

**MEMORANDUM OF UNDERSTANDING
BETWEEN
GOVERNMENT OF INDIA, GOVERNMENT OF KARNATAKA
AND BANGALORE METRO RAIL CORPORATION LIMITED**

This Memorandum of Understanding (hereinafter referred to as MOU) is made at New Delhi/ Bangalore on 24th day of December, 2010.

BETWEEN

1. Government of India, (herein after referred to as "GOI") through the Ministry of Urban Development represented by the Secretary, having Office at Nirman Bhawan, New Delhi, of the First Part.
2. Government of Karnataka, (herein after referred to as "GOK") represented by the Additional Chief Secretary, Urban Development Department, having Office at Vikasa Soudha, Bangalore of the Second Part and
3. Bangalore Metro Rail Corporation Limited, (herein after referred to as "BMRCL" or "the Company") a company incorporated under the Companies Act, 1956 on 12.9.2005 (21.09.1994 as BMRTL) presently a Joint Venture Company of Govt. of India and Govt. of Karnataka within the meaning of Section 617 of the Companies Act, 1956) represented by the Managing Director, having Registered Office at III Floor, BMTCL Complex, K.H. Road, Shanthinagar, BANGALORE – 560 027 of the Third Part.

1.0 PREAMBLE

- 1.1 To provide much needed transport infrastructure to Bangalore, capital of the State of Karnataka so as to improve its urban environment by reducing the traffic jams and pollution caused by motor vehicles, the GOK felt the need for an efficient mass rapid transit system in Bangalore and decided to implement the Bangalore Metro Rail Project (Phase-1) in 2 corridors (from Baiyappanahalli to Mysore Road (East West Corridor – 18.10 Kms.) and from Yeshwanthapur to RV Road Terminal at Jayanagar (North-South Corridor – 14.90 Kms.) covering a total length of 33 Kms. and forwarded the proposal to Govt. of India for sanction.



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Additional Chief Secretary to Govt.
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Further proposals were made by GOK to GOI for sanction of extension to the Northern corridor from Yeshwanthapur to Hessarghatta Cross (5.6 Kms) and for extension to the Southern corridor from R V Road terminal to Puttenahalli cross (3.7Kms) covering a total length of 9.3 kms.

- 1.2 The GOI conveyed its approval for the implementation of the rail-based mass rapid transit system called Bangalore Metro Rail Project (herein after referred to as 'Project') covering a length of 33 Kms in two corridors at an estimated completion cost of Rs. 6395 crore to be completed in stages by BMRCL subject to conditions stipulated in letter No. K-14011/34/90-UD.II/MRTS/Metro dated 11th May 2006. The approval for the two extensions at an estimated completion cost of Rs 1763 crores was conveyed vide letter No. K-14011/58/2006- Metro dated 21st January 2010. These letters, appended as **Annexure-'A'**, forms part and parcel of this MOU. Any further extensions or phases of Bangalore Metro as approved by Government of India from time to time will also form part and parcel of this MoU.
- 1.3 The Project will be implemented as a Central Sector Project through the Executing Agency, i.e. BMRCL which will work as a Special Purpose Vehicle (SPV) for the implementation of the project with GOI and GOK being the joint promoters with equal equity holding.
- 1.4 In this context, GOI, GOK and BMRCL deem it necessary and expedient to record their understandings, commitments, obligations, covenants, and their interfaces in the form of this Memorandum of Understanding.
- 1.5 Now, it is hereby agreed between GOI, GOK and BMRCL as follows:-

2.0 INTERPRETATIONS

2.1 In this MOU:

- (a) the paragraph headings and numberings are for convenience only and shall be ignored in the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) reference to any agreement, enactment, ordinance or regulation includes any amendment, modification or replacement thereof or supplement thereto, in whole or in part;



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(d) reference to Article, Paragraphs, subparagraphs, Schedules and Appendices, are, unless the context otherwise requires, references to Articles, Paragraphs, subparagraphs, Schedule and Appendices, respectively, of this Agreement; and
(e) the words include, including and among other things shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases or words of like import.

3.0 TERM

3.1 This MOU shall be effective and continue to be valid till such time as the debt from the GOI including the debt from the JICA (formerly JBIC) and any other international agency whose repayment has been guaranteed by the GOI, is repaid in full. It is also understood, that this MOU could be further extended by mutual consent of GOK and GOI.

