



# MUMBAI METROPOLITAN REGION DEVELOPMENT AUTHORITY

---

MASS RAPID TRANSIT SYSTEM  
FOR  
VERSOVA-ANDHERI-GHATKOPAR CORRIDOR IN MUMBAI

---

VOLUME IV C of IV

SUBSTITUTION AGREEMENT

**RELIANCE Energy**  
Anil Dhirubhai Ambani Group

**VEOLIA**  
TRANSPORT

---

## SCHEDULE P

### SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is made at [●] on this the [●] day of [●] \_\_\_\_\_

#### BETWEEN

1. **Mumbai Metropolitan Region Development Authority (MMRDA)** established under the Mumbai Metropolitan Region Development Authority Act, 1974 having its Administrative Office at Bandra Kurla Complex Bandra (East), Mumbai-400 051 hereinafter referred to as "**MMRDA**" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);
2. [●], a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at [●] (hereinafter referred to as the "**Concessionaire**" or "**Company**" which expression shall unless repugnant to the context or meaning thereof include its successors and assigns);

#### AND

[●] having its registered office at [●] in its capacity as Lenders' Representative acting for and on behalf of the Senior Lenders listed at Annexure 1 hereto (hereinafter referred to as the "**Lenders' Representative**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns).

(MMRDA, the Concessionaire, the Consortium Members, the O&M Contractor and the Lenders' Representative are hereinafter collectively referred to as the "Parties" and individually are hereinafter referred to as "Party").

#### WHEREAS

- A. By the Concession Agreement dated [●] entered into between MMRDA and the Concessionaire, MMRDA has granted to the Concessionaire the Concession for development and operation of Mass Rapid Transit System for Versova-Andheri – Ghatkopar Corridor in Mumbai in the State of Maharashtra, India on a Build, Own, Operate and Transfer (BOOT) basis through Public/Private Partnership (PPP) subject to and on the terms, conditions and covenants set forth in the Concession Agreement or forming part thereof.
- B. In accordance with the requirement of the Bid submitted by the Consortium Members, the Consortium Members and the MMRDA have jointly incorporated a special purpose vehicle under the provisions of the Companies Act, 1956 (the "**Concessionaire**") to enter into the Concession Agreement for undertaking, *inter alia*, the survey, investigation, design, engineering, financing, procurement, construction, operation, maintenance, ownership and transfer of the MRTS on a BOOT basis and to fulfill other obligations of the Concessionaire under the said Concession Agreement.
- C. With a view to help facilitate obtaining of financing for the said Project by the Concessionaire so as to enable the Concessionaire to build, operate and maintain the same pursuant to the terms and conditions of the Concession Agreement and the Financing Documents, the Parties have agreed pursuant to Article 33.4 of the Concession Agreement that the Senior Lenders shall have the right to substitute the Concessionaire by Selectee(s) for the residual period of the Concession on the terms, conditions and covenants mentioned herein below.
- D. As a condition to making any disbursement pursuant to the Financing Documents, the

Senior Lenders have required and it is deemed necessary and expedient to record the terms, conditions and covenants of the above agreement between the Parties.

