the Service Provider shall ensure that its staff undertaking activities in connection with the agreement are subject to similar obligations to those set out in this Clause 20 and the Service Provider shall enforce such obligations.

20.4 In the event that the Service provider fails to comply with the requirements of this Clause 20, TPC shall be entitled to terminate the Service Agreement pursuant to Clause 10 (*Breach and Termination*) of the agreement.

21. Entire Agreement

21.1 This Service Agreement constitutes the entire agreement between the Parties in relation to all matters contained herein, including all understandings, rights, responsibilities, duties and obligations and supersedes all prior arrangements, representations, communications, negotiations, agreements and contracts (whether written or oral) made between or entered into by the Parties with respect thereto prior to the Effective Date. None of the Parties shall have any claim or right of action arising from any undertaking, representation or warranty not included in this agreement.

22. No stipulation for the benefit of a third person

22.1 Save as is expressly provided for in this agreement, no provision of this Service Agreement constitutes a stipulation for the benefit of a third person which, if accepted by the person, would bind any Party in favour of that person.

22.2 Notwithstanding any other provisions there is no third person liability on TPC directly or indirectly in the implementation of services as per agreement. Otherwise, Service Provider would be liable for the interests and cost claimed by the third person.

23. No representations

23.1 A Party may not rely on any representation which allegedly induced that Party to enter into this agreement, unless the representation is provided in this agreement.

24. Amendment

24.1 Except as set out elsewhere in this agreement, no modification, amendment, addendum or variation to the agreement shall be effective or binding, unless it (i) is made in writing; and (ii) expressly sets



out the modification, amendment, addendum or variation to the agreement; and (iii) refers to the Service Agreement; and (iv) is signed and dated by an authorised representative of each Party.

25. Indulgences

- 25.1 The grant of any indulgence, extension of time or relaxation of any provision by a Party under this agreement shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

26. General co-operation

- 26.1 The Parties shall co-operate with each other and shall each execute and deliver to the other Party such other instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out, evidence and confirm their rights and the intended purpose of this agreement.

27. Governing law

- 27.1 This Service Agreement is to be governed, interpreted and construed in accordance with the laws of the Islamic Republic of Pakistan.

28. Language

- 28.1 Unless expressly notified in advance by TPC, the primary language of the agreement shall be English. All documents and communications issued between the Parties shall be in English. Unless expressly notified in advance by TPC, all minutes of meetings shall be issued in English.

29. Independent advice

- 29.1 Each of the Parties hereby respectively agrees and acknowledges that: (i) it has been free to secure independent legal advice as to the nature and effect of each provision of this agreement and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and (ii) each provision of this agreement (and each provision of the Annexes) is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this agreement.

30. Good faith

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

31. Survival of rights, duties and obligations

- 31.1 The Surviving Provisions will survive termination or completion of the agreement.
- 31.2 In the event that the Service Agreement is terminated or completed, neither Party shall be liable to the other Party except: (i) under the Surviving Provisions; or (ii) in respect of any breach of the Service Agreement occurring before such termination or completion; or (iii) any rights or liabilities between the Parties that were pre-existing as at the date of termination or completion.



32. Waiver

- 32.1 Subject to Clause 32.2 below, no relaxation, forbearance or delay by a Party in enforcing the Service Agreement will prejudice, affect or restrict the rights, responsibilities, obligations, powers or remedies of that Party nor shall any waiver by either Party of any such rights, responsibilities, obligations, powers or remedies, or of any breach of the Service Agreement, be deemed to be a waiver of any other right, responsibility, obligation, power or remedy, or of any later or continuing breach of, the agreement.
- 32.2 Any waiver of a Party's rights, responsibilities, obligations, power or remedies arising out of, under or in connection with the agreement shall be in writing, dated and signed by the representative of the Party granting such waiver, and shall specify the right, responsibility, obligation, power or remedy and the extent to which it is being waived. No waiver of a breach of a term of the agreement operates as a waiver of any other breach of that term, or of a breach of any other term, of the Service Agreement.

33. Costs

- 33.1 Any costs, including all legal costs on an attorney and own client basis and taxes, incurred by a Party arising out of or in connection with a breach by another Party shall be borne by the Party in breach.