4.0 OBJECT & SCOPE

4.1 The object of this MOU is to set out the broad principles of cooperation and modalities that will guide and govern the role of the Parties in the effective implementation of the said Project.

5.0 DESIGN AND TECHNOLOGY

5.1 The design and technology of the system to be implemented will be in accordance with the Detailed Project Reports (DPR) prepared by Delhi Metro Rail Corporation Ltd (DMRC) in 2003 and 2007.

6.0 INSTITUTIONAL ARRANGEMENT

6.1 The Project will be implemented by joint venture Company with Government of India and Government of Karnataka as partners. The Executing Agency i.e., the BMRCL, which is a company, established under the Companies Act, will work as a Special Purpose Vehicle for the implementation of the Project.

7.0 LEGISLATION

7.1 The Bangalore Metro Rail Project, (phase-1), shall be governed by the provisions of the Metro Railway (construction of Works) Act, 1978 and the Metro Railways (Operation and Maintenance) Act, 2002 or such legislation made from time to time as may be decided by Government of India.



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8.0 PROJECT IMPLEMENTATION PERIOD

8.1 The project commencement date shall be reckoned from 1st January 2007 and is scheduled to be completed in stages by June, 2012 or such extended period mutually agreed by GOI and GOK.


9.0 COST OF THE PROJECT

9.1 The original estimated completion cost of the Project is Rs. 6395 crore based on April 2005 prices. This cost is arrived at based on the DPR prepared by DMRC for Bangalore Metro Rail Project Phase-I in May 2003 (including land acquisition cost of Rs. 600 crore, Alignment & Formation expenses of Rs. 1655.33 crore, Station Buildings (elevated & at-grade – Rs. 676.29 crore, Permanent Way – Rs. 227.62 crore), OCC & Administrative Building Rs. 36.44 crore; Traction & Power supply Rs. 507.01 crore, VAC Rs. 96.07 crore, S&T (incl. cable diversions) Rs. 393.90 crore, AFC Installations at Stations Rs. 85.34 crore, Depots Rs. 186.89 crore, Rolling Stock Rs. 1054.44 crore, General charges at 10% (including contingency at 3%) Rs. 397.54 crore, Upfront Fees Rs. 14.39 crore, Arrangement fees Rs. 11.51 crore Documentation fees of Rs. 2.88 crore and Interest during construction Rs. 449 crore). The original estimated cost of the two extensions is Rs. 1763 crore as per the DPR prepared by DMRC in 2007.

10.0 PROJECT FINANCING

10.1 The financing of the Project would be done through a mix of equity, interest-free sub-ordinate debt and senior term debt [including borrowing from Japan Bank of International Co-operation (JBIC)]. The original estimated cost of Rs. 8158 crore comprising of Rs.6395 crore for the initial scope and Rs. 1763 crore for the two extensions will be financed with contribution of GoI in the form of Equity (15%), Subordinate Debt (10%) and Senior term debt (JICA Loan) (28.0% i.e Rs.1795 crore) contribution from GOK in the form of Equity (15%) and Subordinate Debt (15%) -totaling 30% of the project cost. Balance project cost shall be raised by the SPV from domestic/International Financial Institutions as senior term debt.

10.2 GOI and GOK would contribute equally over the project period Rs 1223.7 crore each to the equity aggregating Rs.2447.4 crore (Rs. Two thousand four hundred forty seven crore and forty lakhs only).

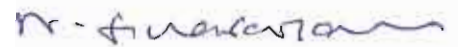


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10.3 The subordinate debt from GOI and GOK will be Rs. 815.8 crore and Rs.1223.7 crore respectively over the project period.

10.4 GOK will exempt BMRCL from its State/Local taxes and duties/levies or reimburse the same.

10.5 There will be no waiver of taxes and duties by the GOI.

11.0 **COST ESCALATION**

11.1. It is agreed between the parties that any cost escalation will be shared between project promoters as approved by the Empowered Committee and Empowered Group of Ministers at Government of India level.

12.0 **OBLIGATIONS OF GOK:**

12.1 GOK will bear the entire cost of land and R&R (including escalation) through interest-free subordinate debt.

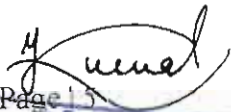
12.2 To grant and cause its Instrumentalities to accord all necessary approvals, consents, clearances, sanctions, etc., as are necessary for the smooth and timely implementation of the Project.

