PART – II

Engineering Procurement and Construction (EPC)
RFP

For

Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode

REGIONAL OFFICE
National Highways Authority of India
Regional Office – Guwahati
NEDFi House, 4th Floor, G.S. Road
Dispur, Guwahati-781006, Assam.

May - 2026

NIT No- 04/RO-Guwahati/NHAI/2026-27

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Part I

Preliminary

Engineering, Procurement and Construction Agreement

THIS AGREEMENT[1] is entered into on this the …….. day of ……, 2026

Between

[The President of India through the Ministry of Road Transport & Highways, Government of India represented by:

Chairman, National Highways Authority of India, G-5 & 6, Sector 10, Dwarka, New Delhi-110075

(*Strike out whichever is not applicable*)

(hereinafter referred to as the **"Authority"** which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of **One Part**;

and

<insert name of party>,[2] the selected bidder[3] having its registered office at <insert registered office address of the party>, (hereinafter referred to as the "**Contractor**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the **Other Part**.

Whereas:

A). The Government of India entrusted the development, maintenance and management of National Highway No.....including the section from Km.....to Km..... (approx.....Km) to the Authority;

The Authority resolved **Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode** on Engineering, Procurement, Construction ("**EPC**") basis in accordance with the terms and conditions to be set forth in an agreement to be entered into.

B). The Authority accordingly invited the proposals (the "**Request for Proposals**" or "**RFP**") from the eligible bidders as per the technical and commercial terms and conditions prescribed in the RFP for undertaking the Project.

After evaluation of the bids received, the Authority accepted the bid of the selected bidder and issued its Letter of Acceptance No. <**insert details**> dated <**insert date**> (hereinafter called the "**LOA**") to the selected bidder for **"Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km**

1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode" at the Contract Price specified hereinafter, requiring the selected bidder to interalia:

(i) to give his consent to enter into this Agreement and the enforceability of the provisions thereof, within 10 (ten) days of the date of issue of LOA;

(ii) submit Performance Security and Additional Performance Security (if any) as per RFP requirements, and

(iii) execute this Agreement within 10 (ten) days from the receipt of 50% of Performance Security and 50% of Additional Performance Security, if any.

C). The Contractor has fulfilled the requirements specified in Recital (D) above;

NOW, THEREFORE, in consideration of the foregoing and the respective covenants set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, the Authority hereby covenants to pay the Contractor, in consideration of the obligations specified herein, the Contract Price or such other sum as may become payable under the provisions of the Agreement at the times and in the manner specified by the Agreement and intending to be legally bound hereby, the Parties agree as follows:

Article 1
Definitions and Interpretations

1.1 Definitions

(i) The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

(ii) In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"**Accounting Year**" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

"**Advance Payment**" shall have the meaning set forth in Clause 9.2;

"**Affected Party**" shall have the meaning set forth in Clause 21.1;

"Affiliate" means, in relation to either Party {and/or Members}, a person who controls, is controlled by, or is under the common control with such Party {or Member} (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

"Agreement" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto, or any supplementary agreement made in accordance with the provisions contained in this Agreement;

"Applicable Laws" means all laws, brought into force and effect by the GOI or the State Government including rules, regulations and notifications made there under, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"Applicable Permits" means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project Highway during the subsistence of this Agreement;

"**Appointed Date**" means the date declared by the Authority as the project commencement date with the consent of the contractor, as per the process prescribed in

Article 3 and 8 of this Agreement;

"Arbitration Act" means the Arbitration and Conciliation Act, 1996, with all its subsequent amendments;

"Authority" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Authority Default" shall have the meaning set forth in Clause 23.2;

"Authority's Engineer" shall have the meaning set forth in Clause 18.1;

"Authority Representative" means such person or persons as may be authorised in writingbytheAuthoritytoactonitsbehalfunderthisAgreementandshallincludeanyperson or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"Bank" means a bank incorporated in India and recognized by the Reserve Bank of India;

"Base Rate" means the floor rate of interest announced by the State Bank of India for all its lending operations;

"Base Date" means the last date of the calendar month, which precedes the Bid Due Date by at least 28 (twenty eight) days;

"Bid" means the documents in their entirety comprised in the bid submitted by the [selected bidder/ Joint venture] in response to the Request for Proposal in accordance with the provisions thereof;

"**Bid Security**" means the bid security provided by the Contractor to the Authority in accordance with the Request for Proposal, and which is to remain in force until substituted by the Performance Security;

"Change in Law" means the occurrence of any of the following after the Base Date:

(a) the enactment of any new Indian law;

(b) the repeal, modification or re-enactment of any existing Indian law;

(c) the commencement of any Indian law which has not come into effect until the Base Date; or

(d) a change in the interpretation or application of any Indian law by a judgment of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Base Date.

"Change of Scope" shall have the meaning set forth in Article 13;

"Change of Scope Notice" shall have the meaning set forth in Clause 13.2 (i);

"**Change of Scope Request**" shall have the meaning set forth in Clause 13.2(ii);

"Change of Scope Order" shall have the meaning set forth in Clause 13.2 (iv);

"Completion Certificate" shall have the meaning set forth in Clause 12.2;

"Construction" shall have the meaning set forth in Clause 1.2(f);

"Construction Period" means the period commencing from the Appointed Date and ending on the date of the Completion Certificate;

"Construction Zone" shall have the meaning set forth in Clause 8.3 (i);

"Contract Price" means the amount specified in Clause 19.1 (i);

"Contractor" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Contractor Default" shall have the meaning set forth in Clause 23.1;

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

a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;

b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach default by the Contractor requires any reasonable action by the Contractor that must be approved by the Authority or the Authority's Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Authority's Engineer to accord their approval;

"Damages" shall have the meaning set forth in paragraph (w) of Clause 1.2;

"Defect" means any defect or deficiency in Construction of the Works or any part thereof, which does not conform with the Specifications and Standards, and in the case of Maintenance, means any Defect or deficiency which is specified in Schedule-E;

"Defects Liability Period" shall have the meaning set forth in Clause 17.1;

"Dispute" shall have the meaning set forth in Clause 26.1;

"Dispute Resolution Procedure" means the procedure for resolution of Disputes set forth in Article 26;

"Drawings" means all of the drawings, calculations and documents pertaining to the Project Highway as set forth in Schedule-I, and shall include 'as built' drawings of the Project Highway;

"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"Emergency" means a condition or situation that is likely to endanger the safety or security of the individuals on or about the Project Highway, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Encumbrances" means, in relation to the Project Highway, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss to payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project Highway, where applicable herein but excluding utilities referred to in Clause 9.1;

"EPC" means engineering, procurement and construction;

"Final Payment Certificate" shall have the meaning set forth in Clause 19.15;

"**Final Payment Statement**" shall have the meaning set forth in Clause 19.13;

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Clause 21.1;

"GAD" or "General Arrangement Drawings" shall have the meaning set forth in Clause 3.1 (iii) (b);

"GOI" or "Government" means the Government of India;

"Good Industry Practice" means the practices, methods, techniques, designs,standards,skills,diligence,efficiency,reliabilityandprudencewhicharegenerally and reasonably expected from a reasonably skilled and experienced contractor engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Contractor in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"Government Instrumentality" means any department, division or sub- division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project Highway or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement;

"**Handover Memorandum**" shall have the meaning set forth in Clause 8.2;

"IRC" means the Indian Roads Congress;

"Indemnified Party" means the Party entitled to the benefit of an indemnity pursuant to Article 25;

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Article 25;

"Indirect Political Event" shall have the meaning set forth in Clause 21.3;

"Insurance Cover" means the aggregate of the maximum sums insured under the insurance taken out by the Contractor pursuant to Article 20, and includes all insurances required to be taken out by the Contractor under Clauses 20.1 and 20.9 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

"Intellectual Property "means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"**Interim Payment Certificate**" or "**IPC**" means the interim payment certificate issued by the Authority's Engineer for payment to the Contractor in respect of Contractor's claims for payment raised in accordance with the provisions of this Agreement;

"Joint Venture" means the group of entities which have come together for implementation of this Project;

"Lead Member" shall, in the case of a joint venture, mean the member of such joint venture who shall have the authority to bind the contractor and each member of the Joint venture; and shall be deemed to be the Contractor for the purposes of this Agreement; the Lead Member shall itself undertake and perform at least 51% (fifty one per cent) of the total length of the Project Highway;

"**LOA**" or "**Letter of Acceptance**" means the letter of acceptance issued by the Authority as referred to in Recital (D);

"Maintenance" means the maintenance of the Project Highway as set forth in Article 14 for the period specified therein;

"**Maintenance Inspection Report**" shall have the meaning set forth in Clause15.2;

"Maintenance Manual" shall have the meaning ascribed to it in Clause 10.7;

"Maintenance Programme" shall have the meaning set forth in Clause 14.3;

"Maintenance Period" shall have the meaning set forth in Clause 14.1;

"Maintenance Requirements" shall have the meaning set forth in Clause14.2;

"Major Bridge" means a bridge having a total length of more than 60 (sixty) metres between the inner faces of the dirt walls as specified in IRC:5;

"**Manual**" shall mean the Manual of Standards and Specifications for Project Highways;

"Material Adverse Effect" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

"Materials" comprise of all the supplies used by the Contractor used in the Works or for the maintenance of the Project Highway;

"Monthly Maintenance Statement shall have the meaning set forth in Clause 19.6;

"**MORTH**" means the Ministry of Road Transport and Highways or any substitute thereof dealing with Highways;

"**Non-Political Event**" shall have the meaning set forth in Clause 21.2;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually;

"Performance Security" and **"Additional Performance Security"** shall have the meaning set forth in Clause 7.1;

"Plant" means the apparatus and machinery intended to form or forming part of the works of the Works;

"Political Event" shall have the meaning set forth in Clause 21.4;

"Programme" shall have the meaning set forth in Clause 10.1(iii);

"Project" means the construction and maintenance of the Project Highway in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

"Project Assets" means all physical and other assets relating to (a) tangible assets such as civil works and equipment including foundations, embankments, pavements, road surface, interchanges, bridges, culverts, road over-bridges, drainage works, traffic signals, sign boards, kilometre-stones, [toll plaza(s)], electrical systems, communication systems, rest areas, relief centres, maintenance depots and administrative offices; and (b) Project Facilities situated on the Site;

"Project Completion Date" means the date on which the Completion Certificate is issued;

"Project Completion Schedule" means the progressive Project Milestones set forth in Schedule-J for completion of the Project Highway on or before the Scheduled Completion Date;

"Project Facilities" means all the amenities and facilities situated on the Site, as described in Schedule-C;

"**Project Highway**" means the Site comprising the existing road {, proposed bypasses and tunnels} forming part of [NH-** from Km ** to Km **] and all Project Assets, and its subsequent development and augmentation in accordance with this Agreement;

"Project Milestone" means the project milestone set forth in Schedule-J;

"Proof Consultant" shall have the meaning set forth in Clause 10.2;

"Quality Assurance Plan" or **"QAP"** shall have the meaning set forth in Clause 11.2;

"Re.", "Rs." or "Rupees" or "Indian Rupees" or "INR" means the lawful currency of the Republic of India;

"**Request for Proposals**" *or* "**RFP**" shall have the meaning set forth in Recital 'C';

"Retention Money" shall have the meaning set forth in Clause 7.5;

"Right of Way" means and refers to the total land required and acquired for the project, both in its width and length, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction and maintenance of the Project Highway in accordance with this Agreement;

"**Safety Consultant**" shall have the meaning set forth in Clause 10.1;

"Scheduled Completion Date" shall be the date set forth in Clause 10.3;

"Scheduled Construction Period" means the period commencing from the Appointed Date and ending on Scheduled Completion Date;

"Scope of the Project" shall have the meaning set forth in Clause 2.1;

"Section" means a part of the Project Highway;

"Site" shall have the meaning set forth in Clause 8.1;

"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project Highway, as set forth in Schedule-D, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project Highway submitted by the Contractor to, and expressly approved by, the Authority;

"**Stage Payment Statement"** shall have the meaning set forth in Clause 19.4;

"**Structures**" means an elevated road or a flyover, as the case maybe;

"Sub-contractor" means any person or persons to whom a part of the Works or the Maintenance has been subcontracted by the Contractor and the permitted legal successors in title to such person, but not an assignee to such person;

"Suspension" shall have the meaning set forth in Article 22;

"**Taking Over Certificate**" shall have the meaning set forth in Clause 14.10;

"Taxes" means any Indian taxes including GST, excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, Materials, equipment and services incorporated in and forming part of the Project Highway charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

"Termination" means the expiry or termination of this Agreement;

"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Termination Payment" means the amount payable by either Party to the other upon Termination in accordance with Article23;

"Terms of Reference" or "TOR" shall have the meaning set forth in Clause 18.2;

"Tests" means the tests set forth in Schedule-K to determine the completion of Works in accordance with the provisions of this Agreement;

"Time Extension" shall have the meaning set forth in Clause 10.5;

"User" means a person who travels or intends to travel on the Project Highway or any part thereof in/on any vehicle;

"**Valuation of Unpaid works**" shall have the meaning set forth in Clause 23.5;

"Works" means all works including survey and investigation, design, engineering, procurement, construction, Plant, Materials, maintenance, temporary works and other things necessary to complete the Project Highway in accordance with this Agreement; and

"WPI" means the wholesale price index for various commodities as published by the Ministry of Commerce and Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month.

1.2 Interpretation

(i) In this Agreement, unless the context otherwise requires,

(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

(b) references to laws of India or Indian law or regulation having the force of law

shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re- enacted;

(c) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words "include" and "including" are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;

(f) references to "construction" or "building" include, unless the context otherwise requires, survey and investigation, design, developing, engineering, procurement, supply of plant, materials, equipment, labour, delivery, transportation, installation, processing, fabrication, testing, and commissioning of the Project Highway, including maintenance during the Construction Period, removing of defects, if any, and other activities incidental to the construction and "construct" or "build" shall be construed accordingly;

(g) references to "development" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up- gradation and other activities incidental thereto during the Construction Period, and "develop" shall be construed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian standard time;

(i) any reference to day shall mean a reference to a calendar day;

(j) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in Delhi are generally open for business;

(k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(l) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;

(m) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(n) the words importing singular shall include plural and vice versa;

(o) references to any gender shall include the other and the neutral gender;

(p) "lakh" means a hundred thousand (100,000) and "crore" means ten million(10,000,000);

(q) "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

(r) references to the "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

(s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence 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 the Authority hereunder or pursuant hereto in any manner whatsoever;

(t) any agreement, consent, approval, authorisation, notice, communication, information report or any other correspondence required under or pursuant to this Agreement, from or by any Party or the Authority's Engineer shall be valid and effective only if it is routed through NHAI Data Lake (unless the law requires to send such notice, communication etc., through physical/any other specified mode only) under the hand of a duly authorised representative of such Party or the Authority Engineer, as the case may be, in this behalf and not otherwise;

(u) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(v) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

(w) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party

entitled to receive the same and are not by way of penalty or liquidated damages (the "Damages"); and

(x) time shall be of the essence in the performance of the Parties 'respective obligations. If any time period specified herein is extended for the reasons specified in the Agreement, such extended time shall also be of the essence.

(ii) Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Contractor to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with its comments and/or approval, it shall be entitled to retain two copies thereof.

(iii) The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

(iv) Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements and errors/discrepancies

(i) This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

a). this Agreement; and

b). all other agreements and documents forming part hereof or referred to herein; i.e. this Agreement at (a) above shall prevail over the agreements and documents at (b).

(ii) Subject to the provisions of Clause 1.4 (i), in case of ambiguities or discrepancies within this Agreement, the following shall apply:

(a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other

Clauses;

(b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

(c) between any two Schedules, the Schedule relevant to the issue shall prevail;

(d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

(f) between any value written in numerals and that in words, the latter shall prevail.

1.5 Joint and several liability

(i) If the Contractor has formed a Joint Venture of two or more persons for implementing the Project:

(a) these persons shall, without prejudice to the provisions of this Agreement or any other agreement, be deemed to be jointly and severally liable to the Authority for the performance of the Agreement; and

(b) the Contractor shall ensure that no change in the composition of the Joint Venture is effected without the prior consent of the Authority.

(ii) Without prejudice to the joint and several liability of all the members of the Joint Venture, the Lead Member shall represent all the members of the Joint Venture and shall always be liable and responsible for discharging the functions and obligations of the Contractor. The Contractor shall ensure that each member of the Joint Venture shall be bound by any decision, communication, notice, action or inaction of the Lead Member on any matter related to this Agreement and the Authority shall be entitled to rely upon any such action, decision or communication of the Lead Member. The Authority shall have the right to release payments solely to the Lead Member and shall not in any manner be responsible or be held liable for the inter se allocation of payments among members of the Joint venture.[6]

[6] This Clause 1.5 may be omitted if the Contractor is not a Joint venture. Even if the Contractor

Part II

Scope of Project

Article 2
Scope of the Project

2.1 Scope of the Project

Under this Agreement, the scope of the Project (the **"Scope of the Project"**) shall mean and include:

(a) construction of the Project Highway on the Site set forth in Schedule- A and as specified in Schedule-B together with provision of Project Facilities as specified in Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D;

(b) maintenance of the Project Highway in accordance with the provisions of this Agreement and in conformity with the requirements set forth in Schedule-E; and

(c) performance and fulfillment of all other obligations of the Contractor in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Contractor under this Agreement.

Article 3
Obligations of the Authority

3.1 Obligations of the Authority

(i) The Authority shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

(ii) The Authority shall be responsible for the correctness of the Scope of the Project, Project Facilities, Specifications and Standards and the criteria for testing of the completed Works.

(iii) The Authority shall, upon submission of the Performance Security as per the RFP by the Contractor, shall provide to the Contractor:

(a) Not less than 90% (ninety per cent) of the required Right of Way of the Construction Zone of total length of the Project Highway within a period of 30 (thirty) days from the date of this Agreement, which shall be in contiguous stretches of length not less than 5 (five) kilometer.

(b) Deleted

(c) Environmental clearances are not required.

(iv) Delay in providing the Right of Way or approval of GAD by railway authorities, as the case may be, in accordance with the provisions of Clause 3.1 (iii) shall entitle the Contractor to Damages in a sum calculated in accordance with the provisions of Clause 8.3 of this Agreement and Time Extension in accordance with the provisions of Clause 10.5 of this Agreement. For the avoidance of doubt, the Parties agree that the Damages for delay in approval of GAD by the railway authorities for a particular road over-bridge/ under-bridge shall be deemed to be equal to the Damages payable under the provisions of Clause 8.3 for delay in providing Right of Way for a length of 2 (two) kilometer for each

such road over-bridge/under-bridge.

(v) Notwithstanding anything to the contrary contained in this Agreement, the Parties expressly agree that the aggregate Damages payable under Clauses 3.1 (iv), 8.3 and 9.5 shall not exceed 1% (one per cent) of the Contract Price. For the avoidance of doubt, the Damages payable by the Authority under the aforesaid Clauses shall not be additive if they arise concurrently from more than one cause but relate to the same part of the Project Highway.

Both the parties agree that payment of such Damages shall be full and final settlement of all claims of the Contractor and such compensation shall be the sole remedy against delays of the Authority and both parties further agree that the payment of Damages shall be the final cure for the Contractor against delays of the Authority, without recourse to any other payments.

(vi) The Authority agrees to provide support to the Contractor and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

(a) upon written request from the Contractor, and subject to the Contractor complying with Applicable Laws, provide reasonable support to the Contractor in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;

(b) upon written request from the Contractor, provide reasonable assistance to the Contractor in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favorable than those generally available to commercial customers receiving substantially equivalent services;

(c) procure that no barriers that would have a material adverse effect on the works are erected or placed on or about the Project Highway by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security, law and order or collection of inter-state taxes;

(d) not do or omit to do any act, deed or thing which may in any manner violate any provisions of this Agreement;

(e) support, cooperate with and facilitate the Contractor in the implementation of the Project in accordance with the provisions of this Agreement; and

(f) upon written request from the Contractor and subject to the provisions of Clause 4.3, provide reasonable assistance to the Contractor and any expatriate personnel of the Contractor or its Sub-contractors to obtain the applicable visas and the requisite work permits for the purposes of discharge by the Contractor or its Sub-contractors of their obligations under this Agreement and the agreements with the

Sub-contractors.

3.2 Maintenance obligations prior to the Appointed Date

The Authority shall, prior to the Appointed Date, maintain the Project Highway, at its own cost and expense, so that its traffic worthiness and safety are at no time materially inferior as compared to its condition 10 (ten) days prior to the last date for submission of the Bid, and in the event of any material deterioration or damage other than normal wear and tear, undertake repair thereof. For the avoidance of doubt, the Authority shall under take only routine maintenance prior to the Appointed Date; and it shall undertake special repairs only in the event of excessive deterioration or damage caused due to unforeseen events such as floods or earthquake.

3.3 Environmental Clearances

The Authority represents and warrants that the environmental clearances are not required for construction of the Project.

3.4 Deemed Termination upon delay

Without prejudice to the provisions of Clauses 8.3, and subject to the provisions of Clause 7.3, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, within 90 days of signing of the Agreement and submission of the full Performance Security by the Contractor, the Agreement shall be deemed to have been terminated. The Authority shall pay damages to the Contractor equivalent to 1% of the Contract Price (3% in case of standalone bridge projects). All other rights, privileges, claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased. The Contractor shall hand over all information in relation to the Highway, including but not limited to any data, designs, drawings, structures, information, plans, etc. prepared by them for the Highway, to the Authority.

Article 4
Obligations of the Contractor

4.1 Obligations of the Contractor

(i) Subject to and on the terms and conditions of this Agreement, the Contractor shall undertake the survey, investigation, design, engineering, procurement, construction, and maintenance of the Project Highway and observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder.

(ii) The Contractor shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.

(iii) Subject to the provisions of Clauses 4.1 (i) and 4.1 (ii), the Contractor shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

(iv) The Contractor shall remedy any and all loss, defects, or damage to the Project Highway from the Appointed Date until the end of the Construction Period at the Contractor's cost, save and except to the extent that any such loss, defect, or damage shall have arisen from any wilful default or neglect of the Authority.

(v) The Contractor shall remedy any and all loss, defect or damage to the Project Highway during the Defects Liability Period at the Contractor's cost to the extent that such loss, defect or damage shall have arisen out of the reasons specified in Clause 17.3.

(vi) The Contractor shall remedy any and all loss or damage to the Project Highway during the Maintenance Period at the Contractor's cost, including those stated in Clause 14.1 (ii), save and except to the extent that any such loss or damage shall have arisen on account of any wilful default or neglect of the Authority or on account of a Force Majeure Event.

(vii) The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits set forth in Schedule-F and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;

(b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for Materials, methods, processes and systems used or incorporated into the Project Highway;

(c) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Sub-contractors in connection with the performance of its obligations under this Agreement;

(d) ensure and procure that its Sub-contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Contractor's obligations under this Agreement;

(e) not do or omit to do any act, deed or thing which may in any manner violate any provisions of this Agreement;

(f) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;

(g) ensure that the Contractor and its Sub-contractors comply with the safety and welfare measures for labour in accordance with the Applicable Laws and Good Industry Practice;

(h) keep, on Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Scope orders and other communications given under this Agreement. The Authority's Engineer and its authorised personnel shall have the right of access to all these documents at all reasonable times;

(i) cooperate with other contractors employed by the Authority and personnel of any public authority; and

(j) not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Authority or of others.

(viii) The Contractor shall undertake all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works. The Contractor shall provide all necessary superintendence of the Works for the proper fulfilling of the Contractor's obligations under the Agreement. Such superintendence shall be given by competent person having

adequate knowledge of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents) for the satisfactory and safe execution of the Works.

(ix) The Contractor shall obtain and maintain a project related bank account operational at site where all transactions related to the payment of work will be done. The Contractor shall submit a monthly account statement and a detailed report on utilization of funds transferred to this project related bank account to Authority's Engineer. Notwithstanding anything contrary to this agreement, the authority, in the interest and to ensure timely completion of the work, reserves the right to audit such bank accounts to ensure that there is no diversion of funds from this project specific account to any other project being implemented by the Contractor.

(x) The Contractor shall provide the documents of the Contractor specified in the Agreement, and all Contractors' personnel; Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for the execution, completion of Works and remedying defects.

(xi) The Contractor shall perform the Works in conformity with the Project requirements and other requirements and standards prescribed under or pursuant to the Agreement.

(xii) The Contractor shall carry out such work incidental and contingent to the original Scope of the Project to comply with Good Industry Practices.

(xiii) The Contractor shall maintain required staff and necessary Contractor's equipment and materials within the reach of the Site during the Defects Liability Period so that any defects arising are promptly attended.

4.2 Obligations relating to sub-contracts and any other agreements

(i) The Contractor, whether Joint Venture or sole, shall not sub-contract any Works in more than **49% (forty nine per cent)** of the Contract Price and shall carry out Works directly under its own supervision and through its own personnel and equipment in **at least 51% (fifty one per cent)** of the Contract Price. Further, in case the Contractor is a Joint Venture, then the Lead Member shall carry out Works directly through its own resources (men, material and machines etc.) in **at least 51% (fifty one per cent)** of total length of the Project Highway. Provided, however, that in respect of the Works carried out directly by the Contractor, it may enter into contracts for the supply and installation of Materials, Plant, equipment, road furniture, safety devices and labour, as the case may be, for such Works. For the avoidance of doubt, the Parties agree that the Contractor may sub-divide the aforesaid length of **51% (fifty one per cent)** in no more than 5 (five) sections of the Project Highway. The Parties further agree that all obligations and liabilities under this Agreement for the entire project Highway shall at all times remain with the Contractor.

(ii) In the event any sub-contract for Works, or the aggregate of such sub-contracts with any Sub-contractor, exceeds 5% (five percent) of the Contract Price, the Contractor shall communicate the name and particulars, including the relevant experience of the Sub-contractor, to the Authority prior to entering into any such sub-contract. The Authority shall examine the particulars of the Sub- contractor from the national security and public interest perspective and may require the Contractor, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, not to proceed with the sub-contract, and the Contractor shall comply therewith.

(iii) In the event any sub-contract referred to in Clause 4.2 (ii) relates to a Sub- contractor who has, over the preceding 3 (three) years, not undertaken at least one work of a similar nature with a contract value exceeding 40% (forty per cent) of the value of the sub-contract to be awarded hereunder, and received payments in respect thereof for an amount equal to at least such 40% (forty per cent), the Authority may, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, require the Contractor not to proceed with such sub-contract, and the Contractor shall comply therewith without delay or demur.

(iv) It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the agreements with its Sub-contractors or any other agreement that may be entered into by the Contractor, and no default under any such agreement shall excuse the Contractor from its obligations or liability under this Agreement. However, in case of non-compliance of the Contractor towards his obligations for payments to the approved Sub-contractor(s), which is likely to affect the progress of works, the authority reserves the right to intervene and direct the Contractor to release such outstanding payments to approved Sub-contractor(s) out of the payments due for the completed Works in the interest of work.

4.3 Employment of foreign nationals

The Contractor acknowledges, agrees and undertakes that employment of foreign personnel by the Contractor and/or its Sub-contractors and their sub- contractors shall be subject to grant of requisite regulatory permits and approvals including employment/ residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall always rest with the Contractor. Notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Contractor or any of its Sub- contractors or their sub-contractors shall not constitute a Force Majeure Event, and shall not in any manner excuse the Contractor from the performance and discharge it of its obligations and liabilities under this Agreement, and the Contractor’s liabilities hereunder shall remain unaffected by such failure, refusal or inability.