34. Assignment

- 34.1 The Service provider shall not cede, assign, delegate, novate, sublet, charge or transfer any of its rights or obligations under the Service agreement, or any part of it, or any benefit or interest therein, to any other person.
- 34.2 Notwithstanding anything to the contrary stated in this agreement, TPC shall be entitled, without requiring the consent of the Service provider, to cede, assign, delegate, novate or transfer any rights and/or obligations under this agreement to any third party.

35. Performance Guarantee

The Service provider shall ensure that it maintains with TPC a valid and enforceable Performance Guarantee (**Annex D**) until the Service provider has fulfilled all of its obligations under the Agreement. The Service provider shall have delivered to TPC within 28 days of issuance of Letter of Award, the duly executed Performance Guarantee to the amount of 10% of the Total contract price (PKR) for the due and punctual fulfilment of all obligations and due and punctual payment of all amounts which may at any time be or become owing by the Service provider to TPC before commencement of Services. The Performance Guarantee shall have a term of [one (1) year] and shall be renewed or replaced no later than thirty (30) days before its expiry. Such renewed or replacement Performance Guarantee shall be delivered to TPC no later than fifteen (15) days prior to the expiry of the existing Performance Guarantee. TPC shall return the previously provided Performance Guarantee to the Service provider within ten (10) days of the receipt of the replacement Performance Guarantee.



- 35.1 The Performance Guarantee shall be issued by a scheduled bank of Pakistan, as approved by TPC.
- 35.2 If the Service provider fails to provide TPC with a replacement Performance Guarantee as required under this Agreement, TPC may (without prejudice to its other remedies) immediately liquidate all or part of the Performance Guarantee.
- 35.3 If the Performance Guarantee is partially liquidated, the Service provider is obliged to replenish the Performance Guarantee in full within seven (7) days of the date of any liquidation thereof. If the Service provider fails to replenish the Performance Guarantee in accordance with this Clause, this shall constitute a breach of this Agreement and TPC shall be entitled to liquidate the remainder of the Performance Guarantee and terminate this Agreement pursuant to Clause 10 [*Breach and Termination*] of this Agreement.
- 35.4 The Service provider shall not be entitled to set-off against the Performance Guarantee any amount payable by it under the terms of this Agreement.
- 35.5 Subject to the fulfilment by the Service provider of all of its obligations under this Agreement, the Performance Guarantee shall be released by TPC within thirty (30) days after the Termination Date.
- 35.6 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 Service provider.

This Service Agreement has been executed on the date stated at the beginning of this agreement.

Signature and Seal for and on behalf of TransPeshawar:

Name of Authorized Representative

Witness # 1:

Name:

CNIC:

Signature and Seal of Service Provider:

Name of Authorized Representative

Witness # 2:

Name:

CNIC:



ANNEX A

DEFINITIONS AND INTERPRETATION

1. Definitions

1.1 In the agreement, the following words and expressions shall have the meanings set out below:

1.1.1 **“Annexes”** means the annexes attached to this agreement;

1.1.2 **“Applicable Law”** means any constitution, statute, ordinance, treaty, decree, proclamation or subordinated legislation or other legislative measure, as amended from time to time, including all national and provincial statutes and legislation and all municipal by-laws, as well as the common law and customary law and any judgment, decision, order or rule of any court or tribunal with relevant jurisdiction and any decision made by judicial or administrative bodies in accordance with any of the foregoing;

1.1.3 **“Business Day”** means any day other than a Saturday, Sunday or public holiday in the Islamic Republic of Pakistan;

1.1.4 **“BRT Transit System”** means the sustainable BRT transit and complimentary urban mobility and public transport system meant for movement of passengers from one place to other within the BRT transit area;

1.1.5 **“Change in Law”** means: (a) the adoption of a new law; or (b) a change in or repeal of an existing law, which after the Effective Date results in: (i) a change in the taxes, duties or levies payable by the Customer in respect of the use of the Advertising Locations; or (ii) a change in or the repeal of any other requirement for the performance of the obligations under this agreement;

1.1.6 **“Customer”** is an individual or company that rents, consumes or buys an advertising service and can choose between different options.