12.3 To dispose of, resist and resolve any obstacle or impediment created or placed by any person to thwart or challenge the implementation of the Project or any part, thereof.

12.4 To expeditiously acquire the land/properties identified in the alignment free from encroachments and encumbrances and handover possession of the same to the BMRCL, and also to ensure that land acquisition does not become reason for delay in implementation of the project.

12.5 GOK covenants that it will not restrict the use of the Land in any way and that the BMRCL shall, at all times, have full freedom and discretion to develop and use the Land, subject to zoning or rezoning of the land or any part thereof, in a manner consistent with its intended use in the Project.

12.6 To provide all such necessary assistance reasonably requested by the BMRCL with respect to clearances and preparation of the land for use including commercial exploitation thereof with a view to improving the financial sustainability of BMRCL.


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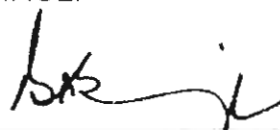

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- 12.7 To ensure that electric power is made available to the project on a no-profit-no-loss basis.
- 12.8 To subscribe towards equity share capital of the BMRCL as approved by the GOI totaling Rs. 1223.7 crore (Rupees one thousand two hundred twenty three crore and seventy lakh only) and release the equity capital before Senior term debt is drawn to the extent possible with the objective of minimizing the interest burden on the project.
- 12.9 To provide the Subordinate debt of Rs. 1223.7 crore (Rupees one thousand two hundred twenty three crore and seventy lakh) for utilisation of BMRCL before taking recourse to senior debt to the extent possible for minimizing the interest burden.
- 12.10 To share with GOI any cost escalation as may be approved by the Empowered Committee and Empowered Group of Ministers at Government of India level.
- 12.11 To initiate or amend, any law, rule, order or notification necessary or desirable for the implementation of the Project.
- 12.12 To ensure price based measures to promote and facilitate metro ridership, as part of an integrated traffic rationalisation plan and comprehensive mobility plan for the Bangalore city with a view to ensuring that the projected ridership is realised.
- 12.13 To accord high priority for integration of various modes of transport which would act as feeder/evacuation system to the Bangalore Metro with a view to improving the ridership including adequate parking at stations, improvement in city bus service.
- 12.14 To set up a High Power Committee (HPC) under the Chairmanship of Chief Secretary with the composition of other members like Secretaries of the concerned departments of the State Government, Heads of Civic Bodies etc., to address and sort out all State level issues regarding implementation particularly with regard to land acquisition, diversion of utilities, shifting of structures in the project alignment, rehabilitation of project affected persons, etc. The Committee shall normally meet once in a month or more often if required, to sort out all these issues.
- 12.15 To finance cash losses, if any, during the operational phase in case the same cannot be provided by BMRCL.



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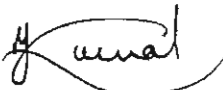



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- 12.16 To make institutional arrangement for periodic fare revision for not only the proposed Metro, but also for other competing modes. A mutually agreed schedule for periodic revision of fares, for the Metros as well as other modes of transport issued by Govt. of Karnataka shall form part and parcel of this MOU.
- 12.17 To bear the cost of procurement of additional rolling stock required for the passenger traffic more than the DPR estimates, if the same cannot be provided by BMRCL.
- 12.18 To repay the senior term debt (as and when it becomes due) on account of cash losses, in case BMRCL is not able to repay the same to GOI.
- 12.19 To designate one of the State Government nominees as the Managing Director of the company with the prior consent of Government of India.
- 12.20 Not to transfer the MD of the company, the State Government nominee, without prior consent of Ministry of Urban Development, GOI.
- 12.21 Not to give any new assignment to the SPV unilaterally.
- 12.22 To place the State Government officers, if required, on deputation to BMRCL under the administrative control of the BMRCL Board of Directors.

13.0 **OBLIGATIONS OF GOI**

- 13.1 To subscribe towards equity share capital of the BMRCL totaling Rs.1223.7 crore (Rupees one thousand two hundred twenty three crore and seventy lakh only) and release the equity capital to the extent possible before Senior debt is drawn with the objective of minimizing the interest burden on the project.
- 13.2 To provide the Subordinate debt of Rs. 815.8 crore (Rupees eight hundred fifteen crore and eighty lakhs only) for utilisation by BMRCL before taking recourse to senior debt to the extent possible for minimizing the interest burden.
- 13.3. GOI will make JICA (formerly JBIC) loan funds (Japan Yen 43,683 million equivalent to Rs.1800 crore approx) or any such additional amount as sanctioned, available directly to BMRCL through gross budgetary resources in the form of Pass Through Assistance on back to back basis.