4.4 Contractor's personnel

(i) The Contractor shall ensure that the personnel engaged by it or by its Sub- contractors in the performance of its obligations under this Agreement are at all times appropriately and adequately qualified, skilled and experienced in their respective functions in conformity with Good Industry Practice. The Contractor will try to hire at least 10% (ten percent) trained workmen as per the National Skills Qualifications Framework. If necessary, the requisite workmen may be got trained by the Contractor at his cost through authorized training centres of the Directorate General of Training (DGT). The Contractor will organize training at project site/ sites for the trainees as and when required as per the training schedule finalized in consultation with the training centres. The trainees shall be paid stipend by the Contractor (subject to a maximum of Rs.15,000/- per person) on the basis of minimum wages to compensate for loss of income during the training period.

(ii) The Authority's Engineer may, for reasons to be specified in writing, direct the Contractor to remove any member of the Contractor's or Sub-contractor's personnel. Provided that any such direction issued by the Authority's Engineer shall specify the reasons for the removal of such person.

(iii) The Contractor shall on receiving such a direction from the Authority's Engineer order for the removal of such person or persons with immediate effect. It shall be the duty of the Contractor to ensure that such persons are evicted from the Site within 10 (ten) days of any such direction being issued in pursuance of Clause 4.4 (ii). The Contractor shall further ensure that such persons have no further connection with the Works or Maintenance under this Agreement. The Contractor shall then appoint (or cause to be appointed) a replacement.

4.5 Advertisement on Project Highway

The Project Highway or any part thereof shall not be used in any manner to advertise any commercial product or services.

4.6 Contractor's care of the Works

The Contractor shall bear full risk in, and take full responsibility for, the care of the Works, and of the Materials, goods and equipment for incorporation therein, from the Appointed Date until the date of Completion Certificate, save and except to the extent that any such loss or damage shall have arisen from any wilful default or gross neglect of the Authority.

4.7 Electricity, water and other services

The Contractor shall be responsible for procuring of all utilities as may be required, including without limitation, adequate power, water and other services.

4.8 Unforeseeable difficulties

Except as otherwise stated in the Agreement:

(a) the Contractor accepts complete responsibility for having foreseen all difficulties and costs of successfully completing the Works;

(b) the Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs; and

(c) the Scheduled Completion Date shall not be adjusted to take account of any unforeseen difficulties or costs.

4.9 Co-ordination of the Works

(i) The Contractor acknowledges that in addition to the Agreement, it is also aware of terms of the other Project contracts and other agreements the Authority has negotiated and entered into for performance of its obligations under the Agreement (copies of other contracts and other agreements are made available to the Contractor from time to time) and that the Contractor is fully aware of the consequences to the Authority which would or are likely to result from a breach by the Contractor of its obligations under the Agreement. In the event the actions of the Contractor result in the breach by the Authority of any or all of the other Project contracts and such breach imposes any liability on the Authority, the Contractor shall: (a) undertake all steps as may be possible to mitigate or neutralize the liability that has arisen, and (b) indemnify the Authority against any such liability and compensate the Authority to that extent.

(ii) The Contractor shall be responsible for the co-ordination and proper provision of the Works, including co-ordination of other Contractors or Sub-contractors for the Project. The Contractor shall co-operate with the Authority in the co- ordination of the Works with the works under the other Project contracts. The Contractor shall provide all reasonable support for carrying out their work to:

(a) any other contractors employed by the Authority;

(b) the workmen of the Authority;

(c) the workmen of any Governmental Instrumentality who may be employed in the execution of work on or near the Site; and

(d) such other persons as is required in the opinion of the Authority for successful completion of the Project.

4.10 Environmental Measures

(i) The Contractor agrees to conduct its activities in connection with the Agreement in such a manner so as to comply with the environmental requirements which includes, *inter alia*, all the conditions required to be satisfied under the environmental clearances and applicable law, and assumes full responsibility for measures which are required to be taken to ensure such compliance.

4.11 Site Data

(i) The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied himself before entering into the Agreement in all material respects including but not limited to:

i. the form and nature of the Site (including, inter-alia, the surface and sub- surface conditions and geo-technical factors);

ii. the hydrological and climatic conditions;

iii. the extent and nature of the works already completed and Materials necessary for the execution and completion of the Works and the remedying of any defects that includes already executed part also.

iv. the suitability and the adequacy of the Site for the execution of the Works;

v. the means of access to the Site and the accommodation the Contractor may require;

vi. arranging permits as required as per provisions of the Agreement.

vii. the requirements of operation and maintenance; and

viii. all other factors and circumstances affecting the Contractor's rights and obligations under the Agreement, the Contract Price and Time for Completion.

4.12 Sufficiency of Contract Price

The Contractor shall have satisfied itself as to the correctness and sufficiency of the Contract Price. The Contract Price shall cover all its obligations under the Agreement, in addition to all risks the Contractor has agreed to undertake under the Agreement, including those associated with the performance of its obligations under the Agreement and all things necessary for the provision of the Works in a manner satisfactory to the Authority and in accordance with this Agreement.

4.13 Clearance of the Site

During the provision of the Works, and as a pre-condition to the issue of the Taking-Over Certificate, the Contractor shall clear away and remove from the Site, all Contractor's equipment, surplus material, wreckage, rubbish and temporary Works, and shall keep the Site free from all unnecessary obstructions, and shall not store or dispose of any Contractor's equipment or surplus materials on the Site. The Contractor shall

promptly clear away and remove from the Site any wreckage, rubbish or temporary Works no longer required and leave the Site and the Works in a clean and safe condition to the sole satisfaction of the Authority.

4.14 Obligations relating to Local content

The Contractor [Class I Local Supplier/Class II Local Supplier / Non Local Supplier] undertakes to ensure minimum Local Content in the Project Highway of at least [50%/20%] duly complying with the provisions of Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India Order No.P-45021/2/2017-PP (BE- II) dated September 16,2020, as amended or modified till Bid Due Date and the provisions under Rule 144(xi) of GFR, 2017.

Article 5
Representations and Warranties

5.1 Representations and warranties of the Contractor

(i) The Contractor represents and warrants to the Authority that:

(a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and/or other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable against it in accordance with the terms hereof;

(d) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;

(e) the information furnished in the Bid, Request for Qualification and Request for Proposals or otherwise and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(f) the execution, delivery and performance of this Agreement will not conflict with,

or result in the breach of, or constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(j) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection there with;

(l) nothing contained in this Agreement shall create any contractual relationship or obligation between the Authority and any Sub- contractors, designers, consultants or agents of the Contractor;

(m) it is adequately financed has the requisite knowledge, expertise, technical know-how, experience, resources, infrastructure, licenses, patents, copy rights, for designing, supplying/procuring the goods and materials, and for providing the installation and construction services required for completing the construction of the Project Facilities; and

(ii) it represents the Authority that:

(a) it owns or has the right to use all **"Intellectual Property"** necessary to perform the contractual obligations and to carry on the Works without conflict with the right of others;

(b) All intellectual property rights necessary to perform the contractual obligations and to carry on the Works are in full force and effect and are vested in, and beneficially owned by the Contractor, and are free from encumbrances.

(c) None of the intellectual property rights is being used, claimed, or posed or attacked by any other person, nor does the use of such intellectual property rights or any part of them infringe the intellectual property rights owned or enjoyed by any third party.

(d) None of the intellectual property rights owned or used by the Contractor is the subject of any claim, opposition, attack, assertion or other arrangement of whatsoever nature which does or may impinge upon their use, validity, enforceability or ownership by the Parties, and there are no grounds or other circumstances which may give rise to the same.

(e) No licenses or registered user or other rights have been granted or agreed to be granted to any third party in respect of such intellectual property rights.

(f) No act has been done or has been omitted to be done to entitle any authority or person to cancel, forfeit or modify any intellectual property rights.

(g) The Contractor shall notify the Authority of any adverse use of the intellectual property rights or confusingly or deceptively similar to the intellectual property rights.

(h) The Contractor shall recognize the Authority's ownership and title to the intellectual property rights and shall not at any time, either directly or indirectly, put to issue the validity or ownership of the intellectual property rights and it will not do any act or thing, either directly or indirectly, which in anyway impairs the validity and ownership of the intellectual property rights.

(i) The Contractor shall, promptly execute, acknowledge and deliver all documents which are requested by Authority to record with appropriate governmental agencies and authorities the fact that the Authority has the right to the use of the said intellectual property rights.

(j) The Contractor shall not, for any reason, object to, or interfere in any way with the ownership, registration or use of the intellectual property rights by the Authority (or its licensee or assigns) for any purpose whatsoever.

(iii) The Contractor is fully aware that the Agreement is inter linked with the other Project contracts and the non-performance or deficient performance or default by the Contractor

and/or any of the Contractor's personnel or Subcontractors under one among the said contracts will have bearing on the other contracts and the evaluation of the Contractor's performance under the Agreement and the Project itself.

(iv) If at any time during the Defects Liability Period any item of the Works or Project Facilities or any part thereof, do not conform to the Authority requirements and Specifications and Standards, on being so notified by the Authority, the Contractor shall promptly rectify/remedy such nonconformity to the satisfaction of the Authority solely at the Contractor's expense; failing which the Authority may reject or revoke Taking-Over Certificate, and the Authority may proceed to correct the Contractor's nonconforming Work by the most expeditious means available, the costs of which shall be to the Contractor's account; or the Authority may retain the non-conforming Work and an equitable adjustment reducing the total Contract Price to reflect the diminished value of such non-conforming Work will be made by written amendment.

(v) In addition to the other warranties, the Contractor represents and warrants as follows:

(a) The Contractor has (or, if the technology does not currently exist, will have granted at the time of passing to The Employer) in and to the technology used in the equipment, materials, goods, Works, Contractor's documents, Drawings and Manuals (**"Technology"**)–

i. all right, title and interest free of any lien, claim or restriction; and

ii. right to grant to the Authority the right to use the Technology for the purpose of this contract, free of any lien, claim or restriction and on the terms of license as required.

(b) The Contractor has granted (or, if the technology does not currently exist, will grant at the time of passing to the Authority the property and title in and to the equipment, materials, goods, Works, spares, Contractor's documents, Drawings and Manuals in which it is used) to the Authority the right to use the Technology, free of any lien, claim or restriction.

(vi) In addition to the other Warranties, the Contractor represents and warrants as follows:

(a) No Technology contains any worm (i.e., a program that travels from one computer to another computer but does not attach itself to the operating system of the computer it enters), virus (i.e., a program that travels from one computer to another computer that attaches itself to the operating system it enters) or self-destruct capability.

(b) The Technology will not abnormally end or provide invalid or incorrect results as a result of date-dependent data.

(c) The Technology can accurately recognize, manage, accommodate, and manipulate date-dependent data, including single and multi-century formulas and leap years.

(vii) No criminal proceedings instituted against any of the employees or Directors of the Contractor.

(viii) Till date the services of the Contractor has not been terminated by any person for any breach or non-performance or negligence by the Contractor.

5.2 Representations and warranties of the Authority

The Authority represents and warrants to the Contractor that:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its right sand perform its obligations, under this Agreement;

(b) it has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Agreement;

(c) it has the financial standing and capacity to perform its obligations under this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of anyGovernment Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;

(f) it has complied with Applicable Laws in all material respects;

(g) it has good and valid right to the Site and has the power and authority to grant the Right of Way in respect thereof to the Contractor; and

(h) it has procured Right of Way and environment clearances such that the Contractor can commence construction forthwith on 90% (ninety per cent) of the total length of the Project Highway.

5.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not

have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

Article 6
Disclaimer

6.1 Disclaimer

(i) The Contractor acknowledges that prior to the execution of this Agreement, the Contractor has, after a complete and careful examination, made an independent evaluation of the Request for Proposal, Scope of the Project, Specifications and Standards of design, construction and maintenance, Site, local conditions, physical qualities of ground, subsoil and geology, traffic volumes, suitability and availability of access routes to the Site and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 3.1 and Clause 5.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Contractor confirms that it shall have no claim whatsoever against the Authority in this regard.

(ii) The Contractor acknowledges and hereby accepts to have satisfied itself as to the correctness and sufficiency of the Contract Price.

(iii) The Contractor acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 6.1 (i) above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Contractor, or any person claiming through or under any of

them, and shall not lead to any adjustment of Contract Price or Scheduled Completion Date.

(iv) The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 6.1 (i) above shall not vitiate this Agreement, or render it voidable.

(v) In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 6.1 (i) above, that Party shall immediately notify the other Party, specifying the mistake or error.

(vi) Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Contractor; and the Authority shall not be liable in any manner for such risks or the consequences thereof.

Part III

Construction and Maintenance

Article 7
Performance Security

7.1 Performance Security

(i) (A) Within 30 (thirty) days of receipt of Letter of Acceptance, the selected Bidder shall furnish to the Authority in the form of Insurance Surety Bond in the format at Appendix -X, Account Payee Demand Draft, Banker's Cheque or irrevocable and unconditional guarantee e - Bank Guarantee from a Bank in the form set forth in Appendix-VII (the "Performance Security") for an amount equal to **3% (Three percent)** of its Bid Price. In case of bids mentioned below, the Selected Bidder, along with the Performance Security, shall also furnish to the Authority in the form of Insurance Surety Band (issued by Insurance Company authorized by Insurance Regulatory and Development Authority of India in the format at Appendix - X), Account Payee Demand Draft, Banker's Cheque or an irrevocable and unconditional e Bank Guarantee from a Bank in the same form given at Appendix-VII towards an Additional Performance Security (the "Additional Performance Security") for an amount calculated as under ;

(i) where the Bid Price is below 10% but not below 20% of the Estimated Project Cost/Cost put to tender, the Additional Performance Security percentage shall be incremented by 0.1% for every percentage of bid price below 10% of the project cost put to bid starting at 11% with the additional bid performance guarantee being 0.1% and this additional performance guarantee percentage shall be applied on the Bid Price.

(ii) where the Bid Price is 20% or more below of the Estimated Project Cost/Cost put to tender, the Additional Performance Security percentage shall be incremented by 0.2% for every percentage of bid price below 20% of the project cost put to bid in addition to 1% of the bid price and this Additional Performance Security percentage shall be applied on the bid price;

(iii) The Additional Performance Security percentage shall be rounded off to the next lower percentage based on whether the decimal point of the percentage of bid price is below 0.5% or next higher percentage based on whether the decimal point of the percentage of bid price is 0.5% or more.

(iv) The additional performance security shall be treated as part of the Performance Security.

(v) An illustrative example for calculation of Additional Performance Security for a notional project where the project cost put to bid is Rs. 1000 crore is given in Annexure-1 of Appendix-VII.

(B) The Performance Security shall be valid until 60(sixty) days after the Defects Liability Period. The Additional Performance Security shall be valid until 28 (twenty-eight) days after Project Completion Date.

(vi) The Selected Bidder has the option to provide 50% of the Performance Security and 50% of the Additional Performance Security, if any, within 30 (thirty) days of receipt of Letter of Acceptance, in any case before signing of the Contract Agreement and the remaining Performance Security and Additional Performance Security, if any, shall be submitted within 30 days of signing of this agreement.

(vii) In the event the Selected Bidder fails to provide the remaining Performance Security and Additional Performance Security, if any, as prescribed herein, it may seek extension of time for a further period upto 60 days by paying the Damages upfront along with the request letter seeking the extension. The Damages shall be the sum calculated at the rate of 0.01% (zero point zero one per cent) of the Bid Price offered by the Selected Bidder for each day until the Performance Security and Additional Performance Security, if any, is provided in full as prescribed herein. The damages at full rate as given above shall be applicable even if a part of the Performance Security and the Additional Performance Security is provided.

(viii) For avoidance of any doubt, in case of failure of submission of Performance Security and Additional Performance Security, if any, within the additional 60 days' time period, the award shall be deemed to be cancelled/ withdrawn and the Bid Security shall be encashed and the proceeds thereof appropriated by the Authority. Thereupon all rights, privileges,

claims and entitlements of the Contractor under or arising out of the Award shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and the Award shall be deemed to have been withdrawn by the Authority.

7.2 Extension of Performance Security and Additional Performance Security

The Contractor may initially provide the Performance Security for a period of 2 (two) years; provided that it shall procure the extension of the validity of the Performance Security, as necessary, at least 2 (two) months prior to the date of expiry thereof. Upon the Contractor providing an extended Performance Security, the previous Performance Security shall be deemed to be released and the Authority shall return the same to the Contractor within a period of 7 (seven) business days from the date of submission of the extended Performance Security.

7.3 Appropriation of Performance Security

(i) Upon occurrence of a Contractor's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Contractor's Default.

(ii) Upon such encashment and appropriation from the Performance Security, the Contractor shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Contractor shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate the Agreement in accordance with Article 23. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Contractor shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Contractor's Default, and in the event of the Contractor not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 23.

7.4 Release of Performance Security

(i) The Authority shall return the Performance Security to the Contractor within 60 (sixty) days of the expiry of the Maintenance Period or the Defects Liability Period, whichever is later, under this Agreement. Notwithstanding the aforesaid, the Parties agree that the Authority shall not be obliged to release the Performance Security until all Defects identified during the Defects Liability Period have been rectified.

(ii) The Authority shall return the Additional Performance Security to the Contractor within 28 (twenty-eight)days from the date of issue of Completion Certificate under Article 12 of this Agreement.

(iii) The Authority shall be liable to pay interest @ 9% (nine per cent) per annum for any delay in the return of Performance Security and Additional Performance Security, if any, beyond the period prescribed above for the period of delay.

7.5 Retention Money

(i) From every payment for Works due to the Contractor in accordance with the provisions of Clause 19.5, the Authority shall deduct 6% (six per cent) thereof as guarantee money for performance of the obligations of the Contractor during the Construction Period (the "**Retention Money**") subject to the condition that the maximum amount of Retention Money shall not exceed 5% (five per cent) of the Contract Price.

(ii) Upon occurrence of a Contractor's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Retention Money as Damages for such Contractor's Default.

(iii) Within 15 (fifteen) days of the date of issue of the Completion Certificate, the Authority shall refund the balance of Retention Money remaining with the Authority after adjusting the amounts appropriated under the provisions of Clause 7.5 (ii).

(iv) The Parties agree that in the event of Termination of this Agreement, the Retention Money specified in this Clause 7.5 shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment under Clause 23.6.

Article 8
Right of Way

8.1. The Site

The site of the Project Highway (the "**Site**") shall comprise the site described in Schedule-A in respect of which the Right of Way shall be provided by the Authority to the Contractor. The Authority shall be responsible for:

(a) acquiring and providing Right of Way on the Site in accordance with the alignment finalized by the Authority, free from all encroachments and encumbrances, and free access thereto for the execution of this Agreement; and

(b) obtaining licenses and permits for environment clearance for the Project Highway.

8.2. Procurement of the Site

(i). The Authority Representative, the Contractor and Authority's Engineer shall, within 10 (ten) days of the date of this Agreement, inspect the Site and prepare a detailed memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site (hereinafter referred to as the "**Handover Memorandum**"). Subject to the provisions of Clause 8.2 (iii), the Handover Memorandum shall have appended thereto an appendix (the "**Appendix**") specifying in reasonable detail those parts of the Site to which

vacant access and Right of Way has not been given to the Contractor along with details of hindrances in the Construction Zone. For sake of clarity the Handover Memorandum shall clearly specify the parts of Site where work can be executed. Signing of the Handover Memorandum, in three counterparts (each of which shall constitute an original), by the authorized representatives of the Authority, Contractor and Authority's Engineer shall be deemed to constitute valid evidence of giving the Right of Way to the Contractor for discharging its obligations under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

(ii). Whenever the Authority is ready to hand over any part or parts of the Site included in the Appendix, it shall inform the Contractor, by notice, of the proposed date and time such of hand over. The Authority Representative and the Contractor shall, on the date so notified, inspect the specified parts of the Site, and prepare a memorandum containing an inventory of the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site so handed over. The signing of the memorandum, in three (3) counterparts (each of which shall constitute an original), by the authorized representatives of the Parties shall be deemed to constitute valid evidence of giving the relevant Right of Way to the Contractor.

If the contractor fails to join for site inspection or disputes the parts of the site available for work, the Authority's Engineer shall decide the parts of the site where work can be executed and notify to both the parties within 3 days of the proposed date of inspection. The parties agree that such notification of the Authority's Engineer as mentioned hereinabove shall be final and binding on the parties.

(iii). The Authority shall provide the Right of Way to the Contractor in respect of all land included in the Appendix by the date specified in Schedule-A for those parts of the Site referred to therein, and in the event of delay for any reason other than Force Majeure or breach of this Agreement by the Contractor, it shall pay to the Contractor, Damages in a sum calculated in accordance with Clause 8.3. The Contractor agrees that it shall not be entitled to claim any other damages on account of any such delay by the Authority.

(iv). Notwithstanding anything to the contrary contained in this Clause 8.2, the Authority shall specify the parts of the Site, if any, for which Right of Way shall be provided to the Contractor on the dates specified in Schedule-A. Such parts shall also be included in the Appendix prepared in pursuance of Clause 8.2(i).

(v). The Authority further acknowledges and agrees that prior to the Appointed Date, it shall have procured issuance of the statutory notification under Applicable Laws for vesting of all the land comprising the Project in the Authority and has taken

possession of area for Construction Zone for at least 90% (ninety per cent) of the total length of the Project Highway. The Parties also acknowledge and agree that the conditions specified in this Clause 8.2 (iii) shall not be modified or waived by either Party.

(vi). For the avoidance of doubt, the Parties expressly agree that the Appendix shall in no event contain sections of the Project Highway the cumulative length of which exceeds 10% (ten percent) of the total length of the Project Highway.

(vii). Pursuant to signing of Handover Memorandum under clause 8.2 (i), Contractor shall submit to the Authority's Engineer, a monthly land possession report till expiry of 180 (one hundred and eighty) days from Appointed Date, in respect of those parts of the site to which vacant access and right of way was not given to the contractor and included in Appendix to the memorandum signed under clause 8.2 (i), duly specifying the part of the site, if any, for which the right of way is yet to be handed over.

8.3. Damages for delay in handing over the Site

(i) In the event the Right of Way to any part of the Site is not provided by the Authority on or before the date(s) specified in Clause 8.2 for any reason other than Force Majeure or breach of this Agreement by the Contractor, the Authority shall pay Damages to the Contractor a sum calculated in accordance with the following formula for and in respect of those parts of the Site to which the Right of Way has not been provided:

Amount of Damages in Rs. per day per metre = $0.05 \times C \times {}^{1}/_{L} \times {}^{1}/_{N}$

Where,

C = the Contract Price;

L = length of the Project Highway in meters; and

N = Completion period in days (Appointed Date to Scheduled Completion Date)

In the event that any Damages are due and payable to the Contractor under the provisions of this Clause 8.3 (i) for delay in providing the Right of Way, the Contractor shall, subject to the provisions of Clause 10.5, be entitled to Time Extension equal to the period for which the Damages have become due and payable under this Clause 8.3 (i), save and except that:

(a) if any delays involve time overlaps, the overlaps shall not be additive; and

(b) such Time Extension shall be restricted only to the Works which are

affected by the delay in providing the Right of Way.

For the avoidance of doubt, the Parties expressly agree that the Damages specified hereunder and the Time Extension specified in Clause 10.5 shall be restricted only to failure of the Authority to provide the Right of Way for and in respect of the "Construction Zone" which shall comprise the following components:

- Main in carriageway
- Median (for 4 lane carriageway or more)
- Paved and earthen shoulders
- Area for Structures including ROBs/RUBs.
- Safety measures including Roadside Drains and Furniture.
- A parallel working space for accommodating slopes/retaining structures etc.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Contractor expressly agrees that Works on all parts of the Site for which Right of Way of Construction Zone is granted on the Appointed Date, or with respect to the parts of the Site provided in Schedule-A, no later than the date(s) specified therein, as the case may be, shall be completed before the Scheduled Completion Date and shall not qualify for any Time Extension under the provisions of Clause 8.3 (iii).

(iii) (a) Notwithstanding anything to the contrary contained in this Agreement, unless covered under the deemed de-scoping in terms of sub-clause 8.3 (iii) (b), the Authority may at any time withdraw any Works forming part of this Agreement, subject to such Works not exceeding an aggregate value, such value to be determined in accordance with Schedule-H, equal to 10 (ten) percent of the Contract Price.

(b) Provided that if any Works cannot be undertaken within the municipal limits of a town or within any area falling in a reserved forest or wildlife sanctuary or the stretches where vacant access and Right of Way could not be handed over, as the case may be, because the requisite clearances or approvals or affected land parcels for commencing construction of Works therein have not been given within 180 (one hundred and eighty) days of the Appointed date, the affected Works shall be deemed to be withdrawn under the provisions of this Clause 8.3.3. Such Works shall not be computed for the purposes of the aforesaid ceiling of 10% (ten percent) hereunder.

(c) Provided further that in case such stretches (as mentioned in Sub-Clause

(b) above) can be handed over to the Contractor before the expiry of the original Scheduled Construction Period of the Project Highway, and the Contractor agrees to take up the work, the same may be allowed to be executed by him with corresponding Extension of Time, subject to the condition that the Contractor shall not be entitled to raise any claims on account of prolongation costs in this behalf.

(iv) In the event of withdrawal of Works under Clause 8.3 (iii) (a), the Contract Price shall be reduced by an amount equal to the percent of the value of the Works withdrawn as mentioned in table below and the Contractor shall not be entitled to any other compensation or Damages for the withdrawal of Works.

Value of the works withdrawn	**Percentage of value of works to be reduced from Contract Price**
up to Rs. 100 Crore	90%
More than Rs. 100 Crore	Rs.90 Crore Plus 95% of the amount greater than Rs.100 Crore

Provided that if any Works are withdrawn after commencement of the Construction of such works, the Authority shall pay to the Contractor 110% (one hundred and ten per cent) of the fair value of the work done, as assessed by the Authority' Engineer.

The parties expressly agree that the value of the Works withdrawn shall be determined from the details available in Schedule-H. In the event that it is impossible to determine the value from Schedule-H, then the value shall be determined in accordance with the provisions of Clause 13.2 (iii).

8.4. Site to be free from Encumbrances

Subject to the provisions of Clause 8.2, the Site shall be made available by the Authority to the Contractor pursuant hereto free from all Encumbrances and occupations and without the Contractor being required to make any payment to the Authority because of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Project Completion Schedule. For the avoidance of doubt, it is agreed that the existing rights of way, easements, privileges, liberties and appurtenances to the Site shall not be deemed to be Encumbrances. It is further agreed that, unless otherwise specified in this Agreement, the Contractor accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

8.5. Protection of Site from encroachments

On and after signing the memorandum and/or subsequent memorandum referred to in Clause 8.2, and until the issue of the Completion Certificate, the Contractor shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment takes place thereon. During the Construction Period, the Contractor shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Sub-contractor or other person claiming through or under the Agreement to place or create any Encumbrance or security threat over all or any part of the Site or the Project Assets, or on any rights of the Contractor therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement. In the event of any encroachment or occupation on any part of the Site, the Contractor shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its own cost and expenses.