1.1.7 **“Commencement Date”** means the date indicated as the Commencement Date in the service notice given to the Service Provider by TPC in accordance with clause 2.2 of the Service Agreement;



1.1.8 **"Confidential Information"** means all information, without limitation, of whatsoever nature:

- (a) relating to the Disclosing Party's business, operations, processes, drawings, sketches, plans, models, product information, know-how, market opportunities, customers and business affairs;
- (b) relating to the relationship of the Disclosing Party with its customers and suppliers; or
- (c) relating to the contents of this agreement and any other information received pursuant to this agreement, but excludes information which:
 - (i) is required to be disclosed under any law or regulation, or by any Regulatory Body, including any stock exchange on which a Receiving Party may be listed, provided that the Receiving Party in question shall first consult with the Disclosing Party before making any such disclosure, statement or announcement; or
 - (ii) is in the public domain or enters into the public domain in any way, provided that the entry of such information into the public domain did not entail a breach of this agreement by the Receiving Party; or
 - (iii) the Receiving Party can show it was within its possession or knowledge, such information being in its use or having been recorded in its files, computers or other recording media, prior to receipt thereof from the Disclosing Party and which information was not previously acquired by the Receiving Party under any obligations of confidence or unlawfully; or
 - (iv) is disclosed by the Receiving Party with the prior written approval of the Disclosing Party; or
 - (v) was disclosed by the Disclosing Party to a third party without restriction on disclosure or use, including without limitation, by way of a patent specification; or
 - (vi) is hereafter disclosed or made available in good faith to the Receiving Party from a source other than the Disclosing Party, without breach by the Receiving Party of any obligation of confidentiality or non-use owed to the Disclosing Party or without breach by such other source who, to the knowledge of the Disclosing Party, is not subject to an obligation of confidentiality or non-use owed to the Disclosing Party; or
 - (vi) is developed independently by the Receiving Party without reference to the Confidential Information;

1.1.9 **"Service Agreement"** means the agreement made on [•] between the Parties whereby TPC grants to the Service Provider an exclusive right to operate and services for commercial activities at certain Locations;

1.1.10 **"Consumer Price Index"** means the official measure of inflation in the Islamic Republic of Pakistan as published by the Pakistan Bureau of Statistics;

1.1.11 **"Disclosing Party"** means the Party disclosing Confidential Information to the Receiving Party;



- 1.1.12 **"Effective Date"** means when this agreement has been signed by each Party, the latest of the dates upon which this agreement was signed by any Party;
- 1.1.13 **"Initial Term"** has the meaning given to it in Clause 2.2.1 of this agreement;
- 1.1.14 **"Party"** means a party to this Agreement;
- 1.1.15 **"Prohibited Act"** means:
- (a) offering, giving or agreeing to give to a Public Official a gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act; or
 - (ii) showing or not showing (or for having shown or not shown) favour or disfavour to any person, in relation to the award or performance of the agreement or any other agreement with TPC; or
 - (b) entering into an agreement for which commission has been paid or has been agreed to be paid by the Customer or on its behalf, or to its knowledge, unless before the relevant agreement is entered into, particulars of any such commission and of the terms of any such agreement for the payment thereof have been disclosed in writing to TPC; or
 - (c) committing any offence under the Applicable Law creating offences in respect of fraudulent acts; or
 - (d) defrauding, attempting to defraud or conspiring to defraud TPC;
- 1.1.16 **"Advertising Locations"** means [*Light Poles, Pedestrian Bridges, Overhead Bridge Pillars*], as further described in Annex B (*Advertising Locations*), where the Advertising Locations are located;
- 1.1.17 **"Public Official"** means an official or employee of a government owned or controlled enterprise or any Regulatory Body and shall include any individual defined as a public official in an Applicable Law;
- 1.1.18 **"Receiving Party"** means the Party receiving Confidential Information from the Disclosing Party;
- 1.1.19 **"Regulatory Body"** means any governmental, semi-governmental, administrative, fiscal or judicial ministry, department, commission, authority, tribunal, agency, police, notary public or municipality, and shall include the provider of electricity, gas, water, wastewater, telecoms and other such public services, and anybody with a regulatory function under the Applicable Law;
- 1.1.20 **"Rent"** means the amount payable by the Service Provider as set out in Annex C (*Rent and Rent Deposit Account*) of the agreement.
- 1.1.21 **"Rent Deposit Account"** means a bank account where the Rent Deposit is to be paid as set out in Annex C (*Rent and Rent Deposit Account*) of the Service Agreement.
- 1.1.22 **"Surviving Provisions"** means Clause 1 (*Preliminary Matters*); Clause 10 (*Breach and Termination*); Clauses 9-34 (*Part E – Miscellaneous Matters*) and this Annex A;