**NOW THEREFORE THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:**

- 1.1 For the purpose of this Agreement, the following terms shall have the meaning hereinafter respectively assigned to them
  - 1.1.1 **"Concession"** shall mean, subject to and in accordance with the terms and conditions set forth in the Concession Agreement, the Applicable Laws and Applicable Permits, all of rights, obligations and covenants granted by MMRDA to the Concessionaire to investigate, study, design, engineer, procure, finance, develop, complete, commission, operate maintain, own and transfer the MRTS Project and to exercise and/or enjoy the rights, powers, privileges, authorizations and entitlements as set forth in the Concession Agreement, including but not limited to the right to levy, demand, collect and appropriate Fare from Commuters and persons liable to payment of Fare for using the MRTS Project or any part thereof and for undertaking Additional Concessions granted by MMRDA as specified in the Concession Agreement.
  - 1.1.2 **"Concession Agreement"** means the Concession Agreement dated //2007 entered into between MMRDA and the Concessionaire granting the Concession to the Concessionaire in respect of the MRTS Project and includes without limitation any amendments thereto made in accordance with the provisions contained in this behalf therein.
  - 1.1.3 **"Event of Default"** means the occurrence of a Concessionaire Event of Default as defined in the Concession Agreement;
  - 1.1.4 **"Financial Assistance"** means the loans, advances and other funding assistance including any syndicated/ participation facility provided by the Senior Lenders as set forth in Schedule I hereto for financing the whole or any part of the Total Project Cost;
  - 1.1.5 **"Financing Documents"** means the documents executed by the Concessionaire in respect of Financial Assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the Financial Assistance and includes amendments or modifications made in accordance with Article 8.2.(iii) of the Concession Agreement;
  - 1.1.6 **"Lenders' Certificate"** shall have the meaning ascribed thereto in Clause 2.2(b).
  - 1.1.7 **"Lenders' Dues"** means the aggregate of all monies owed by the Concessionaire to the Senior Lenders under the Financing Documents.
  - 1.1.8 **"Lenders' Notice of Default"** shall have the meaning ascribed thereto in Clause 2.2(a);
  - 1.1.9 **"Proposal"** shall have the meaning ascribed thereto in Clause 3.1 (iii);
  - 1.1.10 **"Project Agreements"** means this Agreement, the Concession Agreement, and other agreements or contracts entered into by the Concessionaire with MMRDA or others relating to the Project, brief particulars whereof are set forth in Schedule II hereto;

- 1.1.11 **"Total Project Cost"** means the total capital cost of the Project upto the COD as approved by the Senior Lenders and as set forth in the Financing Documents;
- 1.1.12 **"Senior Lenders"** means the financial institutions, non banking financial institutions, banks, funds and agents or trustees of debenture holders or any other source, including their successors and assigns, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all or any part of the Project and who hold pari passu charge on the Concession and the Project Assets (including Project cash flows) granted by this Agreement and have a right of substitution of the Consortium Members and the O&M Contractor Concessionaire pursuant to this Agreement, a list of all such Senior Lenders being set forth in Schedule I hereto;
- 1.1.13 **"Selectee"** means a new Concessionaire proposed by the Senior Lenders pursuant to this Agreement and approved by MMRDA for substituting the Concessionaire for the residual period of the original Concession by amendment of the Concession Agreement or by execution of a fresh Concession Agreement.
- 1.1.14 **"Substitution Notice"** means the notice given by the Lenders' Representative pursuant to Clause 2.2 (c) of this Agreement.
- 1.2 The words and expressions beginning with or in capital letters used in this Agreement not defined in the Concession Agreement, shall have, unless repugnant to the context, the meaning respectively assigned to them in the Concession Agreement.
- 1.3 In this Agreement unless the context otherwise requires:
- a) Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
  - b) The words importing singular shall include plural and vice versa, and words denoting "persons" shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
  - c) The headings are for convenience of reference only and shall not be used in and shall not affect the construction or interpretation of this Agreement;
  - d) Terms beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein;
  - e) The words "include" and "including" are to be construed without limitation;
  - f) Any reference to a "day" shall mean reference to a calendar day;
  - g) Any reference to "month" shall mean reference to a calendar month;
  - h) The Schedules to this Agreement form an integral part of this Agreement and will be in the force and effect as though they were expressly set out in the body of this Agreement;
  - i) Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied,

supplemented, modified or suspended at the time of such reference provided that this Clause shall not operate so as to increase liabilities or obligations of MMRDA hereunder or pursuant hereto in any manner whatsoever;

- j) References to Recitals, Clauses, sub-Clauses, paragraphs, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Clauses, sub-Clauses, paragraphs or Schedules in this Agreement.
- k) Any agreement, consent, approval, authorisation, proposal, notice, communication, information or report required under or pursuant to this Agreement from or by any party or Senior Lender(s) shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or the Senior Lender(s), as the case may be, in this behalf and not otherwise; and
- l) Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both of such days or dates.