8.6. Special/ temporary Right of Way

The Contractor shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The Contractor shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Project Highway and the performance of its obligations under this Agreement.

8.7. Access to the Authority and the Authority's Engineer

(i) The Right of Way given to the Contractor hereunder shall always be subject to the right of access of the Authority and the Authority's Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

(ii) The Contractor shall ensure, subject to all relevant safety procedures, that the Authority has un-restricted access to the Site during any emergency situation, as decided by the Authority's Engineer.

8.8. Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of this Agreement with the Contractor for the Works, and the Contractor hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals,fossils,antiquities,structuresorotherremnantsorthingseitherofparticulargeological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Authority or the concerned Government Instrumentality. The Contractor shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such

property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Contractor hereunder shall be reimbursed by the Authority. It is also agreed that the Authority shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

Article 9
Utilities and Trees

9.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, it shall be the responsibility of the Contractor to ensure that the respective entities owning the existing roads, right of way, level crossings, structures, or utilities on, under or above the Site are enabled by it to keep them in continuous satisfactory use, if necessary, by providing suitable temporary diversions with the authority of the controlling body of that road, right of way or utility.

9.2 Shifting of obstructing utilities

The Contractor shall, subject to Applicable Laws and with the assistance of the Authority, undertake shifting of any utility (including electric lines, water pipes and telephone cables), to an appropriate location or alignment, if such utility or obstruction adversely affects the execution of Works or maintenance of the Project Highway in accordance with this Agreement, as per the scope given in Schedule B and in accordance with applicable standards and specifications of concerned utility owing entity. The cost of

shifting of such, utilities indicated in Schedule-B is payable to the Contractor as per Schedule-H. Cost of shifting utilities not included in the Schedule-B if any, shall not be treated as Change of Scope. The Authority will provide assistance to the Contractor for obtaining the estimates for shifting of such utilities from the entity owing such electric lines, water pipes or telephone cables, as the case may be. The Contractor shall execute such utility shifting works under the supervision of utility owning agency and Authority's Engineer (AE) in accordance with the provision of Agreement. The supervision charges only shall be paid by the Authority to the Utility Owning Entity. In the event of any delay in shifting thereof, the Contactor shall be responsible for failure to perform any of its obligations here under if such failure is not as a direct consequence of delay on the part of the entity owning such electric lines, water pipes or telephone cables, as the case may be.

The dismantled material/ scrap of existing Utility to be shifted/ dismantled shall belong to the Contractor who would be free to dispose-off the dismantled material as deemed fit by them.

The work of shifting of Utilities can be taken up by the Contractor any time after signing of the Agreement.

9.3 New utilities

(i) The Contractor shall allow, subject to the permission from the Authority and such conditions as the Authority may specify, access to, and use of the Site for laying telephone lines, water pipes, electricity lines/ cables or other public utilities. Where such access or use causes any financial loss to the Contractor, it may require the user of the Site to pay compensation or damages as per Applicable Laws. For the avoidance of doubt, it is agreed that use of the Site under this Clause 9.3 shall not in any manner relieve the Contractor of its obligation to construct and maintain the Project Highway in accordance with this Agreement and any damage caused by such use shall be restored forthwith at the cost of the Authority.

(ii) The Authority may, by notice, require the Contractor to connect any adjoining road to the Project Highway, and the connecting portion there of falling within the Site shall be constructed by the Contractor at the Authority's cost in accordance with Article10.

(iii) The Authority may by notice require the Contractor to connect, through a paved road, any adjoining service station, hotel, motel or any other public facility or amenity to the Project Highway, whereupon the connecting portion thereof that falls within the Site shall be constructed by the Contractor on payment of the cost. The cost to be paid by the Authority to the Contractor shall be determined by the Authority's Engineer. For the avoidance of doubt, in the event such road is to be

constructed for the benefit of any entity, the Authority may require such entity to make an advance deposit with the Contractor or the Authority, as the case may be, of an amount equal to the estimated cost as determined by the Authority's Engineer and such advance shall be adjusted against the cost of construction as determined by the Authority's Engineer hereunder.

(iv) In the event construction of any Works is affected by a new utility or works undertaken in accordance with this Clause 9.3, the Contractor shall be entitled to a reasonable Time Extension as determined by the Authority's Engineer.

9.4 Felling of trees

The Authority shall assist the Contractor in obtaining the Applicable Permits for felling of trees in non-forest area to be identified by the Authority for this purpose if, and only if, such trees cause a Material Adverse Effect on the construction or maintenance of the Project Highway. The Contractor shall fell these trees as per the Permits obtained. The cost of such felling shall be borne by the Authority and in the event of any delay in felling thereof for reasons beyond the control of the Contractor; it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. The Parties hereto agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate. For the avoidance of doubt, the Parties agree that if any felling of trees hereunder is in a forest area, the Applicable Permit thereof shall be procured by the Authority within the time specified in the Agreement.

9.5 Dismantling of structures

The Contractor shall at its own cost dismantle the structures in the acquired lands including those on patta lands, abadi lands, assigned lands, etc. the compensation for which, was paid by the Authority to the land owners and the lands were handed over to the Contractor. The Contractor shall, at its own cost, dispose of the dismantled material in its sole discretion as deemed appropriate, while complying with all environmental guidelines and regulations and clear the Site for undertaking construction. In the event of any delay in dismantling of structures thereof for reasons beyond the control of the Contractor, the Contractor shall be entitled to Damages in a sum calculated in accordance with the formula specified in Clause 8.3 (i) for the period of delay, and to the Time Extension in accordance with Clause 10.5 for and in respect of the part(s) of the Works affected by such delay; provided that if the delays involve any time overlaps, the overlaps shall not be additive.

9.6 Development Period

The Contractor may commence pre-construction activities like utility shifting, boundary

wall construction or any other activity assigned to the Contractor by the Authority to enable construction of the Project Highway immediately after signing of the Agreement, to the extent that such work is ready for execution. The Parties agree that these works may be taken up and completed to the extent feasible by the Contractor, before declaration of the Appointed Date, but no claim against the Authority for delay shall survive during this period and that the undertaking of these works by the Contractor shall not count towards the Scheduled Construction Period of the project which starts counting only from the Appointed Date. No construction activity of the Project Highway shall be undertaken during the development period.

Article 10
Design and Construction of the Project Highway

10.1 Obligations prior to commencement of Works

(i) Within 20 (twenty) days of the Appointed Date, the Contractor shall:

(a) appoint its representative, duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;

(b) appoint a design director (the "**Design Director**") who will head the Contractor's design unit and shall be responsible for surveys, investigations, collection of data, and preparation of preliminary and detailed designs;

(c) undertake and perform all such acts, deeds and things as may be necessary or required before commencement of Works under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and

(d) Make its own arrangements for quarrying of materials needed for the Project Highway under and in accordance with the Applicable Laws and Applicable Permits.

(ii) The Authority shall, appoint an engineer (the **"Authority's Engineer"**) before the Appointed Date to discharge the functions and duties specified in this Agreement, and shall notify to the Contractor the name, address and the date of appointment of the Authority's Engineer forthwith.

(iii) Within 30 (thirty) days of the Appointed Date, the Contractor shall submit to the Authority and the Authority's Engineer a programme (the **"Programme"**) for the Works, developed using networking techniques, for review and consent of the Engineer, giving the following details:

(a) Part I: Contractor's organization for the Project, the general methods and arrangements for design and construction, environmental management plan, Quality Assurance Plan including design quality plan, traffic management and safety plan covering safety of users and workers during construction (including use of 'ROBOTS' for diversion and control of traffic), Contractor's key personnel and equipment.

(b) Part II: Programme for completion of all stages of construction given in Schedule-H and Project Milestones of the Works as specified in Project Completion Schedule set forth in Schedule-J. The Programme shall include:

i. the order in which the Contractor intends to carry out the Works, including the anticipated timing of design and stages of Works;

ii. the periods for reviews under Clause10.2;

iii. the sequence and timing of inspections and tests specified in this Agreement; and

iv. the particulars for the pre-construction reviews and for any other submissions, approvals and consents specified in the Agreement.

The Contractor shall submit a revised Programme whenever the previous Programme is inconsistent with the actual progress or with the Contractor's obligations.

(c) Part III: Monthly cash flow forecast.

(iv) The Contractor shall compute, on the basis of the Drawings prepared in accordance with Clause 10.2(iv), and provide to the Authority's Engineer, the length, area and numbers, as the case may be, in respect of the various items of

work specified in Schedule-H and comprising the Scope of the Project. The Parties expressly agree that these details shall form the basis for estimating the interim payments for the Works in accordance with the provisions of Clause 19.3. For the avoidance of doubt, the sum of payments to be computed in respect of all the items of work shall not exceed the Contract Price, as may be adjusted in accordance with the provisions of this Agreement.

(v) The Contractor shall appoint a safety consultant (the **"Safety Consultant"**) to carry out a safety audit at the design stage of the Project Highway in accordance with the Applicable Laws and Good Industry Practice. The Safety Consultant shall be appointed after proposing to the Authority a panel of three (3) names of qualified and experienced firms from which the Authority may choose one (1) to be the Safety Consultant. Provided, however, that if the panel is not acceptable to the Authority and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Authority a revised panel of three (3) names from the firms empanelled as safety consultants by the [Ministry of Road Transport and Highways] for obtaining the consent of the Authority. The Contractor shall also obtain the consent of the Authority for the key personnel of the Safety Consultant who shall have adequate experience and qualifications in safety audit of the highway projects. The Authority shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Safety Consultant.

(vi) The safety audit pursuant to Clause 10.1 (v) shall be carried out by the Safety Consultant in respect of all such design details that have a bearing on safety of Users as well as pedestrians and animals involved in or associated with accidents. The recommendations of the Safety Consultant shall be incorporated in the design of the Project Highway and the Contractor shall forward to the Authority's Engineer a certificate to this effect together with the recommendations of the Safety Consultant. In the event that any works required by the Safety Consultant shall fall beyond the scope of Schedule-B, Schedule-C or Schedule-D, the Contractor shall make a report thereon and seek the instructions of the Authority for Change in Scope. For the avoidance of doubt, the Safety Consultant to be engaged by the Contractor shall be independent of the design and implementation team of the Contractor.

10.2 Design and Drawings

(i) Design and Drawings shall be developed in conformity with the Specifications and Standards set forth in Schedule-D. In the event, the Contractor requires any relaxation in design standards due to restricted Right of Way in any section, the alternative design criteria for such section shall be provided for review and

approval of the Authority's Engineer.

(ii) The Contractor shall appoint a proof check consultant (the "**Proof Consultant**") after proposing to the Authority a panel of three (3) names of qualified and experienced firms from whom the Authority may choose one (1) to be the Proof Consultant. Provided, however, that if the panel is not acceptable to the Authority and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Authority a revised panel of three (3) names from the firms empanelled as proof consultants by the [Ministry of Road Transport and Highways] for obtaining the consent of the Authority. The Contractor shall also obtain the consent of the Authority for two (2) key personnel of the Proof Consultant who shall have adequate experience and qualifications in highways and bridges respectively. The Authority shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Proof Consultant.

(iii) The Proof Consultant shall:

(a) evolve a systems approach with the Design Director so as to minimize the time required for final designs and construction drawings; and

(b) proof check the detailed calculations, drawings and designs, which have been approved by the Design Director.

(iv) In respect of the Contractor's obligations with respect to the design and Drawings of the Project Highway as set forth in Schedule-I, the following shall apply:

(a) The Contractor shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, three (3) copies each of the design and Drawings, duly certified by the Proof Consultant, to the Authority's Engineer for its approval. Provided, however, that in respect of Major Bridges and Structures, the Authority's Engineer may require additional drawings for approval in accordance with Good Industry Practice.

(b) by submitting the Drawings for review and approval to the Authority's Engineer, the Contractor shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related thereto, are in conformity with the Scope of the Project, the Specifications and Standards and the Applicable Laws;

(c) within 15 (fifteen) days of the receipt of the Drawings, the Authority's Engineer shall review the same and convey its approval/observations to the

Contractor with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. Provided, however that in case of a major bridge or structure, the aforesaid period of 15 (fifteen) days may be extended up to 30 (thirty) days;

(d) if the aforesaid observations of the Authority's Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the Contractor in conformity with the provisions of this Agreement and resubmitted to the Authority's Engineer for review and approval. The Authority's Engineer shall give its observations, if any, within 10 (ten) days of receipt of the revised Drawings. In the event the Contractor fails to revise and resubmit such Drawings to the Authority's Engineer for review/approval as aforesaid, the Authority's Engineer may withhold the payment for the affected works in accordance with the provisions of Clause 19.5 (iv).If the Contractor disputes any decision, direction or determination of the Authority's Engineer hereunder, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure;

(e) no review/approval and/or observation of the Authority's Engineer and/or its failure to review/approval and/or convey its observations on any Drawings shall relieve the Contractor of its obligations and liabilities under this Agreement in any manner nor shall the Authority's Engineer or the Authority be liable for the same in any manner; and if errors, omissions, ambiguities, inconsistencies, inadequacies or other Defects are found in the Drawings, they and the construction works shall be corrected at the Contractor's cost, notwithstanding any approval under this Article 10;

(f) the Contractor shall be responsible for delays in submitting the Drawing as set forth in Schedule-I caused by reason of delays in surveys and field investigations, and shall not be entitled to seek any relief in that regard from the Authority; and

(g) the Contractor warrants that its designers, including any third parties engaged by it, shall have the required experience and capability in accordance with Good Industry Practice and it shall indemnify the Authority against any damage, expense, liability, loss or claim, which the Authority might incur, sustain or be subject to arising from any breach of the Contractor's design responsibility and/or warranty set out in this Clause.

(h) the Contractor shall ensure that all the designs and drawings shall be approved from the Authority's Engineer within 90 days (ninety) from the Appointed Date.

(v) Any cost or delay in construction arising from review/approval by the Authority's Engineer shall be borne by the Contractor.

(vi) Works shall be executed in accordance with the Drawings provided by the Contractor in accordance with the provisions of this Clause 10.2 and the approval of the Authority's Engineer thereon as communicated pursuant to the provisions of sub-Clause (c) & (d) of Clause 10.2(iv). Such Drawings shall not be amended or altered without prior written notice to the Authority's Engineer. If a Party becomes aware of an error or defect of a technical nature in the design or Drawings, that Party shall promptly give notice to the other Party of such error or defect.

(vii) Within 90 (ninety) days of the Project Completion Date, the Contractor shall furnish to the Authority and the Authority's Engineer a complete set of as- built Drawings, in 2 (two) hard copies and in micro film form or in such other medium as may be acceptable to the Authority, reflecting the Project Highway as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project Highway and setback lines, if any, of the buildings and structures forming part of Project Facilities.

10.3 Construction of the Project Highway

(i) The Contractor shall construct the Project Highway as specified in Schedule-B and Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works. The **[548th (Five hundred and forty Eight) day] from the Appointed Date shall be the scheduled completion date** (the **"Scheduled Completion Date"**) and the Contractor agrees and undertakes that the construction shall be completed on or before the Scheduled Completion Date, including any extension thereof.

(ii) The Contractor shall construct the Project Highway in accordance with the Project Completion Schedule set forth in Schedule-J. In the event that the Contractor fails to achieve any Project Milestone or the Scheduled Completion Date within a period of 30 (thirty) days from the date set forth in Schedule-J, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, it shall pay Damages to the Authority of a sum calculated at the rate of 0.05% (zero point zero five percent) of the Contract Price for delay of each day reckoned from the date specified in Schedule–J and until such Project Milestone is achieved or the Project Highway is completed; provided that if the period for any or all Project Milestones or the Scheduled Completion Date is extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-J shall be deemed to be modified accordingly and the provisions of this

Agreement shall apply as if Schedule-J has been amended as above; provided further that in the event the Project Highway is completed within or before the Scheduled Completion Date including any Time Extension, applicable for that work or section, the Damages paid under thisClause10.3 (ii) shall be refunded by the Authority to the Contractor, but without any interest thereon.

The Parties agree that for determining achievement or delays in completion of the Project Milestones or the Project on the due date, the works affected due to delay in providing the site for which time extension has been granted beyond the Scheduled Completion Date will be excluded. For example on the due date to achieve the Project Milestone-I (i.e., Stage Payments of 10% (ten percent) of Contract Price on 200th (one hundred and eighty) day from the Appointed Date), if 5% (five percent) of the project length corresponding to the Project Milestone-I is not handed over or lately handed over resulting in the extension of completion of this 5% (five percent) length beyond Scheduled Completion Date, Stage Payment of 10% x 0.95 = 9.5% only is to be achieved by 200th (one hundred and eighty) day.

For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 10.3 (ii) shall be without prejudice to the rights of the Authority under this Agreement including the right of Termination thereof. The Parties further agree that Time Extension hereunder shall only be reckoned for and in respect of the affected Works as specified in Clause 10.5(ii).

(iii) The Authority shall notify the Contractor of its decision to impose Damages in pursuance with the provisions of this Clause 10.3. Provided that no deduction on account of Damages shall be effected by the Authority without notifying the Contractor of its decision to impose the Damages, and taking into consideration the representation, if any, made by the Contractor within 20 (twenty) days of such notice. The Parties expressly agree that the total amount of Damages under Clause 10.3 (ii) shall not exceed 10% (ten percent) of the Contract Price. If the damages exceed 10% (ten percent) of the Contract Price, the Contractor shall be deemed to be in default of this agreement having no cure and the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice in accordance with the provisions of Clause 23.1 (ii).

(iv) In the event that the Contractor fails to achieve the Project Completion within a period of 90 (ninety) days from the Schedule Completion Date set forth in Schedule-J, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, the contractor shall be deemed to be ineligible for bidding any future projects of the Authority, both as the sole party or as one of the parties of Joint Venture/ Consortium during the period from Scheduled

Completion Date to issuance of Completion Certificate. This restriction is applicable if the contract value of the delayed project is not less than Rs.300Crore.

10.4 Maintenance during Construction Period

(i) During the Construction Period, the Contractor shall maintain, at its cost, the existing lane(s) of the Project Highway so that the traffic worthiness and safety thereof are at no time materially inferior as compared to their condition on Appointed Date, and shall undertake the necessary repair and maintenance works for this purpose; provided that the Contractor may, at its cost, interrupt and divert the flow of traffic if such interruption and diversion is necessary for the efficient progress of Works and conforms to Good Industry Practice; provided further that such interruption and diversion shall be undertaken by the Contractor only with the prior written approval of the Authority's Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Contractor shall at all times be responsible for ensuring safe operation of the Project Highway. It is further agreed that in the event the Project includes construction of a bypass or tunnel and realignment of the existing carriageway, the Contractor shall maintain the existing highway in such sections until the new Works are open to traffic.

(ii) Notwithstanding anything to the contrary contained in this Agreement, in the event of default by the Contractor in discharging the obligations specified in Clause 10.4 (i) above, the Authority shall get these maintenance works completed in the manner recommended by the Authority's Engineer to avoid public inconvenience at the risk and cost of the Contractor in order to keep the road in traffic worthy condition.

10.5 Extension of time for completion

(i) Without prejudice to any other provision of this Agreement for and in respect of extension of time, the Contractor shall be entitled to extension of time in the Project Completion Schedule (the **"Time Extension"**) to the extent that completion of any Project Milestone is or will be delayed by any of the following, namely:

(a) delay in providing the Right of Way of Construction Zone, environmental clearances or approval of railway authorities, specified in Clause 3.1(iv);

(b) Change of Scope (unless an adjustment to the Scheduled Completion Date has been agreed under Article13);

(c) occurrence of a Force Majeure Event;

(d) any delay, impediment or prevention caused by or attributable to the

Authority, the Authority's personnel or the Authority's other contractors on the Site; and

(e) any other cause or delay which entitles the Contractor to Time Extension in accordance with the provisions of this Agreement.

(ii) The Contractor shall, no later than 15 (fifteen) business days from the occurrence of an event or circumstance specified in Clause 10.5 (i), inform the Authority's Engineer by notice in writing, with a copy to the Authority, stating in reasonable detail with supporting particulars, the event or circumstances giving rise to the claim for Time Extension in accordance with the provisions of this Agreement. Provided that the period of 15 (fifteen) business days shall be calculated from the date on which the Contractor became aware, or should have become aware, of the occurrence of such an event or circumstance.

Provided further that notwithstanding anything to the contrary contained in this Agreement, Time Extension shall be due and applicable only for the Works which are affected by the aforesaid events or circumstances and shall not in any manner affect the Project Completion Schedule for and in respect of the Works which are not affected hereunder.

(iii) On the failure of the Contractor to issue to the Authority's Engineer a notice in accordance with the provisions of Clause 10.5 (ii) within the time specified therein, the Contractor shall not be entitled to any Time Extension and shall forfeit its right for any such claims in future. For the avoidance of doubt, in the event of failure of the Contractor to issue notice as specified in this clause 10.5 (iii), the Authority shall be discharged from all liability in connection with the claim.

(iv) The Authority's Engineer shall, on receipt of the claim in accordance with the provisions of Clause 10.5 (ii), examine the claim expeditiously within the timeframe specified herein. In the event the Authority's Engineer requires any clarifications to examine the claim, the Authority's Engineer shall seek the same within 15 (fifteen) days from the date of receiving the claim. The Contractor shall, on receipt of the communication of the Authority's Engineer requesting for clarification, furnish the same to the Authority's Engineer within 10 (ten) days thereof. The Authority's Engineer shall, within a period of 30 (thirty) days from the date of receipt of such clarifications, forward in writing to the Contractor its determination of Time Extension.

Provided that when determining each extension of time under this Clause 10.5, the Authority's Engineer shall review previous determinations and may increase, but shall not decrease, the total Time Extension.

(v) If the event or circumstance giving rise to the notice has a continuing effect:

(a) a fully detailed claim shall be considered as interim;

(b) the Contractor shall, no later than 10 (ten) days after the close of each month, send further interim claims specifying the accumulated delay, the extension of time claimed, and such further particulars as the Authority's Engineer may reasonably require; and

(c) the Contractor shall send a final claim within 30 (thirty) days after the effect of the event or the circumstance ceases.

Upon receipt of the claim hereunder, the Authority's Engineer shall examine the same in accordance with the provisions of Clause 10.5 (iv) within a period of 30 (thirty) days of the receipt thereof.

10.6 Incomplete Works

In the event the Contractor fails to complete the Works in accordance with the Project Completion Schedule, including any Time Extension granted under this Agreement, the Contractor shall endeavour to complete the balance work expeditiously and shall pay Damages to the Authority in accordance with the provisions of Clause 10.3 (ii) for delay of each day until the Works are completed in accordance with the provisions of this Agreement. Recovery of Damages under this Clause shall be without prejudice to the rights of the Authority under this Agreement including the right to termination under Clause 23.1.

10.7 Maintenance Manual

No later than 60 (sixty) days prior to the Project Completion Date, the Contractor shall, in consultation with the Authority's Engineer, evolve a maintenance manual (the **"Maintenance Manual"**) for the regular and preventive maintenance of the Project Highway in conformity with the Specifications and Standards, safety requirements and Good Industry Practice, and shall provide 5 (five) copies thereof to the Authority's Engineer. The Authority's Engineer shall review the Maintenance Manual within 15 (fifteen) days of its receipt and communicate its comments to the Contractor for necessary modifications, if any.

10.8 As-Built Records

The Contractor shall prepare, and keep up-to-date, a complete set of as built records of the execution of the Works, showing the exact as built locations, sizes and details on the Works as executed with cross references to all relevant specifications and data sheets. These records shall be kept on the Site and shall be used exclusively for the purpose of this Sub-Clause 10.8. The Contractor shall provide 2 (two) copies of as built records to the Authority prior to the commencement of the Tests on Completion.

10.9 Contractor's Use of Authority's Documents

Intellectual property in the Authority's requirements and Specifications and Standards

and all other documents and materials issued by the Authority or the Authority's Representative to the Contractor shall (as between the parties) remain the property of the Authority. The Contractor may, at its cost, copy, use and communicate any such documents for the purposes of the Contract. They shall not, without the consent of the Authority, be used, copied or communicated to a third party by the Contractor, except as necessary for the purposes of the Works under the Agreement.

Article 11
Quality Assurance, Monitoring and Supervision

11.1 Quality of Materials and workmanship

The Contractor shall ensure that the Construction, Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Good Industry Practice.

11.2 Quality control system

(i) The Contractor shall establish a quality control mechanism to ensure compliance with the provisions of this Agreement (the **"Quality Assurance Plan"** or **"QAP"**).

(ii) The Contractor shall, within 30 (thirty) days of the Appointed Date, submit to the Authority's Engineer its Quality Assurance Plan which shall include the following:

(a) organization, duties and responsibilities, procedures, inspections and documentation;

(b) quality control mechanism including sampling and testing of Materials, test frequencies, standards, acceptance criteria, testing facilities, reporting, recording and interpretation of test results, approvals, check list for site activities, and proforma for testing and calibration in accordance with the Specifications for Road and Bridge Works issued by MORTH, relevant IRC specifications and Good Industry Practice; and

(c) Internal quality audit system.

The Authority's Engineer shall convey its approval to the Contractor within a period of 21 (twenty - one) days of receipt of the QAP stating the modifications, if any, required, and the Contractor shall incorporate those in the QAP to the extent required for conforming with the provisions of this Clause11.2.

(iii) The Contractor shall procure all documents, apparatus and instruments, fuel, consumables, water, electricity, labour, Materials, samples, and qualified personnel as are necessary for examining and testing the Project Assets and workmanship in accordance with the Quality Assurance Plan.

(iv) The cost of testing of Construction, Materials and workmanship under this Article11 shall be borne by the Contractor.

11.3 Methodology

The Contractor shall, at least 15 (fifteen) days prior to the commencement of the construction, submit to the Authority's Engineer for review and consent the methodology proposed to be adopted for executing the Works, giving details of equipment to be deployed, traffic management and measures for ensuring safety. The Authority's Engineer shall complete the review and convey its consent to the Contractor within a period of 10 (ten) days from the date of receipt of the proposed methodology from the Contractor.

11.4 Inspection and technical audit by the Authority

The Authority or any representative authorized by the Authority in this behalf may inspect and review the progress and quality of the construction of Project Highway and issue appropriate directions to the Authority's Engineer and the Contractor for taking remedial action in the event the Works are not in accordance with the provisions of this Agreement.

11.5 External technical audit

(i) At any time during construction, the Authority may appoint an external technical auditor to conduct an audit of the quality of the Works.The Auditor in the presence of the representatives of the Contractor and the Authority's Engineer shall carry out the tests and/or collect samples for testing in the laboratory. The timing, the testing equipment and the sample size of this audit shall be as decided by the Authority. The findings of the audit, to the extent accepted by the Authority, shall be notified to the Contractor and the Authority's Engineer for taking remedial action in accordance with this Agreement.

(ii) After completion of the remedial measures by the Contractor, the Auditor shall undertake a closure audit and this process will continue till the remedial measures have brought the works into compliance with the Specifications and Standards. The Contractor shall provide all assistance as may be required by the auditor in the conduct of its audit hereunder. Notwithstanding anything contained in this Clause 11.5, the external technical audit shall not affect any obligations of the Contractor or the Authority's Engineer under this Agreement.

11.6 Inspection of construction records

The Authority shall have the right to inspect the records of the Contractor relating to the Works.