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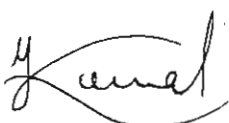

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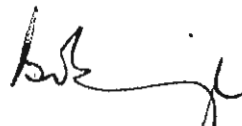
- 13.4 To share with GOK any cost escalation as approved by the Empowered Committee and Empowered Group of Ministers at Government of India level.
- 13.5 To approve the technical standards and specifications to be followed for the project.
- 13.6 To provide for safety certification by Commission of Railway Safety.
- 13.7 Not to give any assignment to the SPV unilaterally.
- 13.8 To include Chief Secretary, GOK as one of the members of the Empowered Committee for MRTS Project in Delhi, which has been extended to cover the Bangalore Metro Rail Project.
- 13.9 To extend the role of Empowered Group of Ministers (EGOM) set up to take policy decisions and review the progress of Delhi MRTS Project to Bangalore Metro Rail Project with Chief Minister of Karnataka as one of its permanent invitees.
- 13.10 To place the annual report of BMRCL before the Parliament.
- 13.11 To reply to Controller and Auditor General's (C&AG) audit observations.
- 13.12 To place the Government of India Officers, if required, on deputation to BMRCL under the administrative control of the BMRCL Board of Directors.

14.0 **COVENANTS, OBLIGATIONS, ETC. OF BMRCL (SPV)**

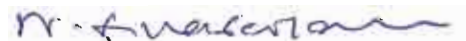
- 14.1 BMRCL which has been set up as a joint venture of GOI and GOK is meant exclusively for implementation of the project and no new assignment should be given to the company by the Promoters unilaterally. BMRCL shall construct, develop, commission, operate and maintain the Project, in accordance with the approved Project Schedule as stated in clause 8.1 above and applicable Laws. The phasing of expenditure during the project implementation and draw down schedule, item-wise and quarterly is enclosed (**Annexure-B**), which forms part and parcel of this MOU.
- 14.2 The prescribed codes and specifications for various items for construction and operation as well as the safety standards set by the Appropriate Authorities will be strictly followed and complied with by BMRCL.



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- 14.3 The Company shall open any section for public carriage of passengers only after the Safety has been certified by Commission of Railway Safety.
- 14.4 BMRCL shall engage Competent Operators/Drivers and other skilled operators possessing the prescribed qualifications and passing necessary tests.
- 14.5 BMRCL shall undertake to pay in case of accidents, as ordered by the concerned Claims Authority.
- 14.6 BMRCL shall not without the prior approval of the promoters/ EGOM change the funding pattern.
- 14.7 BMRCL shall not undertake any new assignment and the Promoters shall not entrust new assignment, unless the entrustment of new assignment is agreed to between the promoters mutually.
- 14.8 To engage, recruit or employ personnel, employees, staff, officers, servants, labour, workmen, contractors, local or otherwise, temporary or permanent, during the implementation of the Project, in its own name and account and shall alone bear and remain liable towards all or any payment of wages, salaries, perquisites, benefits etc., thereto.
- 14.9 To make statutory arrangements for periodic fare revision and a mutually agreed schedule for periodic revision of fares as well.
- 14.10 It is further agreed and understood that at no stage such personnel, employees, staff, officers, servants, labour, workmen, contractors, local or otherwise, temporary or permanent, recruited employed or, engaged in the development, construction, commissioning and operation of the Project by BMRCL or otherwise in the project, other than those on deputation shall be held or deemed to be personnel, employees, staff, officers, servants, labour, workmen, contractors of GOK or GOI.
- 14.11 BMRCL may from time to time frame its own rules, regulations, procedures, working arrangements, management, corporate governance to cover/govern all matters of administration and all other incidental and related matters not inconsistent with the provisions of the Companies Act, 1956 or the MOU.