#### **SUBSTITUTION OF THE CONCESSIONAIRE BY A SELECTEE**

2.1 MMRDA hereby irrevocably agrees to substitute the Concessionaire by a Selectee (selected by the Senior Lenders in accordance with the provisions of this Agreement and approved by MMRDA) by amendment of the Concession Agreement or by execution of a fresh Concession Agreement in favour of the Selectee for the purpose of securing the payments of the Lenders Dues, provided that nothing contained herein shall entitle the Senior Lenders to operate the Concession themselves as a Concessionaire under and in accordance with Concessionaire Agreement either individually or collectively.

2.2 (a) The Lenders' Representative shall notify by a notice in writing to the Concessionaire, with a copy thereof simultaneously to MMRDA, , about the occurrence of an Event of Default and requiring the Concessionaire to remedy and cure such default within 30 (thirty) days from the date of delivery of such notice of the Concessionaire (the "**Lenders' Notice of Default**"). The Notice of Default shall be accompanied by the Lenders' Certificate.

(b) The "**Lenders' Certificate**" is a certificate issued by an authorised officer of the Lenders' Representative annexed to the Notice of Default certifying:

- (i) The occurrence of an Event of Default, and
- (ii) The Lenders' Dues;

which shall be evidence of occurrence of such Event of Default and of such Lenders' Dues. Such Lenders' Certificate shall be binding upon the Concessionaire for the purposes of this Agreement-

(c) MMRDA and the Concessionaire hereby irrevocably agree that the Lenders' Representative may after 30 (thirty) days of the date of delivery of the Lender's Notice of Default of the Concessionaire and without prejudice to any other right or remedy available to the Senior Lenders under the Financing Document, notify MMRDA and the Concessionaire on behalf of all the Senior Lenders about the Senior Lenders decision to invite, negotiate and procure offers, either through private negotiations or public auction or process of tendering for the residual period of the Concession and the rights and obligations of the Concessionaire under the Concession Agreement, by a Selectee, subject to the approval of such Selectee by MMRDA (the "Substitution Notice").

(d) Upon assumption by the Selectee of the liability and obligations of the

Concessionaire under the Financing Documents and the Concession Agreement including obligation to pay any sums then due and payable to MMRDA under the Concession Agreement, MMRDA shall grant the Concession to the Selectee on the same terms and conditions for the residual period of the original Concession, by amendment of Concession Agreement or, if required by the Lenders' Representative by a separate agreement with the Selectee.

2.3 The Lenders' Representative shall apply the following criteria in the selection of the Selectee :

- i) The Selectee shall be capable of properly discharging the duties, obligations and liabilities of the Concessionaire under the Concession Agreement;
- ii) The Selectee shall provide security to the satisfaction of Senior Lenders for repayment of the Lenders' Dues;
- iii) The Selectee shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues of the Concessionaire to MMRDA under and in accordance with the Concession Agreement and of Lender's Dues upon terms and conditions as agreed to with the Senior Lenders ;
- iv) The Selectee shall have agreed to permit MMRDA to hold [26%] of the paid up equity share capital of the Selectee without any consideration.
- v) The Selectee shall have not been in breach of any agreement between the Selectee and MMRDA; and
- vi) Any other appropriate circumstance, whereby continuity in the performance of the Concessionaire's obligations under the Concession Agreement is maintained and the security in favour of Senior Lenders under the Financing Documents is preserved.

2.4 At any time prior to the acceptance of the Selectee by MMRDA pursuant to this agreement, the MMRDA may require the Lenders' Representative to satisfy MMRDA as to the eligibility of the Selectee and the decision of the MMRDA in this behalf (which shall be reasonable), shall be final, conclusive and binding on the Senior Lenders and the Selectee.