11.7 Monthly progress reports

During the Construction Period, the Contractor shall, no later than 10 (ten) days after the close of each month, furnish to the Authority and the Authority's Engineer a monthly

report on progress of the Works and shall promptly give such other relevant information as may be required by the Authority's Engineer.

The Contractor agrees that reporting under this Clause 11.7 shall continue until the date of the completion of the Works. Each report shall include:

(a) an executive summary;

(b) charts showing the status of Contractor's documents, construction and manufacturing and environmental works;

(c) details of work subcontracted and the performance of Sub-contractors;

(d) for the construction of each main part of the Works, the extent of progress (both quantity and percentage of the whole), the actual or expected dates of commencement, anticipated completion date of the activity, Contractor's inspections and tests;

(e) records of manpower and Contractor's equipment on the Site;

(f) copies for that month of quality assurance documents, test results and certificates;

(g) safety statistics, accident data collection including details of any hazardous incidents and activities relating to environmental aspects and public relations;

(h) comparisons of actual and planned progress, with details of any aspects which may jeopardize the completion in accordance with the Agreement, and the measures being (or to be) adopted to overcome such aspects;

(i) details of any unresolved disputes or claims, in relation to the Project;

(j) details of any revision to the cash flow estimate, together with a copy of the revised cash flow estimate;

(k) statusofvariousApplicablePermitsandcomplianceofconditionstherein;

(l) details of various royalty payment and insurances required to be taken by the Contractor; and

(m) such other reports as may be required by the Authority for enabling the AuthoritytocomplywithitsobligationsundertheotherProjectcontracts.

(n) details of defects by the Authority;

(o) change in emission of any sewage or effluent of any nature whatsoever, whether qualitatively or quantitatively;

(p) any Material Adverse Effect;

(q) declaration towards compliance with Applicable Laws including but not limited to environmental and labour legislations;

(r) declaration specifying compliance with all Manuals provided to the Contractor;

and

(s) any change in the flow of traffic in the existing Project Highway.

11.8 Inspection

(i) The Authority's Engineer and its authorized representative shall at all reasonable times:

a). have full access to all parts of the Site and to all places from which natural Materials are being obtained for use in the Works; and

b). during production, manufacture and construction at the Site and at the place of production, be entitled to examine, inspect, measure and test the Materials and workmanship, and to check the progress of manufacture of Materials.

(ii) The Contractor shall give the Authority's Engineer and its authorized agents access, facilities and safety equipment for carrying out their obligations under this Agreement.

(iii) The Authority's Engineer shall submit a monthly inspection report(the **"Inspection Report**")to the Authority and the Contractor bringing out the results of inspections and the remedial action taken by the Contractor in respect of Defects or deficiencies. For the avoidance of doubt, such inspection or submission of Inspection Report by the Authority's Engineer shall not relieve or absolve the Contractor of its obligations and liabilities under this Agreement in any manner whatsoever.

11.9 Samples

The Contractor shall submit the following samples of Materials and relevant information to the Authority's Engineer for pre-construction review:

(a) manufacturer's test reports and standard samples of manufactured Materials; and

(b) samples of such other Materials as the Authority's Engineer may require.

11.10 Tests

(i) For determining that the Works conform to the Specifications and Standards, the Authority's Engineer shall require the Contractor to carry out or cause to be carriedouttests,atsuchtimeandfrequencyandinsuchmannerasspecifiedinthisAgreement,and in accordance with Good Industry Practice for quality assurance. The test checks by the Authority's Engineer shall comprise at least50% (fifty percent) of the quantity or number of tests prescribed for each category or type of test for

quality control by the Contractor.

(ii) In the event that results of any tests conducted under this Clause 11.10 establish any Defects or deficiencies in the Works, the Contractor shall carry out remedial measures and furnish a report to the Authority's Engineer in this behalf. The Authority's Engineer shall require the Contractor to carry out or cause to be carried out tests to determine that such remedial measures have brought the Works into compliance with the Specifications and Standards, and the procedure shall be repeated until such Works conform to the Specifications and Standards. For the avoidance of doubt, the cost of such tests and remedial measures in pursuance thereof shall be solely borne by the Contractor.

11.11 Examination of work before covering up

In respect of the work which the Authority's Engineer is entitled to examine, inspect, measure and/or test before it is covered up or put out of view or any part of the work is placed thereon, the Contractor shall give notice to the Authority's Engineer whenever any such work is ready and before it is covered up. The Authority's Engineer shall then either carry out the examination, inspection or testing without unreasonable delay, or promptly give notice to the Contractor that the Authority's Engineer does not require to do so. Provided, however, that if any work is of a continuous nature where it is not possible or prudent to keep it uncovered or incomplete, the Contractor shall notify the schedule of carrying out such work to give sufficient opportunity, not being less than 3 (three) business days' notice, to the Authority's Engineer to conduct its inspection, measurement or test while the work is continuing. Provided further that in the event the Contractor receives no response from the Authority's Engineer within a period of 3 (three) business days from the date on which the Contractor's notice hereunder is delivered to the Authority's Engineer, the Contractor shall be entitled to assume that the Authority's Engineer would not undertake the said inspection.

11.12 Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials, design or workmanship is found to be defective or otherwise not in accordance with the provisions of this Agreement, the Authority's Engineer shall reject the Plant, Materials, design or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the Defect and ensure that the rejected item complies with the requirements of this Agreement.

If the Authority's Engineer requires the Plant, Materials, design or workmanship to be retested, the tests shall be repeated under the same terms and conditions, as applicable in each case. If the rejection and retesting cause the Authority to incur any additional costs, such cost shall be recoverable by the Authority from the Contractor; and may be deducted

by the Authority from any monies due to be paid to the Contractor.

11.13 Remedial work

(i) Notwithstanding any previous test or certification, the Authority's Engineer may instruct the Contractor to:

(a) remove from the Site and replace any Plant or Materials which are not in accordance with the provisions of this Agreement;

(b) remove and re-execute any work which is not in accordance with the provisions of this Agreement and the Specification and standards; and

(c) execute any work which is urgently required for the safety of the Project Highway, whether because of an accident, unforeseeable event or otherwise; provided that in case of any work required on account of a Force Majeure Event, the provisions of Clause 21.6 shall apply.

(ii) If the Contractor fails to comply with the instructions issued by the Authority's Engineer under Clause11.13 (i), within the time specified in the Authority's Engineer's notice or as mutually agreed, the Authority's Engineer may advise the Authority to have the work executed by another agency. The cost so incurred by the Authority for undertaking such work shall, without prejudice to the rights of the Authority to recover Damages in accordance with the provisions of this Agreement, be recoverable from the Contractor and may be deducted by the Authority from any monies due to be paid to the Contractor.

11.14 Delays during construction

Without prejudice to the provisions of Clause 10.3 (ii), in the event the Contractor does not achieve any of the Project Milestones or the Authority's Engineer shall have reasonably determined that the rate of progress of Works is such that Completion of the Project Highway is not likely to be achieved by the end of the Scheduled Completion Date, it shall notify the same to the Contractor, and the Contractor shall, within 15 (fifteen) days of such notice, by a communication inform the Authority's Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

11.15 Quality control records and Documents

The Contractor shall hand over a copy of all its quality control records and documents to the Authority's Engineer before the Completion Certificate is issued pursuant to Clause 12.2.The Contractor shall submit Road Signage Plans to the Authority Engineer for approval at least 6 (six) months prior to expected completion of Project Highway.

11.16 Video recording

During the Construction Period, the Contractor shall provide to the Authority for every calendar month, a video recording, which will be compiled into a 3 (three) hour digital video disc or any substitute thereof, covering the status and progress of Construction Works in that month. The first such video recording shall be provided to the Authority within 7 (seven) days of the Appointed Date and thereafter, no later than 15 (fifteen) days after the close of each month. Such video recording shall be carried out along with the authorized representative of the Authority. Recording of previous videos and current running side by side shall be loaded on Data Lake (https://datalakeg.nhai.gov.in/nhai) for easily capturing various developments during the month before submission of their invoice. Capturing Ortho-image for approx. 10% equivalent length of critical structures or any other specific area should be decided by the Authority and be conveyed to the Drone Agency in the site-specific work order. Authority Engineer shall ensure that the features and quality of drone video is acceptable and video is not distorted/tampered with. Authority Engineer shall analyse these drone videos and give their comments in its digital MPRs covering inter-alia but not limited to the encumbrances/lands not available, sites of COS demands, progress of project, mobilisation of plant & equipment, mobilisation of camp sites, progress on rectification of NCRs etc. along with the proposed action plan. Authority shall cross-check drone videos during the monthly physical inspections and notify the discrepancies noticed, if any, between drone video, on Authority Engineer comments and ground reality. The discrepancies shall be examined and addressed through joint site inspections.

Authority should plan biannually drone based video recording during O&M period in such a manner so that there is no overlap and digital data of O&M period is available in regular intervals (monthly) through NSV and drone videography.

Notwithstanding anything to the contrary contained in this document, the Contractor shall also develop a Project specific website which shall be accessible to the public and upload the time stamp pictures of the development of Project Highway each week regarding progress. The website must be accessible to the public. In addition, Authority shall also undertake need based drone videography as and when required. Authority shall ensure development of a project specific website by the Contractor. In case of default on this account, the Authority shall withhold an amount equivalent to Rs. 5 Lacs plus (drone rate X length of project X no. of defaulting week) from the dues to the Contractor.

11.17 Suspension of unsafe Construction Works

(i) Upon recommendation of the Authority's Engineer to this effect, the Authority may by notice require the Contractor to suspend forthwith the whole or any partof the Works if, in the reasonable opinion of the Authority's Engineer, such work threatens the safety of the Users and pedestrians.

(ii) TheContractorshall,pursuanttothenoticeunderClause11.17(i),suspendtheWorks or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works, the Users and pedestrians. The Contractor may by notice require the Authority's Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Authority's Engineer, the Authority shall either revoke such suspension or instruct the Contractor to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause11.17 shall be repeated until the suspension hereunder is revoked.

(iii) Subject to the provisions of Clause 21.6, all reasonable costs incurred for maintaining and protecting the Works or part thereof during the period of suspension (the "**Preservation Costs**"), shall be borne by the Contractor; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

(iv) If suspension of Works is for reasons not attributable to the Contractor, the Authority's Engineer shall determine any Time Extension to which the Contractor is reasonably entitled.

11.18 Staff and Labour

(i) Engagement of Staff and Labour

(a) The Contractor shall make its own arrangements for the engagement of all personnel and labour, local or otherwise, and for their payment, housing, feeding and transport.

(b) The Contractor has verified/ shall verify the identity and address of all its employees and officials related to the Works by collecting necessary documentary proof.

(c) The contractor shall seek a self-declaration from its employees that they have not been convicted of any criminal offence by any court and if any criminal proceedings/charge-sheets have been pending/filed against them. The Contractor shall not employ persons with criminal track record on the project. In cases where it comes to notice later that the employee concerned has concealed any such fact in his self-declaration or commits a criminal offence during the course of his employment, the Contractor shall remove such person from the project.

(d) Deleted

(e) The employees and personnel of the Contractor shall work under the supervision, control and direction of the Contractor and the Contractor shall be solely responsible for all negotiations with its employees and personnel relating to their salaries and benefits, and shall be responsible for assessments and monitoring of performance and for all disciplinary matters. All employees / personnel, executives engaged by the Contractor shall be in sole employment of the Contractor and the Contractor shall be solely responsible for their salaries, wages, statutory payments, etc and under no circumstances the personnel shall be deemed to be the employees of the Authority. Under no circumstances the Authority shall be liable for any payment or claim or compensation of any nature to the employees and personnel of the Contractor.

(ii) Returns of Labour

(a) The Contractor shall deliver to the Authority a detailed return in such form and at such intervals as the Authority may prescribe, showing the details including names, payment details and terms of appointment of the several classes of labour employed by the Contractor from time to time for the Works. The Contractor shall, in its returns certify that all dues of the workers or labour have been fully paid.

(b) The Authority is entitled to witness labour payments made or to be made by the Contractor. If the Contractor defaults in its obligations for making any payments under the labour laws, the Employer may make the relevant payments. Any sum equal to any amount paid by the Employer under this Sub-Clause9.2 shall be immediately due as a debt from the Contractor to the Employer and until payment/ set off shall carry interest at 18% per annum. For this purpose, it is agreed between the parties that debt due aforesaid shall be set off immediately out the running account bills of the Contractor under this Agreement.

(iii) Persons in the Service of Others

The Contractor shall not recruit, or attempt to recruit from amongst persons in the service of the Authority.

(iv) Labour Laws

(a) The Contractor shall obtain all relevant labour registrations and comply with all relevant labour laws applying to its employees, and shall duly pay them and afford to them all their legal rights.

(b) The Contractor shall make all deductions of tax at source and all contributions to the Payment of Gratuity, Provident Fund (including

Employees' contribution) and Employees' State Insurance Scheme as may be required by Applicable Laws and deposit the aforesaid contributed amount with the appropriate authority/(s).

(c) The Contractor shall require all personnel engaged in the Works to obey all Applicable Laws and regulations. The Contractor shall permit Authority to witness labour payments for the Contractors direct labour, or the Sub contractors labour. The Contractor shall ensure that all its Subcontractors strictly comply with all labour laws.

(d) Documentary evidence confirming compliance with Sub-Clause 12.4, as may be required from time to time, shall be provided to the Employer's Representative.

(e) The Employer shall not be liable for any delay/default of the Contractor in compliance of the labour laws.

(v) Facilities for Staff and Labour

The Contractor shall provide and maintain all necessary accommodation and welfare facilities for personnel engaged for the Works. The Contractor shall not permit any personnel engaged for the Works to maintain any temporary or permanent living quarters within the structures forming part of the Works.

(vi) Health And Safety

All necessary precautions shall be taken by the Contractor to ensure the health and safety of staff and labour engaged for the Works. The Contractor shall, in collaboration with and to the requirements of the local health authorities, ensure that para-medical staff, first aid facilities, ambulance service are available on the Site at all times, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The Contractor shall appoint a safety officer to be responsible for the safety of personnel on the Site. This safety officer shall be qualified for his work and shall have the authority to issue instructions concerning safety and take protective measures to prevent accidents. The Contractor shall maintain records and make reports concerning health, safety and welfare of personnel, and damage to property, in such manner as the Authority may reasonably require.

(vii) Contractor's Personnel

The Contractor shall employ only personnel who are appropriately qualified, skilled and experienced in their respective trades or occupations. The Authority may require the Contractor to remove any personnel engaged for the Works, who in the opinion of the Authority:

(a) has engaged in any misconduct;

(b) is incompetent or negligent in the performance of his duties;

(c) fails to conform with any provisions of the Contract;

(d) engages in any conduct which is prejudicial to safety, health, or the protection of the environment; or

(e) makes errors in the discharge of his functions.

If appropriate and required by the Employer, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

(viii) Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst its personnel, and to preserve peace and protection of people and property in the neighbourhood of the Works.

Article 12
Completion Certificate

12.1 Tests on Completion

(i) At least 30 (thirty) days prior to the likely completion of the Project Highway, or a Section thereof, the Contractor shall notify the Authority's Engineer of its intent to subject the Project Highway or a Section thereof, to Tests. The date and time of each of the Tests shall be determined by the Authority's Engineer in consultation with the Contractor, and notified to the Authority who may designate its representative to witness the Tests. The Contractor shall either conduct the Tests as directed by the Authority's Engineer or provide such assistance as the Authority's Engineer may reasonably require for conducting the Tests. In the event of the Contractor and the Authority's Engineer failing to mutually agree on the dates for conducting the Tests, the Contractor shall fix the dates by giving not less than 10 (ten) days' notice to the Authority's Engineer.

(ii) All Tests shall be conducted in accordance with Schedule-K. The Authority's Engineer shall either conduct or observe, monitor and review the Tests conducted by the Contractor, as the case may be, and review the results of the Tests to determine compliance of the Project Highway or a Section thereof, with Specifications and Standards and if it is reasonably anticipated or determined by the Authority's Engineer during the course of any Test that the performance of the Project Highway or Section or any part thereof, does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Contractor to remedy and rectify the Defect or deficiencies. Upon completion of each Test, the Authority's Engineer shall provide to the Contractor and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Authority's Engineer may require the Contractor to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project Highway or Section thereof with the Specifications and Standards.

12.2 Completion Certificate

(i) Upon completion of all Works forming part of the Project Highway, and the Authority's Engineer determining the Tests to be successful and after the receipt of notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium

payment receipts in respect of the insurance defined in Article 20 and Schedule P of this Agreement, it shall, at the request of the Contractor forthwith issue to the Contractor and the Authority a certificate substantially in the form set forth in Schedule-L (the "Completion Certificate").

(ii) Upon receiving the Completion Certificate, the Contractor shall remove its equipment, materials, debris and temporary works from the Site within a period of 30(thirty) days thereof, failing which the Authority may remove or cause to be removed, such equipment, materials, debris and temporary works and recover from the Contractor an amount equal to 120% (one hundred and twenty per cent) of the actual cost of removal incurred by the Authority.

(iii) Without prejudice to the obligations of the Contractor specified in Articles 14 and 17, the property and ownership of all the completed Works forming part of the Project Highway shall vest in the Authority.

12.3 Rescheduling of Tests

If the Authority's Engineer certifies to the Authority and the Contractor that it is unable to issue the Completion Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Contractor shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

Article 13
Change of Scope

13.1 Change of Scope

(i) The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the Contractor to make modifications/alterations to the Works ("**Change of Scope**") within a period of six months counted from the Appointed Date. Upon the Authority making its intention known to the Contractor for the specific Change of Scope, be it positive or negative, the Contractor shall submit his proposal for the said Change of Scope involving additional cost or reduction in cost. Any such Change of Scope shall be made and valued in accordance with the provisions of this Article13.

(ii) Provided that any such Change of Scope, excluding major structures (e.g. Major Bridge/ ROB/ RUB/ Flyover/ elevated road of more than 50m length) may be required and agreed to be executed between the parties beyond the period of six months of the Appointed Date but before expiry of 50% of the original Scheduled Construction Period of the Project Highway, subject to the condition that it shall not entail any claims (e.g. Extension of Time/ Prolongation related claims), against the Authority.

(iii) The Change of Scope shall mean the following:

(a) change in specifications of any item of Works;

(b) omission of any work from the Scope of the Project except under Clause 8.3 (iii); provided that, subject to Clause 13.5, the Authority shall not omit any Work under this Clause in order to get it executed by any other authority; and/ or

(c) any additional Work, Plant, Materials or services which are not included in the Scope of the Project, including any associated Tests on completion of construction.

13.2 Procedure for Change of Scope

(i) In the event of the Authority determining that a Change of Scope is necessary, it may direct the Authority's Engineer to issue to the Contractor a notice specifying in reasonable detail the Works and services contemplated there under(the "**Change of Scope Notice**"). The Contractor shall submit a detailed proposal as per Clause13.2 (iii)

within 15 days from the receipt of Change of Scope Notice.

(ii) If the Contractor determines, not later than 90 days from the Appointed Date, that a Change of Scope to the Works is required, it shall prepare a proposal with relevant details as per Clause 13.2 (iii) at its own cost and shall submit to the Authority to consider such Change of Scope (the "**Change of Scope Request**").

(iii) Upon receipt of a Change of Scope Notice, the Contractor shall, with due diligence, provide to the Authority and the Authority's Engineer such information as is necessary, together with detailed proposal in support of:

(a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the works or services are required to be carried out during the Construction Period; and

(b) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including the following details:

i. break-up of the quantities, unit rates and cost for different items of work; and

ii. proposed design for the Change of Scope;

iii. proposed modifications, if any, to the Project Completion Schedule of the Project Highway.

For the avoidance of doubt, the Parties expressly agree that, subject to the provisions of Clause 13.4 (ii), the Contract Price shall be increased or decreased, as the case may be, on account of any such Change of Scope.

(iv) The parties agree that costs and time for implementation of the proposed Change of Scope shall be determined as per the following:

(a) For works where Schedule of Rates (SOR) of concerned circle of State's Public Works Department are applicable at the Base Date are available, the same shall be applicable for determination of costs. In case of non-availability of Schedule of Rates at the Base Date, the available Schedule of Rates shall be applied by updating the same based on WPI. In case the Contract Price is lower/ higher than the Estimated Project Cost as per RFP, then the SOR rates shall be reduced/ increased in the same proportion accordingly.

(b) For item of Works not included in Schedule of Rates as mentioned in sub-para(a) of Clause 13.2 (iv) above, the cost of same shall be derived on the basis of MORTH Standard Data Book and the Authority's Engineer shall determine the prevailing market rates and discount the same considering WPI to achieve the prevailing rate at the Base Date, and for any item in respect of which MORTH Standard Data Book does not provide the requisite details, the Authority's

Engineer shall determine the rate in accordance with Good Industry Practice.

For the avoidance of doubt, in case the cost as determined by the Contractor and the Authority reveals a difference of more than 10% (ten per cent), the cost as determined by the Authority shall be considered as final and binding on the Contractor.

(c) The design charges shall be considered only for new works or items (i.e. the Works or items not similar to the works or items in the original scope) @ 1% (one per cent) of cost of such new works or items.

(d) The costs of existing works or items, which are being changed/ omitted shall also be valued as per above procedure and only net cost shall be considered.

(e) The reasonable time for completion of works to be taken under Change of Scope shall be determined by the Authority's Engineer on the basis of Good Industry Practice and if such time exceeds the Scheduled Completion Date, the issue of Completion Certificate shall not be affected or delayed on account of construction of Change of Scope items/ works remaining incomplete on the date of Tests.

(v) Upon consideration of the detailed proposal submitted by the Contractor under the Clause 13.2 (iii), the Authority, within 15 (fifteen) days of receipt of such proposal, may in its sole discretion either accept such Change of Scope with modifications, if any, and initiate proceedings thereof in accordance with this Article 13 or reject the proposal and inform the Contractor of its decision and shall issue an order (the **"Change of Scope Order"**) requiring the Contractor to proceed with the performance thereof.

For the avoidance of doubt, the Parties agree that the Contractor shall not undertake any Change of Scope without the express consent of the Authority, save and except any works necessary for meeting any Emergency, that too with verbal approval of Authority which shall be confirmed in writing in next 3 (three) days. In the event that the Parties are unable to agree, the Authority may:

(a) issue a Change of Scope Order requiring the Contractor to proceed with the performance thereof at the rates and conditions approved by the Authority till the matter is resolved in accordance with Article26;

or

(b) proceed in accordance with Clause13.5.

(vi) The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the Works undertaken by the Contractor under this Article 13.

13.3 Payment for Change of Scope

Payment for Change of Scope shall be made in accordance with the payment schedule

specified in the Change of Scope Order.

13.4 Restrictions on Change of Scope

(i) No Change of Scope shall be executed unless the Authority has issued the Change of Scope Order save and except any Works necessary for meeting any Emergency.

(ii) The total value of all Change of Scope Orders shall not exceed 10% (ten per cent) of the Contract Price.

(iii) Notwithstanding anything to the contrary in this Article 13, if any change is necessitated because of any default of the Contractor in the performance of its obligations under this Agreement, the same shall not be deemed to be Change of Scope, and shall not result in any adjustment of the Contract Price or the Project Completion Schedule.

13.5 Power of the Authority to undertake Works

(i) In the event the Parties are unable to agree to the proposed Change of Scope Orders in accordance with Clause 13.2, the Authority may, after giving notice to the Contractor and considering its reply thereto, award such Works or services to any person or agency on the basis of open competitive bidding. It is also agreed that the Contractor shall provide assistance and cooperation to the person or agency who undertakes the works or services hereunder. The Contractor shall not be responsible for rectification of any Defects, but the Contractor shall carry out maintenance of such works after completion of Defect Liability Period of work by other person or agency during the remaining period of this agreement without any extra payment.

(ii) The Works undertaken in accordance with this Clause 13.5 shall conform to the Specifications and Standards and shall be carried out in a manner that minimizes the disruption in operation of the Project Highway. The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the Works carried out under this Clause13.5.

Article 14
Maintenance

14.1 Maintenance obligations of the Contractor

(i) The Contractor shall maintain the Project Highway for a period of 5 (five) years, corresponding to the Defects Liability Period, commencing from the date of the Completion Certificate (the "**Maintenance Period**"). For the performance of its Maintenance obligations, the Contractor shall be paid:

(a) For flexible pavement with 5 years Maintenance Period including structures: no maintenance charges shall be paid for the first year; 0.50% of the Contract Price each for the second, third and fourth year and 1% of the Contract Price for the fifth year

(b) DELETED

(c) DELETED

(d) DELETED

Above amount for the performance of Contractors' Maintenance obligations shall be, inclusive of all taxes **(except GST which shall be payable at applicable rates)**. The amount payable for maintenance shall be adjusted to reflect any increase or decrease arising out of variation in WPI to be determined in accordance with the provisions of Clause 19.12. It is further agreed that the Contract Price hereunder shall be reckoned with reference to the amount specified in Clause 19.1 (i), which shall be adjusted to the extent of Change of Scope and the works withdrawn under the provisions of Clause 8.3 (iii), but shall not include any price adjustments in pursuance of Clause 19.10.

(ii) During the Maintenance Period, the Authority shall provide to the Contractor access to the Site for Maintenance in accordance with this Agreement. The obligations of the Contractor hereunder shall include:

(a) permitting safe, smooth and uninterrupted flow of traffic on the Project Highway;

(b) undertaking routine maintenance including prompt repairs of potholes, cracks,

joints, drains, embankments, structures, pavement markings, lighting, road signs and other traffic control devices; For the avoidance of doubt, the electricity charges for operation of electrical infrastructure installed along the project length, except the infrastructure being used by the Contractor for its own use, shall be borne by the Authority;

(c) undertaking repairs to structures;

(d) informing the Authority of any unauthorized use of the Project Highway;

(e) informing the Authority of any encroachments on the Project Highway; and

(f) operation and maintenance of all communication, patrolling, and administrative systems necessary for the efficient maintenance of the Project Highway in accordance with the provisions of this Agreement.

(iii) In respect of any Defect or deficiency not specified in Schedule-E, the Contractor shall, at its own cost, undertake repair or rectification in accordance with Good Industry Practice, save and except to the extent that such Defect or deficiency shall have arisen on account of any willful default or neglect of the Authority or a Force Majeure Event.

(iv) The Contractor shall remove promptly from the Project Highway any waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project Highway in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice.

14.2 Maintenance Requirements

The Contractor shall ensure and procure that at all times during the Maintenance Period, the Project Highway conforms to the maintenance requirements set forth in Schedule-E (the "**Maintenance Requirements**").

14.3 Maintenance Programme

(i) The Contractor shall prepare a monthly maintenance programme (the "**Maintenance Programme**") in consultation with the Authority's Engineer and submit the same to the Authority's Engineer not later than 10 (ten) days prior to the commencement of the month in which the Maintenance is to be carried out. For this purpose a joint monthly inspection by the Contractor and the Authority's Engineer shall be undertaken. The Maintenance Programme shall contain the following:

(a) The condition of the road in the format prescribed by the Authority's Engineer;

(b) the proposed maintenance Works; and

(c) deployment of resources for maintenance Works.