- 1.1.23 **"Service Provider"** has the meaning given to it in Recital 2;
- 1.1.24 **"TPC"** has the meaning given to it in Recital 1.
- 1.1.25 **"Utilities"** mean water, sewerage, electricity and telephone and such other supplies as are available for the benefit of the Locations from time to time.

2. Interpretation

2.1 In the Service Agreement:

- 2.1.1 in the event of conflict between the Annexes and the provisions of the Service Agreement (excluding the Annexes), the provisions of the Service Agreement shall prevail;
- 2.1.2 any definition in this agreement, shall bear the same meaning and apply throughout this agreement including Annexes hereto, unless otherwise stated or inconsistent with the context in which it appears;
- 2.1.3 the singular includes the plural and vice versa;
- 2.1.4 a reference to a statutory provision includes any subordinate legislation made from time to time under that provision and includes those provisions as amended, consolidated, re-enacted or replaced from time to time;
- 2.1.5 a reference to a document includes the document as modified from time to time and any document replacing it, in each case in the manner permitted by the Service Agreement;
- 2.1.6 a reference to a gender includes the other genders;
- 2.1.7 a reference to any government agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed ("defunct body"), means the agency or body that performs most closely the functions of the defunct body;
- 2.1.8 a reference to an "agent" shall mean any person with a contractual relationship with a Party and carrying out activities or obligations on behalf of that Party;
- 2.1.9 references in this agreement to "Clauses" or to "Annexes", are to clauses of and Annexes to this agreement;
- 2.1.10 references to notices or requests made or received by any of the Parties shall, unless expressly provided otherwise in this agreement, refer to notices or requests in writing;
- 2.1.11 references to "agree" or "agreed" shall require the agreement to be recorded in writing and signed by the authorised representatives of the Parties;
- 2.1.12 no rule of construction shall be applied to the disadvantage of a Party to this agreement because that Party was responsible for or participated in the preparation of this agreement or any part of it;
- 2.1.13 unless otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a Business Day, the next succeeding Business Day;



TransPeshawar (The Urban Mobility Company)

A company set up under section 42 of the Companies Act, 2017

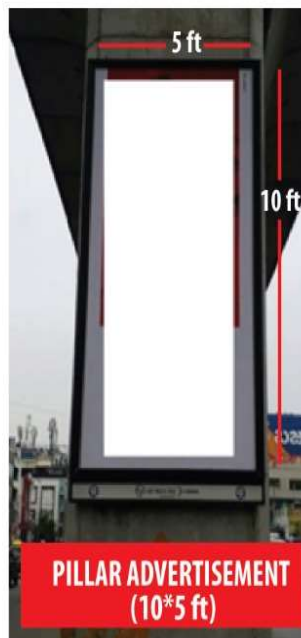
- 2.1.14 references to day/s, month/s or year/s shall be construed as Gregorian calendar day/s, month/s or year/s, as the case may be;
- 2.1.15 if a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;
- 2.1.16 the use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and it shall be construed as if it were followed by “without being limited to”.



TransPeshawar (The Urban Mobility Company)

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ANNEX B ADVERTISING LOCATIONS





ANNEX C
RENT DEPOSIT AND RENT DEPOSIT ACCOUNT

Year	Quarter	Rent for Street light poles for display of (6x3ft) Aluminium/Steel framed Streamers fixed at 10-15 ft. height from ground level (As per specification in Annex E) (QTY 250)	Rent for Double sided (Two-way traffic) Pillar advertisement for display of (10x5ft) Aluminium/Steel frames fixed at 10ft from ground level (As per specification in Annex E) (QTY 100)	Rent for Digital Pole Streamer P-6 Outdoor SMD for display (6x3ft) fixed at 10-15 ft. height from ground level (As per specification in Annex E) (QTY 60)	Rent for Double Sided (Two-way traffic) Pedestrian Bridge Banner for display of (50x8ft) Aluminium/Steel framed banner fixed towards two-way traffic (As per specification in Annex E) (QTY 10)
1	1				
	2				
	3				
	4				
2	1				
	2				
	3				
	4				
3	1				
	2				
	3				
	4				
Sub-Total		I	II	III	IV
Grand Total (I+II+III+IV)					