### **MODALITIES**

3.1 The following modalities shall be applicable to any substitution of the Concessionaire by the Selectee pursuant to this Agreement

- i) The Lenders' Representative may invite, negotiate or procure offers either through private negotiations or public auction or process of tender or otherwise for the substitution of the Concessionaire by the Selectee;
- ii) The Lenders' Representative shall on behalf of the Senior Lenders propose to MMRDA pursuant to sub-clause (iii) below, the name of the Selectee for acceptance and shall apply as necessary to MMRDA for:
  - a) grant to the Selectee (as substitute for the Concessionaire) the right to build, construct, complete, maintain, and operate the MRTS Project under and in accordance with and subject to and on the terms and conditions setforth in the Concession Agreement,
  - b) amendment of the Concession Agreement so as to grant to the Selectee on the same terms and conditions, the residual period of the Concession under original Concession Agreement,
  - c) the execution of a new Substitution Agreement with the proposed Selectee for the residual period of Concession on the same terms and

conditions, and

- (iii) The Lenders' Representative on behalf of the Senior Lenders shall be entitled, within a period of 120 (one hundred twenty) days from the date of delivery to MMRDA of the Substitution Notice pursuant to Clause 2(c) above, to select and propose to MMRDA for its approval a Selectee (the "Proposal"). The Proposal of the Lenders' Representative pursuant to this sub-clause (iii) shall contain the particulars and information in respect of the Selectee, the Lenders' Dues and other data and information, all as prescribed in Schedule IV hereto. Without prejudice to the foregoing the Lenders' Representative agrees and undertakes to provide to MMRDA such further and other information and such clarifications in respect of any data, particulars or information furnished pursuant hereto by the Lenders' Representative as MMRDA may reasonably require. MMRDA shall convey its approval or otherwise of such Proposal, including of Selectee, in its sole discretion within 60 (sixty) days of (a) the date of receipt of the Proposal by MMRDA, or (b) the date when last of further and other information and such clarifications in respect of any data, particulars or information comprised in the Proposal, as have been provided in the Lenders' Representative to MMRDA, whichever is later. It is expressly agreed that the Proposal shall be accompanied by an unconditional undertaking of the Selectee that it shall upon approval by MMRDA of the Proposal including the Selectee, observe, comply, perform and fulfill the terms, conditions and covenants of the Concession Agreement which according to its terms are required to be observed, complied with, performed and fulfilled by Concessionaire thereunder on the footing as if such Selectee were the Concessionaire under the Concession Agreement and shall be liable for and shall assume, discharge and pay the Lenders' Dues to the Senior Lenders under and in accordance with the Financing Documents. Upon approval of the Proposal including of the Selectee by MMRDA, such Selectee shall become the Selectee hereunder.
- (iv) MMRDA shall, upon its satisfaction of the eligibility of the Selectee and in accordance with the provisions of this Agreement and subject to the provisions of Sub-clause (v) below proceed to substitute the Concessionaire or the Selectee by amendment of the Concession Agreement or by execution of fresh agreement or such other writing as MMRDA may reasonably require on the same terms and conditions for the residual period of the Concession in favour of the Selectee.
- (v) The substitution as aforesaid shall be subject to the Selectee, obtaining requisite MMRDA/State Government approvals, clearances and permission necessary for operating the Concession under and in accordance with the Concession Agreement.
- (vi) The objection if any of MMRDA to the substitution as aforesaid shall be reasoned and be made, after hearing the Lenders' Representative, provided however, that in the event of a refusal as stated above, the Lenders' Representative may propose another Selectee. In the event that no objection is raised with respect to the Selectee by MMRDA within the period set forth in sub-clause (iii) above, the Selectee shall be deemed to have been accepted by MMRDA. MMRDA shall, subject to the provisions of Sub-clause (v) above, grant the Concession for the residual period within 15 days of its acceptance/deemed acceptance of the Selectee.
- (vii) The substitution as aforesaid, pursuant to the security interest hereby created in favour of the Senior Lenders, shall be deemed to be complete only upon the Selectee as Concessionaire accepting and complying with the terms and conditions stipulated in the Concession Agreement.
- (viii) The decision of the Senior Lenders and MMRDA in the selection of the