14.4 Safety, vehicle breakdowns and accidents

(i) DELETED

(ii) DELETED

14.5 Lane closure

(i) The Contractor shall not close any lane of the Project Highway for undertaking maintenance works except with the prior written approval of the Authority's Engineer. Such approval shall be sought by the Contractor through a written request to be made at least 10 (ten) days before the proposed closure of lane and shall be accompanied by particulars thereof. Within 5 (five) business days of receiving such request, the Authority's Engineer shall grant permission with such modifications as it may deem necessary and a copy of such permission shall be sent to the Authority.

(ii) Upon receiving the permission pursuant to Clause 14.5 (i), the Contractor shall be entitled to close the designated lane for the period specified therein, and for all lane closures extending a continuous period of 48 (forty-eight) hours, the Contractor shall, in the event of any delay in re-opening such lane, for every stretch of250 (two hundred and fifty) meters, or part thereof, pay Damages to the Authority calculated at the rate of 0.1% (zero point one per cent) of the monthly maintenance payment for each day of delay until the lane has been re-opened for traffic. In the event of any delay in re-opening such lanes or in the event of emergency decommissioning and closure to traffic of the whole or any part of the Project Highway due to failure of the Contractor, the Contractor shall pay damages to the Authority at double the above rate, without prejudice the rights of the Authority under this Agreement including Termination thereof.

14.6 Reduction of payment for non-performance of Maintenance obligations

(i) In the event that the Contractor fails to repair or rectify any Defect or deficiency set forth in Schedule-E within the period specified therein, it shall be deemed as failure of performance of Maintenance obligations by the Contractor and the Authority shall be entitled to effect reduction in monthly lump sum payment for maintenance in accordance with Clause 19.7 and Schedule-M, without prejudice to the rights of the Authority under this Agreement, including Termination thereof.

(ii) If the nature and extent of any Defect justifies more time for its repair or rectification than the time specified in Schedule-E, the Contractor shall be entitled to additional time in conformity with Good Industry Practice. Such additional time shall be determined by the Authority's Engineer and conveyed to the Contractor and the Authority with reasons thereof.

14.7 Authority's right to take remedial measures

In the event the Contractor does not maintain and/or repair the Project Highway or any part thereof in conformity with the Maintenance Requirements, the Maintenance Manual or the Maintenance Programme, as the case may be, and fails to commence remedial works within 15 (fifteen) days of receipt of the Maintenance Inspection Report under Clause 15.2 or a notice in this behalf from the Authority or the Authority's Engineer, as the case may be, the Authority shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the cost of the Contractor, and to recover its cost from the Contractor. In addition to recovery of the aforesaid cost, a sum equal to 20% (twenty per cent) of such cost shall be paid by the Contractor to the Authority as Damages.

14.8 Restoration of loss or damage to Project Highway

Save and except as otherwise expressly provided in this Agreement, in the event that the Project Highway or any part thereof suffers any loss or damage during the Maintenance from any cause attributable to the Contractor, the Contractor shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project Highway conforms to the provisions of this Agreement.

14.9 Overriding powers of the Authority

(i) If in the reasonable opinion of the Authority, the Contractor is in material breach of its obligations under this Agreement and, in particular, the Maintenance Requirements, and such breach is causing or likely to cause material hardship or danger to the Users and pedestrians, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Contractor to take reasonable measures immediately for rectifying or removing such hard shipor danger, as the case maybe.

(ii) In the event that the Contractor, upon notice under Clause 14.9 (i), fails to rectify or remove any hard ship or danger within a reasonable period, the Authority may exercise overriding powers under this Clause 14.9 (ii) and take over the performance of any or all the obligations of the Contractor to the extent deemed necessary by it for rectifying or removing such hardship or danger; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required hereunder; provided further that any costs and expenses incurred by the Authority in discharge of its obligations hereunder shall be recovered by the Authority from the Contractor, and the Authority shall be entitled to deduct any such costs and expenses incurred from the payments due to the Contractor under Clause 19.7 for the performance of its Maintenance obligations.

(iii) In the event of a national emergency, civil commotion or any other circumstances specified in Clause21.3, the Authority may take over the performance of any or all the obligations of the Contractor to the extent deemed necessary by it, and exercise such

control over the Project Highway or give such directions to the Contractor as may be deemed necessary; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by the Authority. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisions of Article21.It is also agreed that the Contractor shall comply with such instructions as the Authority may issue in pursuance of the provisions of this Clause 14.9 (iii), and shall provide assistance and cooperation to the Authority, on a best effort basis, for performance of its obligations hereunder.

14.10 Taking over Certificate

The Maintenance Requirements set forth in Schedule-E having been duly carried out, Maintenance Period as set forth in Clause 14.1 (i) having been expired and Authority's Engineer determining the Tests on Completion of Maintenance to be successful in accordance with Schedule-Q, the Authority will issue Taking Over Certificate to the Contractor substantially in the format set forth in Schedule-R.

Article 15
Supervision and Monitoring during Maintenance

15.1 Inspection by the Contractor

(i) The Authority's Engineer shall undertake regular inspections to evaluate continuously the compliance with the Maintenance Requirements.

(ii) The Contractor shall carry out a detailed pre-monsoon inspection of all bridges, culverts and drainage system in accordance with the guidelines contained in IRC: SP35. Report of this inspection together with details of proposed maintenance works as required shall be conveyed to the Authority's Engineer forthwith. The Contractor shall complete the proposed maintenance works before the onset of the monsoon and send a compliance report to the Authority's Engineer. Post monsoon inspection shall be undertaken by the Contractor and the inspection report together with details of any damages observed and proposed action to remedy the same shall be conveyed to the Authority's Engineer forthwith.

15.2 Inspection and payments

(i) The Authority's Engineer may inspect the Project Highway at any time, but at least once every month, to ensure compliance with the Maintenance Requirements. It shall make a report of such inspection (**"Maintenance Inspection Report"**) stating in reasonable detail the Defects or deficiencies, if any, with particular reference to the Maintenance Requirements, the Maintenance Manual, and the Maintenance Programme, and send a copy thereof to the Authority and the Contractor within 10 (ten) days of such inspection.

(ii) After the Contractor submits to the Authority's Engineer the Monthly Maintenance Statement for the Project Highway pursuant to Clause 19.6, the Authority's Engineer shall carry out an inspection within 10 (ten) days to certify the amount payable to the Contractor. The Authority's Engineer shall inform the Contractor of its intention to carry out the inspection at least 3 (three) business days in advance of such inspection. The Contractor shall assist the Authority's Engineer in verifying compliance with the Maintenance Requirements.

(iii) For each case of non-compliance of Maintenance Requirements as specified in the

inspection report of the Authority's Engineer, the Authority's Engineer shall calculate the amount of reduction in payment in accordance with the formula specified in Schedule-M.

(iv) Any deduction made on account of non-compliance will not be paid subsequently even after establishing the compliance thereof. Such deductions will continue to be made every month until the compliance is procured.

15.3 Tests

For determining that the Project Highway conforms to the Maintenance Requirements, the Authority's Engineer shall require the Contractor to carry out, or cause to be carried out, Tests specified by it in accordance with Good Industry Practice. The Contractor shall, with due diligence, carry out or cause to be carried out all such Tests in accordance with the instructions of the Authority's Engineer and furnish the results of such Tests forthwith to the Authority's Engineer.

At any time during Maintenance Period, the Authority may appoint an external technical auditor to conduct an audit of the quality of the Works. The Auditor in the presence of the representatives of the Contractor and the Authority's Engineer shall carry out the Tests and/ or collect samples for testing in the laboratory. The timing, the testing equipment and the sample size of this audit shall be as decided by the Authority. The findings of the audit, to the extent accepted by the Authority, shall be notified to the Contractor and the Authority's Engineer for taking remedial measures. After completion of the remedial measures by the Contractor, the auditor shall undertake a closure audit and this process will continue till the remedial measures have brought the maintenance works into compliance with the Specifications and Standards. The Contractor shall provide all assistance as may be required by the auditor in the conduct of its audit hereunder. Notwithstanding anything contained in this Clause 15.3, the external technical audit shall not affect any obligations of the Contractor or the Authority's Engineer under this Agreement.

15.4 Reports of unusual occurrence

The Contractor shall, during the Maintenance Period, prior to the close of each day, send to the Authority and the Authority's Engineer, by facsimile or e- mail, a report stating accidents and unusual occurrences on the Project Highway relating to the safety and security of the Users and Project Highway. A monthly summary of such reports shall also be sent within 3 (three) business days of the closing of month. For the purposes of this Clause 15.4, accidents and unusual occurrences on the Project Highway shall include:

(a) accident, death or severe injury to any person;

(b) damaged or dislodged fixed equipment;

(c) flooding of Project Highway; and

(d) any other unusual occurrence.

Article 16
Traffic Regulation

16.1 Traffic regulation by the Contractor

(i) The Contractor shall take all the required measures and make arrangements for the safety of Users during the Construction and Maintenance of the Project Highway or a Section thereof in accordance with the provisions of MORTH Specifications. It shall provide, erect and maintain all such barricades, signs, markings, flags, and lights as may be required by Good Industry Practice for the safety of the traffic passing through the Section under construction or maintenance.

(ii) All works shall be carried out in a manner creating least interference to traffic passing through the Project Highway or a Section thereof. In sections where construction or maintenance Works on the carriageway are taken up, the Contractor shall ensure that proper passage is provided for the traffic. Where it is not possible or safe to allow traffic on part width of the carriageway, a temporary diversion of proper specifications shall be constructed by the Contractor at its own cost. 'ROBOTS' may be used for diversion and control of traffic during Construction. The Contractor shall take prior approval of the Authority's Engineer for any proposed arrangement for traffic regulation during Construction and Maintenance, which approval shall not be unreasonably withheld.

Article 17
Defects Liability

17.1 Defects Liability Period

(i) The Contractor shall be responsible for all the Defects and deficiencies, except usual wear and tear in the Project Highway or any Section thereof, till the expiry of a period of commencing from the date of Completion Certificate (the "**Defects Liability Period**") as specified below:

(a) 5 (five) years from the date of completion;

(b) DELETED

(c) DELETED

(d) DELETED

(e) DELETED

The Defects Liability Period shall commence from the date of the Completion Certificate. For the avoidance of any doubt, any repairs or restoration because of usual wear or tear in the Project Highway or any Section thereof shall form a part of the Maintenance obligations of the Contractor as specified in Article14.

17.2 Remedying Defects

Save and except as provided in Clause 14.1 (iii), the Contractor shall repair or rectify all Defects and deficiencies observed by the Authority or Authority's Engineer during the Defects Liability Period within a period of 15 (fifteen) days from the date of notice issued by the Authority or Authority's Engineer in this behalf, or within such reasonable period as may be determined by the Authority or Authority's Engineer at the request of the Contractor, in accordance with Good Industry Practice.

17.3 Cost of remedying Defects

Any repair or rectification undertaken in accordance with the provisions of Clause 17.2, including any additional testing, shall be carried out by the Contractor at its own risk and cost, to the extent that such rectification or repair is attributable to:

(a) the design of the Project;

(b) Plant, Materials or workmanship not being in accordance with this Agreement and the Specifications and Standards;

(c) improper maintenance during construction of the Project Highway by the Contractor; and/or

(d) failure by the Contractor to comply with any other obligation under this Agreement.

17.4 Contractor's failure to rectify Defects

If the Contractor fails to repair or rectify such Defect or deficiency within the period specified in Clause 17.2, the Authority shall be entitled to get the same repaired, rectified or remedied at the Contractor's cost to make the Project Highway conform to the Specifications and Standards and the provisions of this Agreement. All costs consequent thereon shall, after due consultation with the Authority and the Contractor, be determined by the Authority's Engineer. The cost so determined and an amount equal to 20% (twenty percent)of the cost as Damages shall be recoverable by the Authority from the Contractor and may be deducted by the Authority from any monies due to the Contractor.

17.5 Extension of Defects Liability Period

The Defects Liability Period shall be deemed to be extended till the identified Defects under Clause 17.2 have been remedied or rectified.

Article 18
Authority's Engineer

18.1 Appointment of the Authority's Engineer

(i) The Authority shall appoint a firm of Consulting Engineers or a Project Monitoring Committee (PMC) substantially in accordance with the selection criteria set forth in Schedule-N, to be the engineer under this Agreement (the "**Authority's Engineer**"). In unavoidable circumstances, Authority may appoint an officer to act as Authority's Engineer until appointment of a Consulting Engineering firm/ Supervision Consultant/PMC (or) may appoint the Existing Independent Engineer of the BOT (Toll) O&M Package.

(ii) The officer in-charge of the Authority (e.g. PD/ RO/ NHAI)is responsible for the overall supervision and monitoring of the execution of project as the representative of the owner of the project. The Authority's Engineer is appointed to assist the Authority for carrying out the functions as detailed under clause 18.2. As such, an officer of the Authority is vested with all such powers and responsibilities as are enjoined upon the Authority's Engineer and is fully competent to issue any instructions for proper monitoring and supervision of the project, either by himself or through the Authority's Engineer. Instructions issued by the concerned officer of the Authority shall have the same effect as that of the Authority's Engineer in terms of this Agreement. Wherever such concerned officer issues any instructions or notice to the Contractor, he shall endorse a copy thereof to the Authority's Engineer.

(iii) The Authority's Engineer should be appointed within 10 days from the date of this Agreement or before declaration of Appointed Date, whichever is earlier. The Authority shall notify the appointment or replacement of the Authority's Engineer to the Contractor.

(iv) The staff of the Authority's Engineer shall include suitably qualified engineers and other professionals who are competent to assist the Authority's Engineer to carry out its duties.

18.2 Duties and authority of the Authority's Engineer

(i) The Authority's Engineer shall perform the duties and exercise the authority in accordance with the provisions of this Agreement and substantially in accordance with the terms of reference ("**Terms of Reference" or "TOR")** set forth in Annexure-I of Schedule N, but subject to obtaining prior written approval of the Authority before determining:

(a) any Time Extension;

(b) any additional cost to be paid by the Authority to the Contractor;

(c) the Termination Payment;

(d) issuance of Completion Certificate; or

(e) any other matter which is not specified in (a), (b), (c) or (d) above and which creates financial liability on either Party.

(ii) No decision or communication of the Authority's Engineer shall be effective or valid unless it is accompanied by an attested true copy of the approval of the Authority for and in respect of any matter specified in Clause 18.2(i).

(iii) The Authority's Engineer shall submit regular periodic reports, at least once every month, to the Authority in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Authority's Engineer within 10 (ten) days of the beginning of every month. For the avoidance of doubt, the Authority's Engineer shall include in its report, compliance of the recommendations of the Safety Consultant.

18.3 Delegation by the Authority's Engineer

(i) The Authority's Engineer may, by order in writing, delegate any of his duties and responsibilities to suitably qualified and experienced personnel who are accountable to Authority's Engineer, or may revoke any such delegation, under intimation to the Authority and the Contractor. Provided, however, that the Authority's Engineer shall be responsible and liable for all actions and omissions of such personnel.

(ii) Any failure of the Authority's Engineer to disapprove any work, Plant or Materials shall not constitute approval, and shall, therefore, not prejudice the right of the Authority to reject the work, Plant or Materials, which is not in accordance with the provisions of this Agreement and the Specifications and Standards.

(iii) Notwithstanding anything stated in Clause 18.3 (i) above, the Authority's Engineer shall not delegate the authority to refer any matter for the Authority's prior approval wherever required in accordance with the provisions of Clause18.2.

18.4 Instructions of the Authority's Engineer

(i) The Authority's Engineer may issue instructions for remedying any Defect(s) to the Contractor. The Contractor shall take such instructions from the Authority's Engineer, or from an assistant to whom appropriate authority has been delegated under Clause 18.3.

(ii) The instructions issued by the Authority's Engineer shall be in writing. However, if the Authority's Engineer issues any oral instructions to the Contractor, it shall confirm the oral instructions in writing within 2 (two) working days of issuing them.

(iii) In case the Contractor does not receive the confirmation of the oral instructions within the time specified in Clause 18.4(ii), the Contractor shall seek the written confirmation of the oral instructions from the Authority's Engineer. The Contractor shall obtain acknowledgement from the Authority's Engineer of the communication seeking written confirmation. In case of failure of the Authority's Engineer or its delegated assistant to reply to the Contractor within 2 (two) days of the receipt of the communication from the Contractor, the Contractor may not carry out the instructions.

(iv) In case of any dispute on any of the instructions issued by the delegated assistant, the Contractor may refer the dispute to the Authority's Engineer, who shall then confirm, reverse or vary the instructions within 3 (three) business days of the dispute being referred.

18.5 Determination by the Authority's Engineer

(i) The Authority's Engineer shall consult with each Party in an endeavor to reach agreement wherever this Agreement provides for the determination of any matter by the Authority's Engineer. If such agreement is not achieved, the Authority's Engineer shall make a fair determination in accordance with this Agreement having due regard to all relevant circumstances. The Authority's Engineer shall give notice to both the Parties of each agreement or determination, with supporting particulars.

(ii) Each Party shall give effect to each agreement or determination made by the Authority's Engineer in accordance with the provisions of this Agreement. Provided, however, that if any Party disputes any instruction, decision, direction or determination of the Authority's Engineer, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

18.6 Remuneration of the Authority's Engineer

The remuneration, costs and expenses of the Authority's Engineer shall be paid by the Authority.

18.7 Termination of the Authority's Engineer

(i) The Authority may, in its discretion, replace the Authority's Engineer at any time. However, the Authority shall ensure that alternative arrangements for appointment of another Authority's Engineer or designation of its own officer as the Authority Engineer for the intervening period are made simultaneously.

(ii) If the Contractor has reasons to believe that the Authority's Engineer is not discharging its duties and functions in accordance with the provisions of this Agreement, it may make a written representation to the Authority and seek termination of the appointment of the Authority's Engineer. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Contractor and the Authority's Engineer and make best efforts for an amicable resolution of the representation. In the event that the appointment of the Authority's Engineer is terminated hereunder, the Authority shall appoint forthwith another Authority's Engineer in accordance with Clause 18.1 and 18.7(i).

Part IV

Financial Covenants

Article 19
PAYMENTS

19.1 Contract Price

(i) The Authority shall make payments to the Contractor for the Works on the basis of the lump sum price accepted by the Authority in consideration of the obligations specified in this Agreement for an amount of INR……(INR……..) (the "**Contract Price**"), which shall be subject to adjustments in accordance with the provisions of this Agreement. For the avoidance of doubt, the Parties expressly agree that the Contract Price shall not include the cost of Maintenance and Goods and Service Tax (GST), the cost of Maintenance shall be paid separately in accordance with the provisions of Clause 19.7 and GST shall be payable at the applicable rates. The Parties further agree that save and except as provided in this Agreement, the Contract Price shall be valid and effective until issue of Completion Certificate.

(ii) The Contract Price includes all duties, taxes, (Excluding GST which shall be payable at the applicable rates), royalty, cess, charges, and fees that may be levied in accordance with the laws and regulations in force as on the Base Date on the Contractor's equipment, Plant, Materials and supplies acquired for the purpose of this Agreement and on the services performed under this Agreement. Nothing in this Agreement shall relieve the Contractor from its responsibility to pay any tax including any tax that may be levied in India on profits made by it in respect of this Agreement. The Contract Price also includes the cost of shifting of obstructing Utilities (including all centages as applicable by the Utility owning department except supervision charges) as given in clause 9.2 and Schedule B.

(iii) The Contract Price shall not be adjusted for any change in costs stated in Clause 19.1 (ii) above, except as stated in Clauses 19.10 and 19.17.

(iv) The Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs, unless otherwise provided for in this Agreement.

(v) Unless otherwise stated in this Agreement, the Contract Price covers all the Contractor's obligations for the Works under this Agreement and all things necessary for the Construction and there me dying of any Defects in the Project Highway.

(vi) All payments under this Agreement shall be made in Indian Rupees.

19.1.2. The Contract price also includes the cost of shifting of obstructing Utilities (including all centages as applicable by the Utility owning department except supervision charges) as given in Clause 9.2 and Schedule B.

19.2 Advance Payment

(i) The Authority shall make an interest-bearing advance payment (the "**Advance Payment**") @ "**Bank Rate + 3%**", equal to 10 % (ten percent) of the Contract Price, exclusively for mobilization expenses. The Advance Payment for mobilization expenses shall be made in two instilments each equal to 5% (five percent) of the Contract Price. The second 5% (five percent) mobilization advance would be released after submission of utilization certificate by the Contractor for the first 5% (five per cent) advance already released earlier.

(ii) In addition to above, the Authority shall make an additional interest-bearing Advance Payment against newly purchased key Construction equipment required for the works as per agreed Construction programme and brought to the site, if so requested by the Contractor subject to the same terms and conditions specified for Advance Payment for mobilization expenses in this Agreement. The maximum of such advance shall be 5% (five per cent) of the Contract Price against e-Bank Guarantee or Bank Guarantee. This advance shall be further subject to the condition that,

(a) such new equipment are considered by the Authority's Engineer to be necessary for the works and

(b) These new equipment should be procured in the name of Contractor and is verified by Authority's Engineer to have been brought to site.

The Advance Payment for mobilization expenses and for acquisition of key new Construction equipment would be deemed as interest bearing advance at the applicable interest rate (@ "Bank rate + 3%"), to be compounded annually. The interest would be recovered along with the recovery of mobilization Advance Payment as per provision laid down for the mobilization advance recovery.

(iii) The Contractor may apply to the Authority for the first installment of the Advance

Payment at any time after the Appointed Date, along with an irrevocable and unconditional-**Bank Guarantee** or Bank Guarantee from a Bank for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof.

(iv) At any time, after 60 (sixty) days from the Appointed Date, the Contractor may apply to the Authority for the second installment of the Advance Payment along with an irrevocable and unconditional **e-Bank Guarantee** or Bank Guarantee from a Bank for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof.

The Contractor has the option of splitting the **e-bank Guarantee** or Bank Guarantee against Advance Payment for mobilization expenses into parts, each not less than 2.75% (two point seven five per cent) of the Contract Price. Each part of the guarantee shall remain effective till full repayment of such part advance corresponding to this bank guarantee. Such part of e-Bank Guarantee or Bank Guarantee shall be returned to the Contractor on recovery under the Agreement of the full amount of such part guarantee within 30 (thirty) days of the said recovery.

(v) The Advance Payment shall be paid by the Authority to the Contractor within 15 (fifteen)days of the receipt of its respective request sv in accordance with the provisions of this Clause19.2.

(vi) The Advance Payment shall be repaid through percentage deductions from the stage payments determined by the Authority's Engineer in accordance with Clause 19.5, as follows:

(a) deductions shall commence in the first Stage Payment Statement;

(b) deductions shall be made at the rate of 15% (fifteen percent) of each Stage Payment Statement until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 80% (eighty percent) of the Schedule Construction Period is over;

(c) if total certified stage payments (excluding the Advance Payment and deductions and repayments of retention) does not exceed 20% (twenty percent) of the Contract Price within [50% of the Scheduled Construction Period] from the Appointed Date then the Advance Payment including interest shall be recovered by encashment of the **e-bank Guarantee** or Bank Guarantee for the Advance Payment.

(vii) If the Advance Payment has not been fully repaid prior to Termination under Clause

21.7 or Article 23, as the case may be, the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Authority. Without prejudice to the provisions of Clause 19.2 (vi), in the event of Termination for Contractor Default, the Advance Payment shall be deemed to carry interest at @ "**Bank Rate+5%**" per annum from the date of Advance Payment to the date of recovery by encashment of the **e-bank Guarantee** or Bank Guarantee for the Advance Payment. For the avoidance of doubt, the aforesaid interest shall be payable on the unrecovered balance.

19.3 Procedure for estimating the payment for the Works

(i) The Authority shall make interim payments to the Contractor as certified by the Authority's Engineer on completion of a stage, in a length, number or area as specified and valued in accordance with the proportion of the Contract Price assigned to each item and its stage in Schedule-H.

(ii) The Contractor shall base its claim for interim payment for the stages completed till the end of the month for which the payment is claimed, valued in accordance with Clause 19.3 (i), supported with necessary particulars and documents in accordance with this Agreement.

(iii) Any reduction in the Contract Price arising out of Change of Scope or the works withdrawnunderClause8.3shallnotaffecttheamountspayablefortheitemsorstage payments thereof which are not affected by such Change of Scope or withdrawal. For avoidance of doubt and by way of illustration, the Parties agree that if the amount assigned to Major Bridges is reduced from Rs. 100 crore to Rs. 80 crore owing to Change of Scope or withdrawal of work, the reduction in payment shall be restricted to relevant payments for Major Bridges only and the payment due in respect of all other stage payments under the item Major Bridges shall not be affected in any manner. The Parties further agree that the adjustments arising out of the aforesaid modifications shall be carried out in a manner that the impact of such modifications is restricted to the said Change of Scope or withdrawal, as the case may be, and does not alter the payments due for and in respect of items or stage payments which do not form part of such Change of Scope or withdrawal.

19.4 Stage Payment Statement for Works

The Contractor shall submit a statement (the **"Stage Payment Statement")**, in 3 (three) copies, by the 7^{th}(seventh) day of the month to the Authority's Engineer in the form set forth in Schedule-O, showing the amount calculated in accordance with Clause 19.3 to which the Contractor considers himself entitled for completed stage(s) of the Works. The Stage Payment Statement shall be accompanied with the progress reports and any other supporting documents. The Contractor shall not submit any claim for payment of incomplete stages of work.

19.5 Stage Payment for Works

(i) Within 10 (ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 19.4, the Authority's Engineer shall broadly determine the amount due to the Contractor and recommend the release of 90 (ninety) percent of the amountsodeterminedaspartpaymentagainsttheStagePaymentStatement,pending issue of the Interim Payment Certificate by the Authority's Engineer. Within 10 (ten) days of the receipt of recommendation of the Authority's Engineer, the Authority shall make electronic payment directly to the Contractor's bank account.

(ii) Within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, the Authority's Engineer shall determine and shall deliver to the Authority and the Contractor an IPC certifying the amount due and payable to the Contractor, after adjusting the payments already released to the Contractor against the said statement. For the avoidance of doubt, the Parties agree that the IPC shall specify all the amounts that have been deducted from the Stage Payment Statement and the reasons there for.

(iii) In cases where there is a difference of opinion as to the value of any stage, the Authority's Engineer's view shall prevail and interim payments shall be made to the Contractor on this basis; provided that the foregoing shall be without prejudice to the Contractor's right to raise a Dispute.

(iv) The Authority's Engineer may, for reasons to be recorded, withhold from payment:

(a) the estimated value of work or obligation that the Contractor has failed to perform in accordance with this Agreement and the Authority's Engineer had notified the Contractor; and

(b) the estimated cost of rectification of work done being not in accordance with this Agreement.

(v) Payment by the Authority shall not be deemed to indicate the Authority's acceptance, approval, consent or satisfaction with the work done.

19.6 Monthly Maintenance Statement of the Project Highway

(i) The Contractor shall submit to the Authority's Engineer a monthly maintenance statement ("**Monthly Maintenance Statement")** in 3 (three) copies by the 7^{th} (seventh) day of each month in the format set forth in Schedule-O for the Maintenance of the Project Highway during the previous month.

(ii) The monthly lump sum amount payable for Maintenance shall be $1/12^{th}$ (one- twelfth) of the annual cost of Maintenance as specified in Clause 14.1(i).