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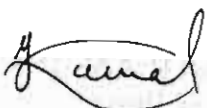


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- 14.12 BMRCL may implement the project and raise senior term debt from the market with prior approval of GOI and GOK.
- 14.13 BMRCL shall make repayment of subordinate debt to GOI and GOK proportionately only after repayment of entire senior term debt availed for the Project.
- 14.14 BMRCL undertakes and covenants that it shall open and maintain an Escrow Account with a Scheduled Bank within the meaning of Banking Regulation Act, 1949, as may be required by the Senior Term Debt Lenders subject to such terms and conditions, validity, enforceability and performance of respective obligations and duties and to execute such agreements as may be deemed necessary and that the said Escrow Account shall remain in full force and effect till all the obligations of Senior Term Debt Lenders have been satisfied. GOI shall have the first charge on the Escrow Account.
- 14.15 The entire loan amount disbursed by JICA (formerly JBIC) under the Loan Agreement shall be the liability of BMRCL for the purpose of repayment of loan through GOI. The repayment of loan of GOI by BMRCL shall be through an Escrow Account.
- 14.16 The debt servicing liability of BMRCL with regard to JICA loan portion shall be reckoned based on JICA repayment schedule received from JICA in Rupees terms along with exchange rate fluctuation of loan currency.
- 14.17 BMRCL shall follow CVC guidelines and the Karnataka Transparency in Public Procurements Act, 1999 for tenders and contracts, and DPE, Government of India guidelines for investment.

15.0 **ORGANISATIONAL SET-UP**

- 15.1 The management of the company vests entirely with the Board of Directors (Board) consisting of ten (10) Directors, each promoter nominating five Directors noting that it is neither a Central PSU nor a State PSU but a Board governed Company.
- 15.2 GOI shall be entitled to appoint 5 Directors including Secretary, Ministry of Urban Development as Chairman of the Board. GOK shall be entitled to appoint 4 Directors and a Managing Director.



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- 15.3 The Managing Director shall be nominee of GOK with prior consent of GOI and shall be appointed by the Board. The Managing Director, whether on deputation or recruited by BMRCL shall be fully accountable to the Board.
- 15.4 Subject to the policy and principles approved by the Board, and subject to the powers delegated by the Board, the general management of the business of the company shall be in the hands of the Managing Director, who shall have the power and authority on behalf of the company to take decisions and to enter into all contracts and to make all purchases and do all other things as are necessary or desirable.
- 16.0 **GENERAL**
- 16.1 All additions, supplements, amendments or variations to this MOU shall be in writing and shall be jointly signed by the duly authorised representatives of the Parties.
- 16.2 Each Party shall hold in strict confidence all confidential information received by it from the other Party, whether notified as confidential or not (herein "Confidential Information"). The Party receiving such Confidential Information shall not publish or otherwise disclose or use the Confidential Information for its own purposes (otherwise than as may be required by it, its professional advisers, or potential lenders or investors to perform its obligations) and shall cause its directors, officers, employees, servants, agents and contractors, to be similarly bound by these covenants.
- 16.3 The execution, interpretation, construction and performance of this MOU shall be governed by and construed according to the Laws of India.
- 16.4 This MOU shall not constitute either Party as a partner, agent or legal representative of the other Party. Neither Party shall have any right or authority to assume, create or incur any liability or obligation of any kind, expressed or implied, against, in the name of or on behalf of the other Party except in accordance with this MOU or as may otherwise be agreed in writing by the Parties.
- 16.5 Each Party agrees to do such other and further acts and things, and to execute and deliver such additional instruments and documents, as either Party may reasonably request from time to time whether at or after the execution of this MOU, in furtherance of the express provisions and purposes of this MOU.


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16.6 In case of any difference of opinion arising between GOI and GOK in the implementation of this MOU, the same will be resolved through mutual discussions or as per the Institutional mechanism defined for this project in the GOI sanction letter dated 11th May 2006.

IN WITNESS WHEREOF the Parties have executed this Memorandum of Understanding on the 24th day of December, 2010, by their duly authorised representatives.

Signed for and on behalf of / Signed for and on behalf of / Signed for and on behalf of

GoI



Navin Kumar
(Authorised Signatory)
Secretary
M/o Urban Development
Govt. of India

(नवीन कुमार)
(NAVIN KUMAR)
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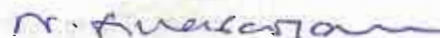
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Additional Chief Secretary to Govt.
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BMRCL



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