Selectee shall be final and binding on the Concessionaire and shall be deemed to have been made with the concurrence of the Concessionaire and the Concessionaire hereby expressly waives all rights to objects to or challenge such selection of the Selectee on any ground whatsoever. No third party shall have the right to question the decision of the Senior Lenders/Lenders' Representative and MMRDA,

- (ix) All actions of the Lenders' Representative hereunder shall be deemed to be on behalf of the Senior Lenders, and be binding upon them. The Lenders' Representative is authorised to receive payment of compensation, payment to cure default and any other payments, consideration for transfer in accordance with the Substitution Notice and the Financing Documents and give valid discharge on behalf of all Senior Lenders.
- 3.2 The terms and conditions for substitution of the Concessionaire by the Selectee shall be proposed by the Senior Lenders through the Lenders' Representative to the MMRDA for its approval, at least 2 months prior to the anticipated date of substitution.
- 3.3 The Concessionaire hereby irrevocably agrees and waives any right to challenge the Senior Lenders' decision to apply to MMRDA for substitution as aforesaid and neither the Concessionaire nor MMRDA shall be entitled to prevent the Lenders' Representative from proceeding to, seek such a substitution of the Concessionaire by Selectee as herein before provided. The Parties acknowledge that the rights of the Senior Lenders hereunder are irrevocable and shall not be contested in any proceedings before any court of authority and the Concessionaire shall have no right or remedy to prevent, obstruct, injunct or restrain MMRDA and/or the Senior Lenders from effecting or causing the substitution as aforesaid.
- 3.4 Where no suitable Selectee can be found by the Lenders' Representative, or MMRDA shall decide to take over the Concession then MMRDA shall advise the Lenders' Representative of all steps it proposes to take under the Concession Agreement for determination of Termination Payments thereof.
- 3.5
  - (i) If MMRDA decides to substitute the Concessionaire by any other person (MMRDA Nominee), it shall take into account the Senior Lender's Dues while considering offers from such persons and shall include a suitable condition as agreed to by the Lenders' Representative on behalf of the Senior Lenders for payment or take over of such dues by such MMRDA nominee to the extent agreed by the Lenders' Representative while substituting the Concessionaire by the MMRDA nominee. The MMRDA nominee shall similarly be bound to execute a supplementary/fresh substitution agreement on the same terms and conditions as provided herein.
  - (ii) Notwithstanding anything contained in Clause 3.4 and this Clause 3.5, MMRDA shall not be required to take over, upon Termination of the Concession Agreement including the Concession, the liabilities representing the Lender's Dues save and except to the extent of Termination Payments due and payable upon such Termination under the Concession Agreement. In such an event MMRDA's obligation shall be limited to assumption of such liabilities and payments of dues, as MMRDA has agreed to bear under the Concession Agreement.
- 3.6 Nothing contained in these presents shall mean or be interpreted as provision of any guarantee or surety by MMRDA and it is expressly agreed that MMRDA has not provided any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of amount of Financial Assistance advanced by the Senior Lenders to the Concessionaire.
- 3.7 In the event of a Substitution, an additional cure period of ninety (90) days shall be provided to enable the Selectee to cure any breach or default subsisting on the day of



such Substitution.