19.7 Payment for Maintenance of the Project Highway

(i) Within 15 (fifteen) days of receipt of the Monthly Maintenance Statement from the Contractor pursuant to Clause 19.6, the Authority's Engineer shall verify the Contractor's monthly maintenance statement and certify the amount to be paid to the Contractor taking into account:

(a) Compliance with the Maintenance Requirements; and

(b) Reduction for non-compliance with the Maintenance Requirement in accordance with Clause 19.7(ii).

The Authority's Engineer shall deliver to the Authority an IPC approving or amending the monthly maintenance statement to reflect the amount due to the Contractor in accordance with this Agreement.

(ii) Maintenance shall be measured in units of one kilometer each; provided, however, that payment thereof shall be made in fixed monthly amounts in accordance with this Agreement. If the Maintenance Requirements set forth in Schedule-E are not met, reduction in payments shall be made in accordance with the provisions of Schedule-M. The reductions for non-compliance with the Maintenance Requirements shall be applied on the basis of monthly inspections by the Authority's Engineer.

(iii) The deduction made on account of non-compliance with the Maintenance Requirements shall not be subsequently considered for payment after the compliance is achieved by repair or rectification.

(iv) The Authority shall pay to the Contractor every quarter any amount due under any IPC under this Clause 19.7. The payment shall be made no later than 30 (thirty) days from the date of submission of the last IPC for the relevant quarter.

19.8 Payment of Damages

(i) The Contractor may claim Damages due and payable to it in accordance with the provisions of this Agreement.

(ii) The Authority's Engineer shall issue the IPC within 15 (fifteen) days of the receipt of the claim under Clause 19.8 (i), after making adjustments in accordance with the provisions of this Agreement. The Authority shall pay to the Contractor the amount due under any IPC within a period of 30 (thirty) days from the date of the submission of the claim under this Clause 19.8. In the event of the failure of the Authority to make payment to the Contractor within the specified time, the Authority shall be liable to pay to the Contractor interest thereon and the provisions of Clause 19.9 shall apply *mutatis mutandis* thereto.

19.9 Time of payment and interest

(i) The Authority shall pay to the Contractor any amount due under any payment certificate issued by the Authority's Engineer in accordance with the provisions of this Article 19, or in accordance with any other clause of this Agreement as follows:

(a) payment shall be made no later than 30 (thirty) days from the date of submission of the Stage Payment Statement by the Contractor to the Authority's Engineer for certification in accordance with the provisions of Clause 19.4 for an IPC; provided that, in the event the IPC is not issued by the Authority's Engineer within the aforesaid period of 30 (thirty) days, the Authority shall pay the amount shown in the Contractor's Stage Payment Statement and any discrepancy there in shall be added to, or deducted from, the next payment certificate issued to the Contractor; and

(b) payment shall be made no later than 30 (thirty) days from the date of submission of the Final Payment Certificate for Works along with the discharge submitted to the Authority's Engineer in accordance with the provisions of Clause 19.15 for certification.

(ii) In the event of the failure of the Authority to make payment to the Contractor within the time period stated in this Clause 19.9, the Authority shall be liable to pay to the Contractor interest @ Bank Rate+3% per annum, on all sums remaining unpaid from the date on which the same should have been paid, calculated in accordance with the provisions of sub-Clauses (a) and (b) of Clause 19.9 (i) and till the date of actual payment.

19.10 Price adjustment for the Works

(i) The amounts payable to the Contractor for Works shall be adjusted in accordance with the provisions of this Clause 19.10

(ii) Subject to the provisions of Clause 19.10 (iii), the amounts payable to the Contractor for Works, shall be adjusted in the IPC issued by the Authority's Engineer for the increase or decrease in the index cost of inputs for the Works, by the addition or subtraction of the amounts determined by the formulae prescribed in Clause 19.10 (iv).

(iii) To the extent that full compensation for any increase or decrease in costs to the Contractor is not covered by the provisions of this or other Clauses in this Agreement, the costs and prices payable under this Agreement shall be deemed to include the amounts required to cover the contingency of such other increase or decrease of costs and prices.

(iv) The Contract Price shall be adjusted for increase or decrease in rates and price oflabour,cement,steel,Plant,machineryandspares,bitumen,fuelandlubricants,andothermaterial inputs in accordance with the principles, procedures and formulae specified below:

(a) Price adjustment shall be applied on completion of the specified stage of the respective item of work in accordance with Schedule-H;

(b) Adjustment for each item of work/stage shall be made separately;

(c) The following expressions and meanings are assigned to the value of the work done:

RW=Value of work done for the completion of a stage under the following items of Schedule-H:

i. Road works; and

ii. Other works

BR=Value of work done for the completion of a stage under the items Major Bridges and Structures (Schedule-H)

(d) Price adjustment for changes in cost shall be paid in accordance with the following formulae:

(i) $$VRW = 0.85RW \times \left[PL \times \frac{L_1 - L_0}{L_0} + PA \times \frac{A_1 - A_0}{A_0} + PF \times \frac{F_1 - F_0}{F_0} + PB \times \frac{B_1 - B_0}{B_0} + PM \times \frac{M_1 - M_0}{M_0} + PC \times \frac{C_1 - C_0}{C_0} + PS \times \frac{S_1 - S_0}{S_0}\right]$$

(ii) $$VBR = 0.85BR \times \left[PL \times \frac{L_1 - L_0}{L_0} + PA \times \frac{A_1 - A_0}{A_0} + PF \times \frac{F_1 - F_0}{F_0} + PM \times \frac{M_1 - M_0}{M_0} + PC \times \frac{C_1 - C_0}{C_0} + PS \times \frac{S_1 - S_0}{S_0}\right]$$

Where,

VRW= Increase or decrease in the cost of road works/other works during the period under consideration due to changes in the rates for relevant components as stated in sub-paragraph (e).

VBR= Increase or decrease in the cost of Major Bridges and Structures during the period under consideration due to changes in the rates for relevant components as stated in sub-paragraph (e).

PB, PC, PL, PM, and PS are the percentages of bitumen, cement, labour, other materials, and steel/components (including strands and cables) respectively for the relevant item as stated in sub-paragraph (e).

PA is the percentage of Plant, machinery and spares component for the relevant item as stated in sub-paragraph (e).

PF is the percentage of fuel and lubricants for the relevant items as stated in sub-paragraph (e).

A_O = The wholesale price index as published by the Ministry of Commerce & Industry, Government of India (hereinafter called "WPI") for "Manufacture of machinery for mining, quarrying and construction" for the month of the Base Date.

A_I = The WPI for Manufacture of machinery for mining, quarrying and construction for the month three months prior to the month to which the IPC relates.

B_O = The official retail price of bitumen at the nearest refinery at [Guwahati] on the 1st day of the month of Base Date.

B_I = The official retail price of bitumen at nearest refinery at [Guwahati], on the first day of the month three months prior to the month to which the IP Crelates.

C_O= The WPI for Ordinary Portland Cement for the month of the Base Date.

C_I = The WPI for Ordinary Portland Cement for the month three months prior to the month to which the IP Crelates.

F_O= The official retail price of high speed diesel (HSD) oil at the existing consumer pumps of Indian Oil Corporation ("IOC") in the State of [Guwahati] on the 1st day of the month of Base Date.

F_I = The official retail price of HSD at the existing consumer pumps of IOC in the State of [Guwahati] on the first day of the month three months prior to the month to which the IP Crelates.

L_O = The consumer price index for industrial workers for the [Salem circle in the State of Guwahati], published by Labour Bureau, Ministry of Labour, Government of India, (hereinafter called "CPI") for the month of the Base Date.

L_I = The CPI for the month three months prior to the month to which the IP Crelates.

M_O= The WPI for all commodities for the month of the Base Date.

M_I = The WPI for all commodities for the month three months prior to the month to which the IP Crelates.

S_O = The WPI for Mild Steel –Long Products for the month of the Base Date.

S_I = The WPI for Mild Steel –Long Products for the month three months prior to the month to which the IP Crelates.

(e) The following percentages shall govern the price adjustment of the Contract Price:

Component	Item				
	Road Works				Major Bridges and Structures
	Earthwork, Granular Work & Other Works	Bituminous Work	Cement Concrete Pavement	Culverts, Minor Bridges and Other Structures	
Labour (PL)	[20%]	[20%]	[20%]	[15%]	[15%]
Cement (PC)	[5%]	Nil	[20%]	[15%]	[15%]
Steel (PS)	Nil	Nil	Nil	[15%]	[20%]
Bitumen (PB)	Nil	[15%]	Nil	Nil	Nil
Fuel and lubricants (PF)	[10%]	[10%]	[10%]	[10%]	[10%]
Other Materials (PM)	[50%]	[40%]	[35%]	[30%]	[25%]
Plant, machinery and spares. (PA)	[15%]	[15%]	[15%]	[15%]	[15%]
Total	100%	100%	100%	100%	100%

19.11 Restrictions on price adjustment

Price adjustment shall be due and payable only in respect of the stages of Works for which the Stage Payment Statement has been submitted by the Contractor no later than 30 (thirty) days from the date of the applicable Project Milestone or the Scheduled Completion Date, as the case may be, including any Time Extension granted therefor in accordance with the provisions of this Agreement. For the avoidance of doubt, in the event of submission of any Stage Payment Statement after the period specified herein, price adjustment shall be applicable until the date of the respective Project Milestone or the Scheduled Completion Date, as the case may be.

19.12 Price adjustment for Maintenance of Project Highway

Lump sum payment for Maintenance shall be adjusted every quarter for changes in rates and prices of various inputs in accordance with the formula given below:

$$V = P \times \frac{W_i - W_0}{W_0}$$

Where

V	=	Increase or decrease in the quarterly lump sum payment
P	=	Quarterly lump sum payment due to the Contractor after adjusting any reduction in payment for non-compliance of the Maintenance Requirements
W_0	=	The whole sale price index (all commodities) for the month of the Base Date.
W_I	=	The wholesale price index (all commodities) for the first day of the quarter under consideration for determining the price adjustment.

19.13 Final Payment Statement

(i) Within 60(sixty) days after receiving the Completion Certificate under Clause 12.2, the Contractor shall submit to the Authority's Engineer for consideration 6 (six) copies of a Final Payment Statement (the "**Final Payment Statement**") for Works, with supporting documents showing in detail, in the form prescribed by the Authority's Engineer:

(a) the summary of Contractor's Stage Payment claims for Works as submitted in accordance with Clause19.4;

(b) the amounts received from the Authority against each claim; and

(c) any further sums which the Contractor considers due to it from the Authority.

If the Authority's Engineer disagrees with or cannot verify any part of the Final Payment Statement, the Contractor shall submit such further information as the Authority's Engineer may reasonably require. The Authority's Engineer shall deliver to the Authority:

i. an IPC for those parts of the Final Payment Statement which are not in dispute, along with a list of disputed items which shall then be settled in accordance with the provisions of Article 26;or

ii. a Final Payment Certificate in accordance with Clause 19.15 if there are no disputed items.

(ii) If the Authority's Engineer does not prescribe the form referred to in Clause 19.13 (i) within 15 (fifteen) of the date of issue of the Completion Certificate, the Contractor shall submit the statement in such form as it deems fit.

19.14 Discharge

Upon submission of the Final Payment Statement for Works under Clause 19.13, the Contractor shall give to the Authority, with a copy to the Authority's Engineer, a written discharge confirming that the total of the Final Payment Statement represents full and

final settlement of all monies due to the Contractor in respect of this Agreement for all the Works arising out of this Agreement, except for any monies due to either Party on account of any Defect. Provided that such discharge shall become effective only after the payment due has been made in accordance with the Final Payment Certificate issued pursuant to Clause 19.15.

19.15 Final Payment Certificate

(i) Within 30 (thirty) days after receipt of the Final Payment Statement for Works under Clause 19.13, and the written discharge under Clause 19.14, and there being no disputed items of claim, the Authority's Engineer shall deliver to the Authority, with a copy to the Contractor, a final payment certificate (the "**Final Payment Certificate")** stating the amount which, in the opinion of the Authority's Engineer, is finally due under this Agreement or otherwise. For the avoidance of doubt, before issuing the Final Payment Certificate, the Authority's Engineer shall ascertain from the Authority all amounts previously paid by the Authority and for all sums to which the Authority is entitled, the balance, if any, due from the Authority to the Contractor or from the Contractor to the Authority, as the case maybe.

(ii) The Authority shall, in accordance with the provisions of Clause 19.9, pay to the Contractor the amount which is stated as being finally due in the Final Payment Certificate.

19.16 Final payment statement for Maintenance

(i) Within 30 (thirty) days after completion of the Maintenance Period, the Contractor shall submit to the Authority's Engineer 6 (six) copies of the final payment statement for Maintenance of the Project Highway, with supporting documents showing the details set forth below in the form prescribed by the Authority's Engineer:

(a) the total amount claimed in accordance with clause 19.7 (i)and

(b) any sums which the Contractor considers to be due to it, with supporting documents.

(ii) The Authority's Engineer shall certify final payment within 30 (thirty) days of the receipt of the final payment statement of Maintenance under Clause 19.16 (i), segregating the items of amount payable from the items of amount disallowed. The Authority shall make payment on the basis of the final payment authorized by the Authority's Engineer within a period of 30 (thirty) days of the receipt of the Final Payment Statement from the Authority's Engineer.

(iii) If the Authority's Engineer does not prescribe the form within 15 (fifteen) days of the date of issue of the Completion Certificate, the Contractor shall submit the statement in such form as it deems fit.

19.17 Change in-law

(i) If as a result of Change in Law, the Contractor suffers any additional costs in the execution of the Works or in relation to the performance of its other obligations under this Agreement, the Contractor shall, within 15 (fifteen) days from the date it becomes reasonably aware of such addition in cost, notify the Authority with a copy to the Authority's Engineer of such additional cost due to Change in-law.

(ii) If as a result of Change in Law, the Contractor benefits from any reduction in costs for the execution of this Agreement or in accordance with the provisions of this Agreement, either Party shall, within 15 (fifteen) days from the date it becomes reasonably aware of such reduction in cost, notify the other Party with a copy to the Authority's Engineer of such reduction in cost due to Change in-law.

(iii) The Authority's Engineer shall, within 15 (fifteen) days from the date of receipt of the notice from the Contractor or the Authority, determine any addition or reduction to the Contract Price, as the case may be, due to the Change in-law.

19.18 Correction of Interim Payment Certificates

The Authority's Engineer may by an Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate issued by the Authority's Engineer.

19.19 Authority's claims

If the Authority considers itself to be entitled to any payment from the Contractor under any Clause of this Agreement, it shall give notice and particulars to the Contractor 20 (twenty) days before making the recovery from any amount due to the Contractor, and shall take into consideration the representation, if any, made by the Contractor in this behalf, before making such recovery.

19.20 Bonus for early completion

Deleted.

Article 20
Insurance

20.1 Insurance for Works and Maintenance

(i) The Contractor shall effect and maintain at its own cost the insurances specified in Schedule-P and as per the requirements under the Applicable Laws.

(ii) Subject to the provisions of Clause 21.6, the Authority and the Contractor shall, in accordance with its obligations as provided for in this Agreement, be liable to bear the cost of any loss or damage that does not fall within the scope of this Article 20 or cannot be recovered from the insurers.

(iii) Subject to the exceptions specified in Clause 20.1 (iv) below, the Contractor shall, save and except as provided for in this Agreement, fully indemnify, hold harmless and defend the Authority from and against any and all losses, damages, costs, charges and/or claims with respect to:

(a) the death of or injury to any person; or

(b) the loss of or damage to any property (other than the Works);

that may arise out of or in consequence of any breach by the Contractor of this Agreement during the execution of the Works or the remedying of any Defects therein.

(iv) Notwithstanding anything stated above in Clause 20.1 (iii), the Authority shall fully indemnify the Contractor from and against any and all losses, damages, costs, charges,

proceedings and/or claims arising out of or with respect to:

(a) the use or occupation of land or any part thereof by the Authority;

(b) the right of the Authority to execute the Works, or any part thereof, on, over, under, in or through any land;

(c) the damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any Defects therein, in accordance with this Agreement; and

(d) the death of or injury to persons or loss of or damage to property resulting from any act or neglect of the Authority, its agents, servants or other contractors, not being employed by the Contractor.

Provided that, in the event of any injury or damage as a result of the contributory negligence of the Contractor, the Authority shall be liable to indemnify the Contractor from and against any and all losses, damages, costs, charges, proceedings and/or claims to the extent as may be proportionately determined to be the liability of the Authority, its servants or agents or other contractors not associated with the Contractor in such injury or damage.

(v) Without prejudice to the obligations of the Parties as specified under Clauses 20.1 (iii) and 20.1 (iv),the Contractor shall maintain or effect such third-party insurances as may be required under the Applicable Laws.

(vi) The Contractor shall provide to the Authority, within 30 days of the Appointed Date, evidence of professional liability insurance maintained by its Design Director and/or consultants to cover the risk of professional negligence in the design of Works. The professional liability coverage shall be for a sum of not less than [3% (three per cent)] of the Contract Price and shall be maintained until the end of the Defects Liability Period.

20.2 Notice to the Authority

No later than 15(fifteen) days after the date of this Agreement, the Contractor shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 20.Within15(fifteen)days of receipt of such notice, the Authority may require the Contractor to effect and maintain such other insurances as may be necessary pursuan thereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

20.3 Evidence of Insurance Cover

(i) All insurances obtained by the Contractor in accordance with this Article 20 shall be

maintained with insurers on terms consistent with Good Industry Practice. Within 10 (ten) days from the Appointed Date, the Contractor shall furnish to the Authority notarized true copies of the certificate(s)of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or non- renewal has been delivered by the Contractor to the Authority. The Contractor shall act in accordance with the directions of the Authority. Provided that the Contractor shall produce to the Authority the insurance policies in force and the receipts for payment of the current premia.

(ii) The Contractor shall ensure the adequacy of the insurances at all times in accordance with the provisions of this Agreement.

20.4 Remedy for failure to insure

If the Contractor shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Contractor, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Contractor.

20.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Contractor pursuant to this Article 20 shall include a waiver of any and all rights of subrogation or recovery of the insurers there under against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, Affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

20.6 Contractor's waiver

The Contractor hereby further releases, assigns and waives any and all rights of sub rogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, Affiliates, employees, successors, insurers and underwriters, which the Contractor may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Contractor pursuant to this Agreement (other than third party liability insurance policies)or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

20.7 Cross liabilities

Any such insurance maintained or effected in pursuance of this Article 20 shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Authority as separately insured.

20.8 Accident or injury to workmen

Notwithstanding anything stated in this Agreement, it is hereby expressly agreed between the Parties that the Authority shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or Sub-contractor, save and except as for death or injury resulting from any act, omission or wilful default of the Authority, its agents or servants. The Contractor shall indemnify and keep indemnified the Authority from and against all such claims, proceedings, damages, costs, charges, and expenses whatsoever in respect of the above save and except for those acts, omissions or wilful defaults for which the Authority shall be liable.

20.9 Insurance against accident to workmen

The Contractor shall effect and maintain during the Agreement such insurances as may be required to insure the Contractor's personnel and any other persons employed by it on the Project Highway from and against any liability incurred in pursuance of this Article 20. Provided that for the purposes of this Clause 20.9, the Contractor's personnel/any person employed by the Contractor shall include the Sub- contractor and its personnel. It is further provided that, in respect of any persons employed by any Sub-contractor, the Contractor's obligations to insure as aforesaid under this Clause 20.9 shall be discharged if the Sub-contractor shall have insured against any liability in respect of such persons in such manner that the Authority is indemnified under the policy. The Contractor shall require such Sub-contractor to produce before the Authority, when required, such policy of insurance and the receipt for payment of the current premium within 10 (ten) days of such demand being made by the Authority.

20.10 Application of insurance proceeds

The proceeds from all insurance claims, except for life and injury, shall be applied for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project Highway and the provisions of this Agreement in respect of construction of works shall apply *mutatis mutandis* to the works undertaken out of the proceeds of insurance.

20.11 Compliance with policy conditions

Each Party hereby expressly agrees to fully indemnify the other Party from and against all losses and claims arising from its failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

20.12 General Requirements of Insurance Policies

The Contractor must:

(a) immediately deposit copies of the policies or certificates of any insurance which it is required to effect under the Contract, together with receipts for the premiums;

(b) effect all insurances for which the Contractor is responsible with an insurer approved by the Authority;

(c) make no material changes to the terms of any insurance without the Authority's approval;

(d) in all respects comply with any conditions stipulated in the insurance policies which the Contractor is required to effect under the Agreement or which the Authority has effected in relation to the Facility and notified to the Contractor; and shall provide all assistance to the Authority in the application for, and finalization of, such comprehensive insurance package;

(e) regardless of the extent of settlement of claims by the underwriters or the time taken for settlement of claims, the Contractor shall make good any loss, or damage at its own cost promptly;

(f) provide all assistance to the Authority in the application for, and finalization of, such comprehensive insurance package;

(g) pay the Contractor's share of the insurance premiums for insurance premiums allocated under such comprehensive insurance package policy to the insurances directly to the insurance provider promptly on demand. In case the Contractor fails to make such payment in time, the Authority may elect to pay the Contractor's share and adjust it against amounts payable to the Contractor under this Agreement;

(h) in the case of occurrence of any event leading to an insurance claim, promptly follow the procedures specified by the insurance provider, and provide full cooperation and access to the insurance provider or its representative, to settle the claim expeditiously;

(i) require all the Sub-Contractors providing equipment and materials or services to the Contractor or the Authority to obtain, maintain and keep in force during the time in which they are involved in the performance of the Works hereunder insurance coverage consistent with the Contractor's insurance obligations hereunder and the Contractor shall also be responsible for fulfillment of this requirement; and

(j) the required insurance coverage and the Contractor's obligations-referred to shall in no way affect or limit the Contractor's liability with respect to its performance of the Works. Nothing in this Section shall limit or relieve the Contractor of its liabilities and

obligations under this Agreement.

Part V

Force Majeure and Termination

Article 21
Force Majeure

21.1 Force Majeure

As used in this Agreement, the expression " **Force Majeure**" or "**Force Majeure Event**" shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 21.2, 21.3 and 21.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

21.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

(a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

(b) strikes or boycotts (other than those involving the Contractor, Sub- contractors or

their respective employees/ representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project Highway for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 10 (ten) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause21.3;

(c) any failure or delay of a Sub-contractor but only to the extent caused by another Non-Political Event;

(d) any judgment or order of any court of competent jurisdiction or statutory authority made against the Contractor in any proceedings for reasons other than (i) failure of the Contractor to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

(e) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

(f) any event or circumstances of a nature analogous to any of the foregoing.

21.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

(b) industry-wideorState-widestrikesorindustrialactionforacontinuousperiod of 24 (twenty-four) hours and exceeding an aggregate period of 10 (ten) days in an Accounting Year;

(c) any civil commotion, boycott or political agitation which prevents construction of the Project Highway by the Contractor for an aggregate period exceeding 10 (ten) days in an Accounting Year;

(d) any failure or delay of a Sub-contractor to the extent caused by any Indirect Political Event;

(e) any Indirect Political Event that causes a Non-Political Event; or

(f) Any event or circumstances of a nature analogous to any of the foregoing.

21.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account

of any Government Instrumentality:

(a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Clause19.17;

(b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Contractor or of the Sub-Contractors;

(c) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Contractor or any of the Sub-contractors to perform their respective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Contractor's or any Sub-contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

(d) any failure or delay of a Sub-contractor but only to the extent caused by another Political Event; or

(e) any event or circumstances of a nature analogous to any of the foregoing.

21.5 Duty to report Force Majeure Event

(i) Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

(a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article21 with evidence in support thereof;

(b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

(d) any other information relevant to the Affected Party's claim.

(ii) The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 10 (ten) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its

obligations under this Agreement.

(iii) For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 21.5 (i), and such other information as the other Party may reasonably request the Affected Party to provide.

21.6 Effect of Force Majeure Event on the Agreement

(i) UpontheoccurrenceofanyForceMajeureaftertheAppointedDate,thecostsincurredandattributable to such event and directly relating to this Agreement (the "**Force Majeure costs**") shall be allocated and paid as follows:

(a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure costs and neither Party shall be required to pay to the other Party any costs thereof;

(b) upon occurrence of an Indirect Political Event, all Force Majeure costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Contractor, and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Contractor for the Force Majeure events; and

(c) upon occurrence of a Political Event, all Force Majeure costs attributable to such Political Event shall be reimbursed by the Authority to the Contractor.

(d) For the avoidance of doubt, Force Majeure costs may include costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations, if any, of the Contractor.

(ii) Save and except as expressly provided in this Article 21, neither Party shall be liable in any manner what so ever to the other Party in respect of anyloss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

(iii) Upon the occurrence of any Force Majeure Event during the Construction Period, the Project Completion Schedule for and in respect of the affected Works shall be extended on a day for day basis for such period as performance of the Contractor's obligations is affected on account of the Force Majeure Event or its subsisting effects.

21.7 Termination Notice for Force Majeure Event

i. If a Force Majeure Event subsists for a period of 60 (sixty) days or more within a continuous period of 120 (one hundred and twenty) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 21, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

21.8 Termination Payment for Force Majeure Event

(i) In the event of this Agreement being terminated on account of a Non-Political Event, the Termination Payment shall be an amount equal to the sum payable under Clause 23.5.

Provided that in the event Termination occurs during the Maintenance Period, the Authority's Engineer shall only determine the value of Works associated with Maintenance.

(ii) If Termination is on account of an Indirect Political Event, the Termination Payment shall include:

(i) any sums due and payable under Clause 23.5;and

(ii) the reasonable cost, as determined by the Authority's Engineer, of the Plant and Materials procured by the Contractor and transferred to the Authority for use in Construction or Maintenance, only if such Plant and Materials are in conformity with the Specifications and standards;

Provided that in the event Termination occurs during the Maintenance Period, the Authority's Engineer shall only determine the value of Works associated with Maintenance.

(iii) If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Contractor in an amount that would be payable under Clause 23.6 (ii) as if it were an Authority Default.

21.9 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/ or excuse on account of such Force Majeure Event.

21.10 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent its unable to perform on account of such Force Majeure Event; provided that:

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

Article 22
Suspension of Contractor's Rights

22.1 Suspension upon Contractor Default

Upon occurrence of a Contractor Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend carrying out of the Works or Maintenance or any part thereof, and (ii) carry out such Works or Maintenance itself or authorise any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Contractor and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice.

22.2 Authority to act on behalf of Contractor

During the period of Suspension hereunder, all rights and liabilities vested in the Contractor in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Contractor under and in accordance with

this Agreement shall be deemed to have been done or taken for and on behalf of the Contractor and the Contractor undertakes to indemnify the Authority for all costs incurred during such period. The Contractor hereby licences and sub-licences respectively, the Authority or any other person authorised by it under Clause 22.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Contractor with respect to the Project Highway and its design, engineering, construction and maintenance, and which is used or created by the Contractor in performing its obligations under the Agreement.

22.3 Revocation of Suspension

(i) In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 60 (sixty) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion; revoke the Suspension at anytime, whether or not the cause of Suspension has been rectified or removed hereunder.

(ii) Upon the Contractor having cured the Contractor Default within a period not exceeding 60 (sixty) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement.

22.4 Termination

(i) At any time during the period of Suspension under this Article 22, the Contractor may by notice require the Authority to revoke the Suspension and issue a Termination Notice. The Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article23.

(ii) Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension hereunder, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Contractor Default.