Rent Deposit Account details are as follows:

CEO TRANSPESHAWAR

Bank Name: The Bank of Khyber

Account Number: 0001 0000 1182 4005



TransPeshawar (The Urban Mobility Company)

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ANNEX D

PERFORMANCE GUARANTEE FORM

[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> 2020 (the “**Guarantee**”)

Ref: Letter of Award for **Advertising Management Services at Peshawar BRT Corridor** dated <Insert date> 2020 (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

We <Insert name of Bank> Bank (the “**Guarantor**”) have been informed that <Insert name of the Company> (the “**Service Provider**”) has been awarded the Agreement relating to **Advertising Management Services at Peshawar BRT Corridor** (the “**Project**”).

- 1.1 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 Service Provider 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) days of receipt of the employer’s demand for payment stating that the Service Provider 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

27

Address: 1st Floor, KPUMA Building, Main BRT Depot, Near Northern Bypass, GT Road, Chamkani, Peshawar KPK, Pakistan.

Tel: +92 91 2621393-4

Web: www.transpeshawar.pk

Email: info@transpeshawar.pk



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 to the contact details of the addressee stated in Schedule 1 (the “**Contact Details**”),
- 5.2 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:</p> <p>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:</p> <p><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>



ANNEX E

ADVERTISING ITEM SPECIFICATION

<p>ITEM # 1:</p> <p><u>STREET LIGHT POLE STREAMER:</u> (Light poles assigned after Tehkal Payan station till the start of Tehkal Bala station and in continuation from University Town Junction to Karkhano Market (excluding elevated portion))</p> <ul style="list-style-type: none">• (Dimension: 6 X 3 ft (72 (H) X 36 (W) Inches)• Outer frame: 2 inches• Corrosion Protection Aluminium/Steel frame with thickness between 18 to 20 gauge.• Shape: Rectangle• Type: Non-Lighting• Installation: Fixed Top and bottom clamps.	<p>ITEM # 2:</p> <p><u>PEDESTRIAN BRIDGE BANNER:</u> (Pedestrian bridges assigned from Tehkal Bala to Hospital chowk Station (excluding Mall of Hayatabad station i.e., elevated))</p> <ul style="list-style-type: none">• Dimension: 50 X 8 ft (600 (W) X 96 (H) Inches)• Corrosion Protection Aluminium/Steel frame with thickness between 18 to 20 gauge. Angle iron for support between the Banner frame and bridge railing shall be 1.5 to 2 inches. Front panel sheet for flex installation shall be at least thickness of 28 gauge.• Shape: Rectangle• Type: Non- Lighting• Installation: to be fixed at all corners with the bridge railing for firm support.
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ITEM # 3:

PILLAR ADVERTISEMENT: (elevated bridge pillars assigned for advertisement that are located at multiple locations between Tehkal Payan to Karkhano Market)

- **Dimension: 10 X 5 ft (120 (H) X 60 (W) Inches)**
- **Outer frame: 2 inches**
- **Corrosion Protection Aluminium/Steel frame with thickness between 18 to 20 gauge.**
- **Shape: Rectangle**
- **Type: Non-Lighting**
- **Installation: Fixed from top and bottom.**

ITEM # 4:

DIGITAL POLE STREAMER (SMD): (Light Poles for installation of SMD assigned from start of Tehkal Bala Station to University Town Junction)

- **Dimension: 6 X 3 ft (72 (H) X 36 (W) inches)**
- **Application: Outdoor**
- **Tube Chip Colour: Full colour**
- **Pixel Pitch: 6mm**
- **Temperature: 35°C - 50 °C**
- **Video signal (with video processor): AV, S-video, VGA, DVI, YPbPr, HDMI, SDI, DP**
- **Colour and brightness Level: Adjustable by software**
- **Control way: Computer, video-synchronous, real-time, off-line, wireless, internet etc.**
- **Installation: As per standard mechanism**