#### **INTERIM PROTECTION OF SERVICE AND PRESERVATION OF SECURITY**

- 4.1 In the event of the Senior Lenders notify MMRDA and the Concessionaire of the Event of Default (and the Concessionaire has not cured the default for a period of 30 days) or in special circumstances affecting the security of the Senior Lenders, the Senior Lenders shall be entitled to institute protective legal proceedings for a receivership (the "Receiver") to maintain, preserve and protect the assets (other than the Concession Agreement including the Concession) held as security by the Senior Lenders provided always that such receiver shall be MMRDA if such assets are in the opinion of MMRDA necessary and required for the operation and maintenance of the MRTS Project and the Parties hereby consent and agree to the same. The Lenders' Representative shall in such an event notify MMRDA to assume receivership of the assets held as security and MMRDA shall operate and maintain the same pending the substitution of the Concessionaire by the Selectee. In the event MMRDA does not assume receivership and declines the request of the Lenders' Representative, the Lenders' Representative shall for itself and each of the Senior Lenders, be entitled to seek the appointment of a Court Receiver for the Concessionaire's assets held as security and MMRDA shall operate and maintain the same pending substitution as aforesaid and/or the takeover of the Concession Agreement including the Concession and the MRTS Project in accordance with the Concession Agreement or this Agreement by the MMRDA. All the receivables shall be deposited by the Receiver in the Escrow Account and shall be dealt with in accordance with the Concession Agreement. The Receiver shall be responsible for protecting the assets in receivership and shall render a true and proper account of the receivership to the Senior Lenders in accordance with the terms of its appointment. The Receiver shall make best efforts to operate and maintain the MRTS Project, in accordance with the obligations of the Concessionaire under the Concession Agreement. Any person other than MMRDA may be appointed as Receiver only with the prior consent of MMRDA. In a declaratory suit for appointment of a Receiver, notwithstanding that no recovery or mortgage suit or any suit or proceeding for enforcement of the Senior Lenders' security under the Financing Documents is instituted by the Lenders' Representative for itself or the Senior Lenders, any action for appointment of MMRDA as Receiver or appointment of an Independent Court Receiver shall be without prejudice for the other rights and remedies of MMRDA, and of the Senior Lenders under the Financing Documents.

#### **TERMINATION OF THE CONCESSION BY THE MMRDA**

- 5.1 If under the Concession Agreement an event occurs which shall entitle MMRDA to Terminate the Concession Agreement, MMRDA shall intimate the Senior Lenders prior to exercising of its decision to Terminate the Concession and advise the Senior Lenders to ensure the cure of the event which otherwise can result in termination of the Concession and the Concession Agreement. Such a notice shall entitle the Senior Lenders to cure any financial or other default of the Concessionaire within a period of two months from the date of the notice received from the MMRDA failing which MMRDA without any further notice to either the Concessionaire or the Lenders' Representative/ Senior Lenders, shall be entitled to Terminate the Concession Agreement.
- 5.2 Upon receipt of the Notice as referred to in Clause 5.1, intimating occurrence of an event which can entail Termination of the Concession Agreement including the Concession, the Senior Lenders shall be entitled to consider such notice as an Event of Default and may initiate steps to invite, negotiate and procure offers for the substitution of the Concessionaire by a Selectee in accordance with the procedure set forth in this Agreement.

#### **SENIOR LENDERS RIGHT TO RECEIVE TERMINATION PAYMENTS**

- 6.1 MMRDA and Concessionaire hereby agree, and confirm that without prejudice to any

other right or remedy, MMRDA shall be entitled to deposit the Termination Payments into the Escrow Account and the Senior Lenders shall be entitled to receive the same without any further reference to or consent of the Concessionaire under and in accordance with the Concession Agreement towards the satisfaction of the Senior Lenders Dues out of and limited to the sum of Termination Payments worked out under and in accordance with the Concession Agreement. The Senior Lenders shall be entitled to appropriate any consideration received for the substitution as hereinabove provided from the Selectees towards the payment of their and MMRDA' respective dues to the exclusion of the Concessionaire.