Article 23
Termination

23.1 Termination for Contractor Default

(i) Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Contractor fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Contractor shall be deemed to be in default of this Agreement (the "**Contractor Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

(a) the Contractor fails to provide, extend or replenish, as the case may be, the Performance Security in accordance with this Agreement;

(b) after the replenishment or furnishing of fresh Performance Security in accordance with Clause 7.3, the Contractor fails to cure, within a Cure

Period of 30 (thirty) days, the Contractor Default for which the whole or part of the Performance Security was appropriated;

(c) the Contractor does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-J, subject to any Time Extension, and continues to be in default for45(forty-five)days;

(d) the Contractor abandons or manifests intention to abandon the construction or Maintenance of the Project Highway without the prior written consent of the Authority;

(e) the Contractor fails to proceed with the Works in accordance with the provisions of Clause 10.1 or stops Works and/or the Maintenance for 30 (thirty) days without reflecting the same in the current programme and such stoppage has not been authorized by the Authority's Engineer;

(f) the Project Completion Date does not occur within the period specified in Schedule-J for the Scheduled Completion Date, or any extension thereof;

(g) the Contractor fails to rectify any Defect, the non-rectification of which shall have a Material Adverse Effect on the Project, within the time specified in this Agreement or as directed by the Authority's Engineer;

(h) the Contractor subcontracts the Works or any part thereof in violation of this Agreement or assigns any part of the Works or the Maintenance without the prior approval of the Authority;

(i) the Contractor creates any Encumbrance in breach of this Agreement;

(j) an execution levied on any of the assets of the Contractor has caused a Material Adverse Effect;

(k) the Contractor is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Contractor or for the whole or material part of its assets that has a material bearing on the Project;

(l) the Contractor has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

(m) a resolution for winding up or insolvency of the Contractor is passed, or any petition for winding up or insolvency of the Contractor is admitted by a court of competent jurisdiction and a provisional liquidator or receiver or interim resolution professional, as the case may be, is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Contractor is ordered to be wound up by court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Contractor are transferred to the amalgamated or

reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Contractor under this Agreement; and provided that:

i. the amalgamated or reconstructed entity has the capability and experience necessary for the performance of its obligations under this Agreement; and

ii. the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the Contractor as at the Appointed Date;

(n) any representation or warranty of the Contractor herein contained which is, as of the date hereof, found to be false or the Contractor is at any time hereafter found to be in breach or non-compliance thereof;

(o) the Contractor submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

(p) the Contractor has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement; or

(q) the Contractor commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Project or on the Authority.

(r) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:

i. for doing or forbearing to do any action in relation to the Contract, or

ii. for showing or forbearing to show favour or disfavour to any person in relation to the Contract,

or if any of the Contractor's personnel, agents or subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph(s).However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.

(ii) Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Contractor Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Contractor; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Contractor of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Contractor to make a representation, and

may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

(iii) The following shall apply in respect of cure of any of the defaults and/ or breaches of the Agreement:

(a) The Cure Period shall commence from the date of the notice by the Authority to the Contractor asking the latter to cure the breach or default specified in such notice;

(b) The Cure Period provided in the Agreement shall not relieve the Contractor from liability for Damages caused by its breach or default;

(c) The Cure Period shall not in any way be extended by any period of suspension under the Agreement;

(d) If the cure of any breach by the Contractor requires any reasonable action by the Contractor that must be approved by the Authority hereunder the applicable Cure Period (and any liability of the Contractor for damages incurred) shall be extended by the period taken by the Authority to accord its required approval.

(iv) After termination of this Agreement for Contractor Default, the Authority may complete the Works and/or arrange for any other entities to do so. The Authority and these entities may then use any Materials, Plant and equipment, Contractor's documents and other design documents made by or on behalf of the Contractor.

23.2 Termination for Authority Default

(i) In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Contractor or due to Force Majeure. The defaults referred to herein shall include:

(a) the Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Contractor;

(b) the Authority has failed to make payment of any amount due and payable to the Contractor within the period specified in this Agreement;

(c) the Authority has failed to provide, within a period of 180 (one hundred and eighty) days from the Appointed Date, the environmental clearances required for construction of the Project Highway;

(d) the Authority becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under Applicable Laws) has a similar effect;

(e) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement;

(f) the Authority's Engineer fails to issue the relevant Interim Payment Certificate within 60 (sixty) days after receiving a statement and supporting documents; or

(g) the whole work is suspended by Authority beyond 120 (one hundred twenty) days for any reason which is not attributed to the Contractor.

(ii) Without prejudice to any other right or remedy which the Contractor may have under this Agreement, upon occurrence of an Authority Default, the Contractor shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Contractor shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

If on the consideration of the Authority's representation or otherwise, the contractor does not issue the Termination Notice on such 15th(fifteenth) day and prefers to continue with the project, it is deemed that the cause of action of the Termination Notice has been condoned by the Contractor and he would be deemed to have waived any claim and forfeited any right to any other remedy on that count or in relation to such action or omission.

23.3 Termination for Authority's convenience

Notwithstanding anything stated hereinabove, the Authority may terminate this Agreement for convenience. The termination shall take effect 30 (thirty) days from the date of notice provided to the Contractor.

23.4 Requirements after Termination

Upon Termination of this Agreement in accordance with the terms of this Article 23, the Contractor shall comply with and conform to the following:

i. deliver all relevant records, reports, Intellectual Property and other licenses

pertaining to the Works, Maintenance, other design documents;

ii. transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws; and

iii. vacate the Site within 15(fifteen)days.

23.5 Valuation of Unpaid Works

(i) Within a period of 45 (forty-five) days after Termination under Clause 23.1, 23.2 or 23.3, as the case may be, has taken effect, the Authority's Engineer shall proceed in accordance with Clause 18.5 to determine as follows the valuation of unpaid Works (the "**Valuation of Unpaid Works**"):

(a) value of the completed stage of the Works, less payments already made;

(b) reasonable value of the partially completed stages of works as on the date of Termination, only if such works conform with the Specifications and Standards; and

(c) value of Maintenance, if any, for completed months, less payments already made, and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement; and (ii) all taxes due to be deducted at source.

(ii) The Valuation of Unpaid Works shall be communicated to the Authority, with a copy to the Contractor, within a period of 30 (thirty) days from the date of Termination.

23.6 Termination Payment

(i) Upon Termination on account of Contractor's Default under Clause 23.1, the Authority shall:

(a) encash and appropriate the Performance Security, Additional Performance Security if any and Retention Money, or in the event the Contractor has failed to replenish or extend the Performance Security and Additional Performance Security if any, claim the amount stipulated in Clause 7.1, as agreed pre-determined compensation to the Authority for any losses, delays and cost of completing the Works and Maintenance, if any;

(b) Encash and appropriate the e-bank guarantee or Bank Guarantee, if any, for and in respect of the outstanding Advance Payment and interest thereon;

(c) pay to the Contractor, by way of Termination Payment, an amount equivalent to the Valuation of Unpaid Works after adjusting any other

sums payable or recoverable, as the case may be, in accordance with the provisions of this Agreement.

(ii) Upon Termination on account of an Authority Default under Clause 23.2 or for Authority's convenience under Clause 23.3, the Authority shall:

(a) return the Performance Security, Additional Performance Security and Retention Money forth with;

(b) Encash and appropriate the e-bank guarantee or Bank Guarantee, if any, for and in respect of the outstanding Advance Payment;

(c) pay to the Contractor, by way of Termination Payment, an amount equal to:

i. Valuation of Unpaid Works;

ii. the reasonable cost of temporary works, as determined by the Authority's Engineer; and

iii. 10% (ten per cent) of the cost of the Works and Maintenance that are not commenced or not completed,

and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement, and (ii) all taxes due to be deducted at source.

(iii) Termination Payment shall become due and payable to the Contractor within 30 (thirty) days of a demand being made by the Contractor to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at Bank Rate + 3% per annum, on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

(iv) The Contractor expressly agrees that Termination Payment under this Article 23 shall constitute a full and final settlement of all claims of the Contractor on account of Termination of this Agreement and that it shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

23.7 Other rights and obligations of the Parties

Upon Termination for any reason whatsoever:

i. property and ownership in all Materials, Plant and Works and the Project Highway shall, as between the Contractor and the Authority, vest in the Authority in whole;

provided that the foregoing shall be without prejudice to Clause23.6;

ii. risk of loss or damage to any Materials, Plant or Works and the care and custody thereof shall pass from the Contractor to the Authority; and

iii. the Authority shall be entitled to restrain the Contractor and any person claiming through or under the Agreement from entering upon the Site or any part of the Project, which have not been vested in the Authority in accordance with the provisions of this Agreement.

23.8 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or Agreement. All rights and obligations of either Party under this Agreement, including Termination Payments, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

23.9 Foreclosure with mutual consent

(i) Without prejudice to any provision of this Agreement, the Authority and Contractor may foreclose this Agreement by mutual consent in circumstances which does not constitute either party's default without any liability or consequential future liability for either party.

(ii) Should a Party intend to foreclose this Agreement by mutual consent, the intending Party shall issue a notice to the other Party and upon issuance of such notice, the other Party may within 15 days from receipt of such notice either agree to such foreclosure or raise objection(s) to the same by intimating either of the two possible positions to the intending Party in writing.

(iii) In either case of the other Party agreeing to the proposed foreclosure or otherwise, the Parties may negotiate the proposed foreclosure and sign a Supplementary Agreement for foreclosure to the main Contract Agreement within 30 (thirty) days of the date agreeing by both Parties. Foreclosure shall not come into effect unless and otherwise Supplementary Agreement is signed.

(iv) Any attempt or endeavor for foreclosure by mutual agreement shall be without prejudice to the rights and obligations of the Parties herein and the factum of such an attempt or exercise shall not stop either of the Parties from discharging their contractual obligations under this Agreement.

(v) For the avoidance of doubt, it is clarified that such foreclosure will be without

prejudice to the Contractor and shall not affect the Contractor in any way if it wishes to bid in future projects of the Authority.

Part VI

Other Provisions

Article 24
Assignment and Charges

24.1 Restrictions on assignment and charges

This Agreement shall not be assigned by the Contractor to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

24.2 Hypothecation of Materials or Plant

Notwithstanding the provisions of Clause 24.1, the Contractor may pledge or hypothecate to its lenders, any Materials or Plant prior to their incorporation in the Works. Further, the Contractor may, by written notice to the Authority, assign its right to receive payments under this Agreement either absolutely or by way of charge, to any person providing financing to the Contractor in connection with the performance of the Contractor's

obligations under this Agreement. The Contractor acknowledges that any such assignment by the Contractor shall not relieve the Contractor from any obligations, duty or responsibility under this Agreement.

Article 25
Liability and Indemnity

25.1 General indemnity

(i) The Contractor will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises,(the **"Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Contractor of any of its obligations under this Agreement or from any negligence under the Agreement, including any errors or deficiencies in the design documents, or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions,

demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

25.2 Indemnity by the Contractor

(i) Without limiting the generality of Clause 25.1, the Contractor shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and /or damages arising out of or with respect to:

i. failure of the Contractor to comply with Applicable Laws and Applicable Permits;

ii. payment of taxes required to be made by the Contractor in respect of the income or other taxes of the Sub-contractors, suppliers and representatives; or

iii. non-payment of amounts due because of Materials or services furnished to the Contractor or any of its Sub-contractors which are payable by the Contractor or any of its Sub-contractors.

(ii) Without limiting the generality of the provisions of this Article25, the Contractor shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Contractor or by the Sub-contractors in performing the Contractor's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Contractor shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project Highway, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Contractor shall promptly make every reasonable effort to secure for the Authority a licence, at no cost to the Authority, authorizing continued use of the infringing work. If the Contractor is unable to secure such licence within a reasonable time, the Contractor shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process or modify the same so that it becomes non-infringing.

25.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 25 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. If the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

25.4 Defence of claims

(i) The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 25, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

(ii) If the Indemnifying Party has exercised its rights under Clause 25.3,theIndemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(iii) If the Indemnifying Party exercises its rights under Clause 25.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

(a) the employment of counsel by such party has been authorized in writing by the Indemnifying Party; or

(b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or

(c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonablysatisfactorytotheIndemnifiedParty,toassumethedefenceofsuch action and shall have been so notified by the Indemnified Party; or

(d) theIndemnifiedPartyshallhavereasonablyconcludedandspecificallynotified the Indemnifying Party either:

i. that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or

ii. that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 25.4 (iii) shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

25.5 Survival on Termination

The provisions of this Article 25 shall survive Termination.

Article 26
Dispute Resolution

26.1 Dispute Resolution

26.1.1. In the event of any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the **"Dispute**") either Party may call upon the Authority Engineer, to mediate and assist the Parties in arriving at an amicable settlement thereof.

26.1.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

26.1.3. Dispute Resolution Board (DRB)

Deleted

26.2 Conciliation

If either the Authority or the Contractor is dissatisfied with any decision of the DRB, and/ or if the DRB is unable to resolve the dispute, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3 but before resorting to such arbitration, the parties agree to explore conciliation by the Conciliation Committees of Independent Experts set up by the Authority in accordance with the procedure decided by the panel of such experts and notified by the Authority on its website including its subsequent amendments. In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration Act. In case of failure of the conciliation process even at the level of the Conciliation Committee, either party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3.

26.3 Arbitration

26.3.1 Any Dispute resolved amicably by conciliation as provided in Clause 26.2 shall be finally settled by arbitrations set forth below:

(i) The Dispute shall be finally referred to Society for Affordable Resolution of disputes (hereinafter called as SAROD), a Society registered under Society's Act, 1860 vide Registration no. S/RS/SW1049/2013 duly represented by Authority and National Highways Builders Federation (NHBF).The dispute shall be dealt with in terms of Rules of SAROD. The detailed procedure for conducting Arbitration shall be governed by the Rules of SAROD and Provisions of Arbitration & Conciliation Act, 1996, as amended from time to time. The Dispute shall be governed by Substantive Law of India.

(ii) The appointment of Tribunal, Code of conduct for Arbitrators and fees and expenses of SAROD and Arbitral Tribunal shall also be governed by the Rules of SAROD as amended from time to time.

(iii) Subject to the provisions of THE LIMITATION ACT, 1963, as amended from time to time, Arbitration may be commenced during or after the Contract Period, provided that the obligations of Authority and the Contractor shall not be altered by reason of the Arbitration being conducted during the Contract Period.

(iv) The venue of Arbitration shall be New Delhi or a place selected by governing body of SAROD and the language for all documents and communications between the parties shall be English.

(v) The expenses incurred by each party in connection with the preparation, presentation, etc., of arbitral proceedings shall be shared by each party itself.

26.3.2 The Arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Article 26 shall be final and binding on the Parties as from the date it is made, and the Contractor and the Authority agree and undertake to carry out such Award without delay.

26.3.3 The Contractor and the Authority agree that an Award may be enforced against the Contractor and / or the Authority, as the case may be, and their respective as sets wherever situated.

26.3.4 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder. Further, the parties unconditionally acknowledge and agree that notwithstanding any dispute between them, each Party shall proceed with the performance of its respective obligations, pending resolution of Dispute in accordance with this Article.

26.4 Adjudication by Regulatory Authority, Tribunal or Commission

In the event of constitution of a statutory regulatory authority, tribunal or commission, as

the case may be, with powers to adjudicate upon disputes between the Contractor and the Authority, all Disputes arising after such constitution shall instead of reference to arbitration under Clause 26.3, be adjudicated upon by such regulatory authority, tribunal or commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or court of competent jurisdiction, as the case maybe, or no such appeal has been preferred within the time specified in the Applicable Law.

Article 27
Miscellaneous

27.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at [Delhi] shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

27.2 Waiver of immunity

Each Party unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transactioncontemplatedbythisAgreement,noimmunity(whetherbyreason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

27.3 Delayed payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to Base Rate plus 2 (two) percent, calculated at quarterly rests, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

27.4 Waiver

(i) Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement: -

(i) Shallnotoperateorbeconstruedasawaiverofanyotherorsubsequentdefault hereof or of other provisions of or obligations under this Agreement;

(ii) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

(iii) shall not affect the validity or enforceability of this Agreement in any manner.

(ii) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

27.5 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

(a) no review, comment or approval by the Authority or the Authority's Engineer of any Document or Drawing submitted by the Contractor nor any observation or inspection of the construction, or maintenance of the Project Highway nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Contractor from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and

(b) the Authority shall not be liable to the Contractor by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

27.6 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

27.7 Survival

(i) Termination shall:

(a) not relieve the Contractor or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive

Termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

(ii) All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

27.8 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Qualification or Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.

27.9 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentalitytobeinvalid,illegalorunenforceable,thevalidity,legalityorenforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

27.10 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

27.11 Third parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

27.12 Successors and assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

27.13 Notices

Unless the law requires of follow the specified mode of communication only as prescribed therein, any notice or other communication to be given by one contracting Party to the other Party under or in connection with the matters contemplated by this Agreement shall be routed through NHAI Data Lake under the hands of the authorized representative and shall:

(a) In the case of the Contractor, be given through NHAI Data Lake and marked for attention of the per son set out below or to such other person as the Contractor may from time to time designate by notice to the Authority;

{Attention:

Designation:

Address:

Fax No:

Email;}

(b) In the case of the Authority, through NHAI Data Lake and be addressed to the Chairman of the Authority (with a copy delivered to the Authority Representative) or such other person as the Authority may from time to time designate by notice to the Contractor;

{Attention:

Designation:

Address:

Fax No:

Email;}

(c) Any notice or communication by one contracting Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when given through

or made on the NHAI Data Lake.

27.14 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

27.15 Counterparts

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

27.16 Confidentiality

The Parties shall treat the details of this Agreement as private and confidential, except to the extent necessary to carry out obligations under it or to comply with Applicable Laws. The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the previous agreement of the Authority.

27.17 Copyright and Intellectual Property rights

(i) As between the Parties, the Contractor shall retain the copyright and other Intellectual Property rights in the Contractor's documents and other design documents made by (or on behalf of) the Contractor. The Contractor shall be deemed (by signing this Agreement) to give to the Authority a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's documents, including making and using modifications of them. This licence shall:

(a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works;

(b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works; and

(c) in the case of Contractor's documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by this Agreement, including replacements of any computers supplied by the Contractor.

(ii) The Contractor's documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Authority for purposes other than those permitted under this Clause27.17.

(iii) As between the Parties, the Authority shall retain the copyright and other intellectual property rights in this Agreement and other documents made by (or on behalf of) the Authority. The Contractor may, at its cost, copy, use, and obtain communication of these documents for the purposes of this Agreement. They shall not, without the Authority's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the contract.

27.18 Limitation of Liability

(i) Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement, save and except as provided under Articles 23 and25.

(ii) The total liability of one Party to the other Party under and in accordance with the provisions of this Agreement, save and except as provided in Articles 23 and 25, shall not exceed the Contract Price. For the avoidance of doubt, this Clause shall not limit the liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

27.19 Care and Supply of Documents

(i) Each of the Contractor's documents shall be in the custody and care of the Contractor, unless and until taken over by the Authority. Unless otherwise stated in the Agreement, the Contractor shall supply to the Authority 2 (two) copies of the each of the Contractor's documents.

(ii) The Contractor shall keep, on the Site, a copy of the Agreement, publication named in the Authority's requirements, the Contractor's documents, and variations and other communications given under the Agreement. The Authority's personnel shall have the right of access to all these documents at all reasonable times.

(iii) If a Party becomes aware of an error or defect of a technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other party of such error or defect.

27.20 Authority's Use of Contractor's Documents.

(i) As between the Parties, the Contractor shall retain the copyright and other Intellectual Property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

(ii) The Contractor hereby gives to the Authority a non-terminable transferable non exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

(a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,

(b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and

(c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contractor, including replacements of any computers supplied by the Contractor.

(iii) The Contractor's Documents and other design documents made by or on behalf of the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Authority for purposes other than those permitted under this Sub-Clause.

27.21 Contractor's Use of Authority's Documents

As between the Parties, the Authority shall retain the copyright and other intellectual property rights in the Authority's requirements and other Documents made by (or on behalf of) the Authority. The Contractor may, at its cost copy, use, and obtain communication of these documents for the purpose of the Agreement. They shall not without the Authority's consent, be copied, used or communicating to a third party by the Contractor, except as necessary for the purposes of the Agreement.

27.22 Access to the Site by Others

The Contractor shall, at all times, afford access to the Site to the authorized representatives of the Authority, the Authority's Engineer and anyone else authorized by the Authority to access the site and to the persons duly authorized by any Governmental Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project Highway and to investigate any matter within their authority and upon reasonable notice, the Contractor shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions with minimum disruption to the construction, operation and maintenance of the Project Highway consistent with the purpose for which such persons have gained such access to the Site.

27.23 Term

This Agreement shall come into force and effect from the date first hereinabove written and shall remain in force and effect till the Termination Date i.e. the Parties perform all their respective obligations or is terminated by any of the Parties for the reasons and in the manner provided for in the Agreement.

27.24 Amendments

The Agreement may not be supplemented, amended, modified or changed except by an instrument in writing signed by the Contractor and the Authority and expressed to be a supplement, modification or change to the Agreement.

27.25 Representation and Bribes

The Contractor represents and warrants to the Authority that:

(a) No representation or warranty by the Contractor contained herein or in any other document furnished by it to the Authority, or to any Governmental Instrumentality in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

(b) It warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Contractor, to any person by way of fees, commission or otherwise for securing or entering in to the Contractor for influencing or attempting to influence any officer or employee of the Authority or GOI in connection therewith.

27.26 No Agency

The Agreement does not constitute either Party as the agent, partner or legal representative of the other for any purposes whatsoever, and neither Party shall have any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other Party.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THISAGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND	SIGNED, SEALED AND
DELIVERED	DELIVERED
For and on behalf of	For and on behalf of
THE NATIONAL HIGHWAYS AUTHORITY OF INDIA) by:	THE CONTRACTOR by:

(Signature)

(Name)

(Designation)

In the presence of:

1.

2.

(Signature)

(Name)

(Designation)

In the presence of:

{Countersigned and accepted by:
Name and particulars of other members of the Consortium}

SCHEDULES

Name of the Project ("Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode")

Schedule – A

(See Clauses 2.1 and 8.1)

Site of the Project

1. **The Site**

(i) Site of the [**"Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode"].** Project Highway shall include the land, buildings, structures and road works as described in Annex-I of this Schedule-A.

(ii) The dates of handing over the Right of Way to the Contractor are specified in Annex-II of this Schedule-A.

(iii) An inventory of the Site including the land, buildings, structures, road works, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by the Authority Representative and the Contractor, and such inventory shall form part of the memorandum referred to in Clause 8.2 (i) of this Agreement.

(iv) The alignment plans of the Project Highway are specified in Annex-III. In the case of sections where no modification in the existing alignment of the Project Highway is contemplated, the alignment plan has not been provided. Alignment plans have only been given for sections where the existing alignment is proposed to be upgraded. The proposed profile of the Project Highways shall be followed by the contractor with minimum FRL as indicated in the alignment plan. The Contractor, however, improve/upgrade the Road Profile as indicated in Annex-III based on site/design requirement.

(v) The status of the environment clearances obtained or awaited is given in Annex-IV.

Annex – I

(Schedule-A)

SITE

1. Site

Site of the **Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala, 1 no. FOB at Km 1018+800 (Bhawanipur), 1 no. FOB at Km 1049+000 (In front of St. John's School, Barama) & 1 no. FOB at Km 1063+300 (Laudal Chowk, Nalbari) section of NH-27 (Old NH-31) in the State of Assam**. The land, carriageway and structures comprising the Site are described below.

2. Land

The Site of the Project Highway comprises the land detailed in Annex-II of this Schedule A.

3. Carriageway

The present carriageway of the Project Highway is Four Lane Paved Shoulder. The type of the existing pavement for the locations are given below.

S. No	Chainage	Location	Existing Pavement	
			LHS	RHS
1	Km. 1050+800	Barama	Rigid	Flexible
2	Km 1031+690 to Km 1032+400	Swahid Madan Rauta Civil Hospital, Pathsala	Flexible	Rigid
3	Km 1018+800	Bhawanipur	Flexible	Rigid
4	Km 1049+000	In front of St. John's School, Barama	Flexible	Rigid
5	Km 1063+300	Laudal Chowk, Nalbari	Rigid	Flexible

4. Major Bridges

The Site includes the following Major Bridges:

Sl. No.	Chainage (Km)	Type of Structure			No. of Spans with span length (m)	Width (m)	Remarks
		Foundation	Sub-Structure	Super-Structure			
NIL							

5. Road over-bridges (ROB)/Road under-bridges (RUB)

The Site includes the following ROB (road over railway line)/RUB (road under railway line):

Sl.	Chainage	Type of Structure	No. of Spans	Width (m)	ROB /

No.	(Km)	Foundation	Super-Structure	with span length (m)		RUB
NIL						

6. Grade separators

The Site includes the following grade separators:

Sl. No.	Chainage (Km)	Type of Structure		No. of Spans with span length (m)	Width (m)
		Foundation	Super-Structure		
Nil					

7. Minor bridges

The Site includes the following minor bridges:

Sl. No.	Chainage (Km)	Type of Structure			No. of Spans with span length (m)	Width (m)	Remarks
		Foundation	Sub-Structure	Super-Structure			
1	1050+800	Well	RCC	RCC Slab	1 x 39.4	1 x 10.25	

8. Railway Level Crossings

The Site includes the following railway level crossings:

Sl. No.	Location (Km)	Remarks
Nil		

9. Underpasses (Vehicular, Non-Vehicular)

The Site includes the following underpasses:

Sl. No.	Chainage (Km)	Type of Structure	No. of Spans with span length (m)	Width (m)
Nil				

10. Culverts

The Site has the following culverts:

Sl. No.	Chainage (Km)	Type of Culvert	Span / Opening with span length (m)	Width (m)
Nil				

11. Bus Bays / Bus shelter

The details of bus bays on the Site are as follows:

Sl. No.	Chainage (Km)	Length (m)	Left Hand Side	Right Hand Side
Bhawanipur Anchalik College				
1	1018.800	-	LHS	

12. Truck Lay Byes

The details of truck lay byes are as follows:

Sl. No.	Chainage (Km)	Length (m)	Left Hand Side	Right Hand Side
Nil				

13. Road Side Drains

The details of the roadside drains are as follows:

Sl. No.	Location		Type	
	From Km	To Km	Masonry / CC (Pucca) RCC	Earthen (Kutcha)
Nil				

14. Major Junctions

The details of major junctions are as follows:

Sl. No.	Location		Type of Junction	Separated	Category of Cross Road			
	From Km	To Km			NH	SH	MDR	Others
Laudal Chowk, Nalbari								
1	1063+300		'T' Junction	-	-	-	LHS	(RHS)

(NH: National Highway, SH: State Highway, MDR: Major District Road)

15. Minor Junctions

The details of the minor junctions are as follows:

Sl. No.	Location		Type	
	From Km	To Km	Type of Junction	Cross Road
Bhawanipur Anchalik College				
1	1018+800		' T 'Junction	Village road RHS
Swahid Madan Rauta Civil Hospital, Pathsala				
1	1031+820		' T ' Junction	Village road, LHS
2	1031+950		' T ' Junction	Village road, LHS
3	1032+100		' T ' Junction	Village road, LHS
4	1032+350		' T ' Junction	Village road, LHS
Barama				
1	1050+800		' T ' Junction	Village road, RHS
2	1050+850		' T ' Junction	Village road, RHS

16. Bypasses

The details of the existing road sections proposed to be bypassed are as follows:

Sl. No.	Name of Bypass (Town)	Chainage (Km)		Length (in Km)
		From Km	To Km	
Nil				

17. Other structures

[Provide details of other structures, if any.]