- 6.2 The Concessionaire hereby nominates, constitutes and appoints the Lenders' Representative as its constituted attorney for doing all acts, deeds and things as may be required to be done for the substitution of the Concessionaire by the Selectee pursuant hereto and for receiving consideration for discharge of the Lenders' Dues pursuant to Clause 6.1,
- 6.3 The Concessionaire hereby expressly authorises payment of sums by MMRDA on account of Termination Payments into Escrow Account and the Lenders' Representative to draw the same therefrom for and on behalf of the account of the Senior Lenders notwithstanding the tendency of any dispute or objection or claim that the Concessionaire may have against the Senior Lenders and/or MMRDA. The deposit by MMRDA into the Escrow Account and payment to the Senior Lenders directly or through the Lenders' Representative in accordance with this Agreement, made or caused to be made by MMRDA shall constitute a valid discharge of its obligation of the payment thereof to the Concessionaire. All such payments shall stand charged to the Senior Lenders under the Financing Documents and shall be receivable by the Lenders' Representative from the Escrow Account on behalf of the Senior Lenders to the exclusion of any receiver or liquidator appointed.

## ARTICLE 7

### GENERAL

- 7.1 The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement and the Lenders' Representative is duly and fully authorised by each of the Senior Lenders to enter into this Agreement on their behalf.
- 7.2 Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by a Registered post acknowledgement due and delivered to the other Parties.
- 7.3 The expressions "MMRDA", the "Concessionaire", the "Senior Lenders" and the "Lenders' Representative" herein used shall unless there be anything repugnant to the subject or context include their respective successors, legal representatives, administrators and permitted assigns.
- 7.4 This Agreement shall not be affected by reorganisation of any Senior Lender, Lenders' Representative or MMRDA and the successor -in interest of such Senior Lender, Lenders' Representative or MMRDA shall have the benefit of this Agreement.
- 7.5 No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorised representatives of all the Parties hereto.
- 7.6 All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid shall be borne by and be to the account of the Concessionaire. In the event of the Senior Lenders making such payment for the time being, it shall be deemed to be a part of the Lenders' Dues.
- 7.7 The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of this Agreement shall prevail in the event of any inconsistency with the Concession Agreement unless specifically provided otherwise.
- 7.8 The consultation, recommendation or approval of the Lenders' Representative under this Agreement shall always be taken as consultation, recommendation or approval of every concerned Senior Lender and each such Senior Lender shall be bound by the same and hereby waives its right to question or dispute the same.
- 7.9 This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- 7.10 It shall not be necessary for the Senior Lenders or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- 7.11 This Agreement shall be governed by and construed in accordance with Indian law and, subject to Clause 7.12 below, the courts at Mumbai shall have jurisdiction over all matters arising out of or relating to this Agreement
- 7.12 Any dispute, difference or claim arising out of or in connection with or in relation to this Agreement which is not resolved amicably shall be decided finally by reference to arbitration to a Board of Arbitrators comprising of one nominee of each party to the dispute. Such arbitration shall be held in accordance with the Rules of Arbitration of the Indian Council of Arbitration and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The arbitrators shall issue a reasoned award. The venue of such arbitration shall be Mumbai, India. The Award shall be final and

binding on the Parties. The Parties agree and undertake to carry out the award of the arbitrators (the "Award") without delay.

This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding hereunder. The Courts in Mumbai alone shall have jurisdiction over all matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings thereunder.

**IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR HANDS  
HEREUNTO ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED.**

**SIGNED AND DELIVERED ON BEHALF OF**

BY:.....  
Name  
Title:

**SIGNED AND DELIVERED ON BEHALF OF MUMBAI METROPOLITAN REGION  
DEVELOPMENT AUTHORITY**

BY:.....  
Name:  
Title:

**SIGNED AND DELIVERED ON BEHALF OF SENIOR LENDERS**

BY:.....  
Name: Title:

**Note: - The language of this format is indicative only and will be finalised by the  
concessionaire, lenders representative, with the approval of MMRDA.**