18. Utilities:

I. Electrical utilities

The sides include the following electrical utilities:

(a) Extra High-tension lines (EHT Line)

SI.No	Design Chainage	Affected Pylon Along the road					Length Crossings (in Km)				
		765KV	400Kv	230KV	110KV	66KV	765KV	400Kv	230KV	110KV	66KV

Nil

(b) High tension/Low tension lines (HT/LT Lines)

SI. No	Design Chainage		Length in (Km)			Crossings			DP / Transformer	
	From	To	33kv	11kv	LT	33kv	11kv	LT	No	Capacity
Bhawanipur Anchalik College										
1	1018+735	1018+865		0.130			-			
FOB in front of St. John's School, Barama										
1	1048+945	1049+055	0.110	-	-					
Laudal Chowk, Nalbari										
12	1063+235	1063+365	0.130		-	1				

(c) Public Health utilities (Water/Sewage Pipe Lines)

The sides include the following Public Health utilities:

Sl. No.	Chainage		Length in (Km)				Crossings				Bore Well
			Water supply line		Sewage line		Water supply line		Sewage line		
	From	To	With pumping	With Gravity flow	With pumping	With Gravity flow	With pumping	With Gravity flow	With pumping	With Gravity flow	
Nil											

Annex – II

(As per Clause 8.3 (i)

(Schedule-A)

Dates for providing Right of Way of Construction Zone

The dates on which the Authority shall provide Right of Way of Construction Zone to the Contractor on different stretches of the Site are stated below:

Sl. No.	Chainage (Km)		Right of Way (m)	Date of providing Right of Way
	From	To		
Minor Bridge at Barama				
1	1050+800		62.5m	On Appointed Date
Service Road near Swahid Madan Rauta Civil Hospital Pathsala				
2	1031+690	1032+400	60m	On Appointed Date
FOB at Bhawanipur Anchalik College				
3	1018+800		60m	On Appointed Date
FOB in front of St. John's School, Barama				
4	1049+000		60m	On Appointed Date
FOB at Laudal Chowk, Nalbari				
5	1063+300		60m	On Appointed Date

Annex – III

(Schedule-A)

Alignment Plans

The existing alignment of the Project Highway shall be adopted at all five sections as per the alignment plan indicated below:

1. The alignment of the Project Highway is enclosed. Finished road level indicated in the alignment plan shall be followed by the contractor as minimum FRL. In any case, the finished road level of the project highway shall not be less than those indicated in the

alignment plan. The contractor shall, however, improve/upgrade the Road profile as indicated in Annex-III based on site/design requirement.

2. Traffic Signage plan of the Project Highway including numbers & location of traffic signs shall improve/upgrade upon the traffic signage plan by Contractor based on site/design requirement as per IRC: SP: 99 & IRC:67.

Annex – IV

(Schedule-A)

Environment Clearances

No Environment clearance is required.

SCHEDULE- B

(See Clause 2.1)

DEVELOPMENT OF PROJECT HIGHWAY

Development of the Blackspot/Accident Spots

Development of the Blackspot/Accident Spots shall include detailed design, including plan & profile within available proposed ROW and construction of the Project Highway as described in Schedule-B and Schedule-C. The alignment plans of the Project Highway are given in Annex-III of Schedule B which is minimum requirement and are for guidance only. The proposed locations of different structures/ drains/ service road, Foot Over Bridges, etc. of the project highway as indicated in the Schedule A, Schedule B, Schedule C and their Annexures, shall be treated as an approximate assessment and as minimum requirement. Based on site/design requirement, the

Contractor shall finalize Detailed Project Report (DPR) including plan & profile of the project highway and submit the same to Authority Engineer for acceptance, before the start of the execution of project.

Based on accepted DPR including Plan & profile prepared by the Contractor, the detailed work program with Network Method (PERT/CPM) shall be prepared along with commensurate deployment of all resources and get approved from Authority Engineer before start of civil work. Any required changes in scope of work given in Schedule B and Schedule C, including any variation in standard, shall be finalized by both the parties before start of actual civil work.

Requirement specifically mentioned in Schedule B & C shall prevail over general requirements given in Manual mentioned in Schedule D.

1. Specifications and Standards

The Project Highway shall be designed and constructed in conformity with the Specifications and Standards specified in Annexure-I of Schedule-D.

Annex-I

(Schedule-B)

Description of the Project

DEVELOPMENT OF THE PROJECT HIGHWAY

Development of the Project Highway shall include design and construction of the Project Highway [**Permanent Rectification of Accident Spots by Construction of Minor Bridge at Ch. 1050+800 (Barama), Construction of Service Road from Km 1031+690 to Km 1032+400 (LHS) near Swahid Madan Rauta Civil Hospital Pathsala & 3 Nos of Foot Over Bridges with Ramps alongwith both sides Service Road section of NH-27 (Old NH-31) in the State of Assam on EPC mode**] as described in this Schedule-B(Annexure – I) and in Schedule-C

The Project Highway shall generally follow the horizontal alignment shown in the plan specified in Annexure- III of Schedule-B, unless otherwise specified by the Authority.

Notwithstanding anything to the contrary contained in this Agreement or IRC:SP:84, the proposed plan & profile, locations of different structures/drains/service road, Foot Over Bridges, etc. of the project highway as indicated in the Schedule A, Schedule B, Schedule C and their Annexures shall be treated as minimum requirement. Based on site/design requirement, the Contractor shall finalise their Detailed Designs (Development Stage) including plan & profile of the project highway and submit the same to Authority & its Engineer for its Consent/Approval and Safety Audit by Safety Auditor, before the start of the execution of project.

1.2 WIDTH OF CARRIAGEWAY

1.2.1 The carriageway width shall be as per table below:

Location	Chainage (Km)	Width of Paved Carriageway/ walkway (m)	Remarks
Barama	1050+800	1 x 10.25	Approaches @7.0 M wide
Civil Hospital Pathsala	1031+690 to 1032+400	1 x 7.0	
Bhawanipur College	1018+800	2 x 3.0	FOB for crossing 4lane highway
St. John's School, Barama	1049+000	2 x 3.0	
Laudal Chowk, Nalbari	1063+300	2 x 3.0	

Edge strip shall be minimum 0.6m as **clause No. 2.5.3 IRC: SP:84-2019.**

1.2.2 A suitable anti-glare measures shall be proposed. (Clause No. 2.5.6 & 2.5.7 IRC: SP:84-2019).

1.2.3 Raised median in approaches shall be paved with PCC (minimum thickness 100 mm with wire mesh) and the provision of RCC boxes for plantation of size 0.6x0.6x0.5 m with spacing of 1.5 m shall be provided.

2. Geometric Design and General Features

2.1 **General:** Geometric design and general features of the Project Highway shall be in accordance with Section-2 of the Manual, IRC: SP: 84-2019 and Design of Roundabouts Manal IRC 65-2017. The grade separated approached shall be designed Intermediate Sight distance (Desirable Minimum Sight Distance) as per IRC Manual.

2.2 **Terrain and Design Speed:** The Project highway passes through plain terrain and road geometry shall be designed for minimum speed of 100 kmph in plain terrain. (IRC: SP:84-2019).

2.3 **Improvement of the existing road geometrics**

The existing road geometrics shall be improved to the extent possible within the given right of way and appropriate road signs, pavement markings and safety measures shall be provided as per schedule-D.

2.4 **Bypasses:**

Sr. No.	Name of bypass	Existing Chainage (Km)		Design Chainage (Km)		Length (Km)
		From	To	From	To	
Nil						

2.5 Right of Way:

Details of the Right of Way along Project Highways and Side Roads are given in Annexure-II of Schedule A.

2.6 **Lateral and vertical clearances at Overpasses**

2.6.1 Deleted

2.6.2 Lateral clearance: The width of the opening at the Overpasses shall be as follows:

Sr. No.	Location Chainage (Km)	Span/opening (m)	Remarks
NIL			

(MCW – main carriageway**, LHS –** Left Hand Side and **RHS –** Right Hand Side**)**

2.7 Service roads/Slip roads/Connecting Roads:

2.7.1 Service Road: The height of embankment of service road shall confirm to clause 4.2.1.

(Clause No. 4.2.1 IRC: SP:84-2019)

2.7.2 The Service roads shall be constructed at the locations & for the lengths indicated below:

Service Road:

Location	Chainage (Km)		Length (km)		Paved Carriageway Width (m)	Total	Remarks
	From	To	LHS	RHS			
Swahid Madan Rauta Civil Hospital, Pathsala	1031+690	1032+400	710	-	7.0m	710	LHS
Bhawanipur College	1018+800		130	130	7.0m	260	BHS – Ramps of

Location	Chainage (Km)		Length (km)		Paved Carriageway Width (m)	Total	Remarks
	From	To	LHS	RHS			
							FOB
front of St. John's School, Barama	1049+000		110	110	7.0m	220	BHS – Ramps of FOB
Laudal howk, Nalbari	1063+300		-	130	7.0m	130	RHS- Ramp of FOB
Total Length (m):						**1320**	

2.7.3 The Parking bays shall be provided along service road: **Nil**

2.7.4 Slip Road: The height of embankment of slip road shall confirm to clause 4.2.1. (**Clause No. 4.2.1 IRC:SP:84-2019)**

The Slip roads shall be constructed at the locations and at the approaches of Barama Minor Bridges km. 1050+800 (RHS).

Slip Road: Nil.

2.7.5 Separator Between Main Carriageway and Service/Slip Road **(Clause No. 2.15.1 IRC:SP:84-2019/ IRC:SP:87-2019)**

A separator between main carriageway and service/slip road shall be provided to prevent the pedestrians, local vehicles and animals entering the highway.

Note:

(i) Above length of the service/slip roads is minimum specified. The actual length of the service/slip/connecting roads shall be determined by the Contractor in accordance with the approved plan & profile and design approved from the Independent Engineer. **Any increase/decrease up to 5 percent length from the length specified in this Clause of Schedule-B shall not constitute a Change of Scope. Any additional length shall be dealt in Change of Scope**.

(ii) The Acceleration, deceleration lane, right turning storage lane, entry/exit lanes shall be constructed in addition to length given in above table and shall be deemed to be part of the scope and no Change of Scope shall be considered for the same. (Clause No. 2.12.2 IRC: SP:84-2019)

2.8 Grade Separated Structures

Grade separated structures shall be constructed as per paragraph 2.13 of the Manual. Proposed levels at structure locations as shown in plan & profile specified in Annexure-III of

schedule-B are minimum requirement and only for guidance and any increase in levels shall not constitute any change of scope. Entry/Exit arrangement from main carriageway shall be 50m before/after the start/end of approach road to grade separator i.e. start/end of valley curve (clause No. 3.4 IRC: SP:84-2019). RCC barrier shall start from start of valley curve and end after grade separator at end of valley curve. (clause No. 2.12.2.2 IRC:SP:84-2019).

The sub-structure shall be continued in the median portion with RCC barrier wherever superstructure has not been proposed in median portion. (Clause 7.1 (vii) IRC: SP:84-2019).

50m long MBCB Safety barriers on structure approaches shall be provided on all four faces of each structure. MBCB provided towards median side of each structure shall be joined on ends in semi-circular shape. (Clause No. 4.3.5 and 4.9, IRC 119)

2.5m/1.5m/0.75m wide footpaths shall be provided at grade intersection below structures for each direction of pedestrian movement (refer fig 3.1 to 3.6 IRC: SP:84-2019).

The requisite particulars are given below:

2.8.1 Foot Over Bridge (FOB)

Sr. No.	Location		Type of Structure	Minimum Vertical Clearance (m)	Remarks
	Location	Design Ch.			
1	Bhawanipur College	1018+800	FOB	5.5	
2	St. John's School, Barama	1049+000	FOB	5.5	
3	Laudal howk, Nalbari	1063+300	FOB	5.5	

2.8.2 Vehicle Underpasses (VUP)

Sr. No.	Design Chainage (Km)	LHS Roadway Width (m)	RHS Roadway Width (m)	Super Structure Provision in Median	Span Arrangement (m)	Minimum Vertical Clearance (m)	Skew Angle (to be specified)	Remarks
Nil								

2.8.3 Light Vehicle Underpasses (LVUP)

Sr. No.	Design Chainage (Km)	LHS Roadway Width (m)	RHS Roadway Width (m)	Super Structure Provision in Median	Span Arrangement (m)	Minimum Vertical Clearance (m)	Skew Angle (to be specified)	Remarks
Nil								

2.8.4 Small Vehicle Underpasses (SVUP)

Sr. No.	Design Chainage (Km)	LHS Roadway Width (m)	RHS Roadway Width (m)	Super Structure Provision in Median	Span Arrangement (m)	Minimum Vertical Clearance (m)	Skew Angle (to be specified)	Remarks
Nil								

2.8.5 Cattle and Pedestrian underpasses

Sr. No.	Design Chainage (Km)	LHS Roadway Width (m)	RHS Roadway Width (m)	Super Structure Provision in Median	Span Arrangement (m)	Minimum Vertical Clearance (m)	Skew Angle (to be specified)	Remarks
Nil								

2.8.6 Flyover

Sr. No.	Design Chainage (Km)	LHS Roadway Width (m)	RHS Roadway Width (m)	Super Structure Provision in Median	Span Arrangement (m)	Minimum Vertical Clearance (m)	Skew Angle (to be specified)	Remarks
Nil								

2.8.7 Interchanges (IC)

Sr. No	Design Chainage (km)	Name of structure	Length (m)	Total Width (m)	Typical Cross Section	Remarks
Nil						

2.8.8 Details of Ramps, Cross Roads and Connecting Roads at Interchanges (IC)

Sr. No.	Carriageway Widths including Kerb Shyness	Length (m)	Description of Ramps, Crossroads and Connecting Roads	Remarks
NIL				

2.9 Typical Cross Section (TCS) of the Project Highway

The Typical cross sections required to be developed in different sections of the Project Highway are given below.

Sl. No.	Chainage		Type of Structure	Remarks
	Location	Design Chainage		
1	Bhawanipur College	1018+800	FOB	
2	St. John's School, Barama	1049+000	FOB	
3	Laudal Chowk, Nalbari	1063+300	FOB	
4	Minor Bridge Barama	1050+800	MNB	
5	Swahid Madan Rauta Civil Hospital, Pathsala	Km 1031+690 to Km 1032+400 (LHS)	Service road	

The Design Consultant shall take full care in designing the cross section confirming to the details given above.

Note:

1) The vertical clearance shall be adopted as minimum requirement. The increase in the vertical clearance due to the geometric/structural design shall not constitute a change of scope.
2) Any variations in the lengths specified in the above table shall not constitute a Change of Scope.
3) Lengths mentioned in the above list for cross section types concerned to structures are inclusive of structure length.
4) Chainages may be adjusted according to location of structures as per drawings.
5) Carriageway width tapering shall be provided 1 in 50 as per manual **(Clause no 2.5.4. IRC: SP:84-2019)**
6) Intermediate Sight Distance (Desirable Minimum Sight Distance) shall be followed for design of all vertical curves (Summit and Valley Curves) including structures as well as highways. **(Clause No. 2.9.5 IRC: SP:84-2019)**
7) Provide detailing of placement and specification of Railing, Fencing and electric poles, etc. **(Clause No. 2.17 IRC: SP:84-2019)**
8) Details of TCS are attached in Annexure – II of Schedule - B.

9) The actual length of each TCS shall be determined based on the Detailed Engineering Design to be done by the contractor in accordance with the Manual requirements and with approval from the Authority Engineer. Any variation in the length specified in this Clause of Schedule-B shall not constitute a Change of Scope, save and except any variations in the length arising out of a Change of Scope expressly undertaken in accordance with the provisions of Article 13.
10) Lengths mentioned in the above list for cross section types concerned to structures are inclusive of structure length.
11) Depth of RCC drain shall vary as per leading discharge points and as per the invert levels; Any increase in depth doesn't amount any change of scope.
12) Shape & size of drain are indicative in this RFP, and it shall be as per actual site condition at the time of execution.
13) Kerb shyness shall be provided as per IRC standards.

3 Intersections and Grade Separated Intersections

All at-grade intersections and grade separated intersections shall be as per Section 3 of the manual. Existing at-grade intersections shall be improved to the prescribed standards.

The service road pavement composition shall be continued on crossroads of the intersections for the length specified for at-grade and grade separated intersections.

Properly designed intersections shall be provided at the locations and of types and features given in the tables below:

3.1 At-grade intersections

3.1.1 Major Junctions:

Location	Design Chainage (Km)	Junction Type	Leads to		Median Opening	Category of Cross Road	Carriageway width of crossroad	Length of crossroad to be developed (m)	
			Left	Right				LHS	RHS
Laudal Chowk	1063+300	'T' Junction	Towards village	-	No	ODR	1x7m	50	-

3.1.2 Minor Intersections:

Sr. No.	Design Chainage (Km)	Junction Type	Leads to	Median Opening	Category of Cross	Carriage way width	Length of crossroad to be developed(m)

			Left	Right		Road	of cross road	LHS	RHS
Bhawanipur Anchalik College									
1	1018+800	T Junction	-	Towards village	Yes	VR	5m		30
Swahid Madan Rauta Civil Hospital, Pathsala									
1	1031+820	T Junction	Towards village	-	No	VR	5.5m	30	-
2	1031+900	T Junction	Civil Hospital	-	Yes	VR	5.5m	30	-
3	1031+950	T Junction	Towards village	-	No	ODR	7m	30	-
4	1032+100	'T 'Junction	Towards village	-	Yes	ODR	5.5m	30	-
5	1032+350	'T 'Junction	Towards village	-	No	ODR	3.5m	30	-
Barama									
1	1050+800	'T 'Junction	-	Barma market	No	VR	5.5m	-	30
2	1050+850	'T 'Junction	-	Towards village	No	VR	5.5m	-	30
Laudal Chowk, Nalbari									
1	1063+300	'T 'Junction	-	Nalbari Town	No	VR	5.5M	-	30

3.1.3 **Passenger Shelter**

Sl. No.	Chainage (Km)	Length (m)	Left Hand Side	Right Hand Side
Bhawanipur Anchalik College				
1	1018.800	-	1 no.	1 no.

"Providing and erecting Passenger Shelter at Bus Bay / FOB approach, structurally fabricated using Stainless Steel (Grade AISI 304 / IS:6911), including stainless steel roofing, seating arrangements, and granite stone flooring/cladding. The work includes

providing covered connecting steps (max rise 150mm, min width 5m) and a disabled-friendly ramp (min 1m wide with SS handrails) integrating the shelter with the Foot Over Bridge. All work to be structurally safe, aesthetically pleasing, and complete in all respects as per Technical Specifications Section 1600, 1700, and IRC:SP:84 / IRC:SP:87".

Note:

(i) Type of Junction to be improved as per manual. **(Clause No. 3.2.5 IRC:SP:84-2019)**

(ii) The Contractor shall take up 'Detailed Engineering study' to ascertain further details of all intersections and treatment of the intersections shall be designed in accordance with the latest guidelines mentioned out in section-3 of the manual. Auxiliary lanes including storage, acceleration and deceleration lane along with physical islands to be provided. The cross road at the junctions which are having a level difference from the main carriageway, are to be improved at the level of main carriageway for the length of 30 metre and then to be merged with the cross road at the gradient not more than 1:50. (Clause No. 3.2.2 IRC: SP:84-2019)

(iii) For minor / major layout for left-in / left out arrangement with physical islands with hazard marking. Where there is space constraint to provide physical islands, the effect of junction kept wide opened can be avoided by ghost island with marking. **(Fig 3.7, IRC:SP:84-2019)**

(iv) For U-turn, Self-Regulated U-Turn facility shall be created. **(Fig 3.6 IRC:SP:84-2019)**

(v) Insignificant road/property access shall be developed as per Fig 3.7 of IRC: SP: 84-2019 and shall be treated within the scope of work.

(vi) Junction improvement under grade separators/ interchanges shall be carried out as per IRC: SP:84-2019and typical layout drawing attached at Appendix B-5with proper entry/exit to crossroads and slip/service roads and pavement composition as indicated in clause 5.3 of this Schedule B.

(vii) Additional Culverts: Additional culverts shall be provided on each side of cross roads/ all junctions as per the manual to maintain the continuity of flow as per site condition

3.2 At-Grade Intersections below Grade Separators/ Interchanges: (Clause No. 3.4.7 of IRC: SP:84-2019):

Sr. No.	Design Chainage (Km)	Junction Type	Leads to		Median Opening	Category of Cross Road	Carriageway width of cross road	Length of crossroad to be developed	
			Left	Right				LHS	RHS
Nil									

4 Road Embankment and Cut Section

Construction of road embankment/cuttings shall conform to the Specifications and Standards given in section 4 of the manual. Notwithstanding anything to the contrary contained in this

Agreement or Manual, the proposed profile of the project highway as indicated in the Annex-III of Schedule B shall be treated as minimum requirement.

Based on site/design requirement, the Contractor shall design the alignment plans and profiles of the project highway based on site/design requirement mentioned in Schedule B with approval from the Authority Engineer within the available Right of Way. However, it is clarified that bottom of subgrade level shall be at-least 1500 mm above HFL/Existing ground level whichever is higher for a Greenfield/ bypass stretch.

The side slopes shall not be steeper than 2H:1V. In case, there is a ROW constraint than, suitable soil retaining structures shall be provided. **(Clause No. 4.2 IRC: SP:84-2019)**

For stability of slope upto 3 metre height the turfing can be adapted. For the slope from 3-6 metre suitable, geocell, geo-grid, geo-green etc. can be provided with suitable drainage chutes as per IRC 56. For the slope more than 6 metre height, a complete slope stability analysis as per IRC:75 shall be done and the slopes shall be compulsory protected with stone pitching within stone masonry grid structure of 4x4 metre and suitable drains/chutes etc. shall be provided for effective drainage of the water.

Use of Pond Ash and Design of Pond Ash embankment shall be specified (Clause No. 4.2.4 & 4.4.4.i (d) IRC: SP:84-2019)

5 Pavement design

5.1 Pavement design shall be carried out in accordance with Section 5 of the Manual.

5.2 Type of Pavement and Design requirement (Clause No. 5.4 IRC: SP:84-2019)

The pavement shall be flexible/rigid type for entire length of project highway except for toll plaza locations where rigid pavement shall be provided.

(The design consultant will carry out life cycle cost analysis for flexible and as well as rigid pavement. The cost-effective solution shall be proposed for the project.)

5.2.1 **Design Period and Strategy Pavement shall be constructed for the entire length of Project Highway including paved shoulders.**

Flexible Pavement shall be designed for a minimum design period of 20 years and minimum sub grade CBR of 8% and maximum subgrade CBR of 10%. whereas Rigid pavement shall be designed for a minimum design period of 30 years. Stage construction shall not be permitted.

5.2.2 Recommended Pavement Design Notwithstanding anything to the contrary contained in this Agreement or the manual, the Contractor shall design the pavement of main carriageway for design traffic of **100 MSA.**

(i) The pavement for service road/slip roads shall be designed as per MoRTH guidelines No.121.2.55 dt:03.11.2025

5.3 In order to meet the intended functional requirement of respective pavement layers on main carriageway, the minimum thickness of respective pavement layers for main

carriageway and connecting crossroads/ service roads/ slip roads/ entry/exit locations, acceleration/ deceleration lane, right turning lanes shall, however, in no case be less than as given below:

5.3.1 **Main carriageway, paved shoulder, median side paved strip, entry/ exit locations, acceleration/ deceleration lane, right turning lanes (Flexible) with GSB/WMM**

Pavement Composition	Minimum Crust Thickness (mm)
Subgrade	500
GSB	200
WMM	250
DBM	100
BC	50

5.3.2 **Slip roads**

Pavement Composition	Minimum Crust Thickness (mm)
Subgrade	500
GSB	200
WMM	250
DBM	65
BC	40

5.3.3 **Crossroads / service roads**

Pavement Composition	Minimum Crust Thickness (mm)
Subgrade	500
GSB	200
WMM	250
DBM	65
BC	40

"***The flexible pavement for the service/slip road is designed for a cumulative traffic MUST NOT be less than 20 MSA corresponding to a design life of n_{SR} (n_{cons} + 6 years) and an effective CBR of [Insert CBR]%. In compliance with Policy Circular No. 10.2.47/2026, the minimum bituminous crust thickness provided is strictly not less than 60 mm for the Bituminous Binder Course and 40 mm for the Bituminous Wearing Course, irrespective of the base design estimates****".*

5.4 Reconstruction of Stretches with New pavement: Nil

5.5 Bituminous Mix for Overlay (Clause No. 5.9.8 IRC: SP:84-2019)

The following stretches of the existing road shall be provided bituminous overlay as follows:

Sr. No.	Design Chainage		Overlay Pavement Composition	Remarks
	From	To		
Nil				

6 Roadside Drainage

6.1 Drainage system

Drainage system including surface and subsurface drains for the Project Highway including crossroads shall be provided as per section 6 of the manual. RCC Drain cum footpaths shall conform to the cross- sectional features and other details as given in Annexures to Schedule-B and shall be provided as under:

Details of RCC Drain Cum Footpath

Sr. No.	Design Chainage (Km)		Length (m)		Width of Drain (m)	Total Length (m)
	From	To	LHS	RHS		
1	1031+690	1032+400	710	-	1.5	710
2	1050+590	1050+820	-	230	1.0M Dia (Hume Pipe Drain)	230
	Sub Total on each side		**710**	**230**		**940**
					Total	**940**

Providing and laying reinforced cement concrete pipe (Hume pipe) NP-3/NP-4 class of [1000 mm] inner diameter for drainage on first class bedding of granular material, including fixing collars with cement mortar 1:2, trench excavation, backfilling with approved granular material, compaction, and shoring/strutting as required, complete in all respects conforming to Clause 2900 and 3000 of MoRTH Technical Specifications.

Construction of RCC Manhole / Catch Pit / Gully Chamber of specified internal dimensions using M-20 / M-25 grade cement concrete, including earthwork in excavation, providing and fixing HYSD reinforcement, formwork, PCC leveling course at the base, and providing and fixing precast RCC slab / Cast Iron grating / SFRC cover at the top, complete as per approved drawings and Section 1700 of MoRTH Technical Specifications.

6.2 Unlined Drains: Nil

6.3 Median Drain: Nil

6.4 Drainage arrangement between Main Carriageway and Service/Slip Roads

A suitable drainage arrangement for draining storm water of main carriageway shall be provided. Storm water of main carriageway to service road is not permitted. (Clause No. 2.15 IRC: SP:84-2019)

6.5 Drainage where Embankment Height is more than 3m

Drainage chutes shall be provided at suitable interval on embankment slopes. The

drainage arrangement shall include kerb, cement concrete drainage channel at the edge roadway, Cement Concrete Chutes, CC bedding, energy dissipation basin, etc. Mountable Kerb shall be provided beyond the post of MBCB to channelize storm water into chute. (Clause No. 6.8.2.4 of IRC: SP:84-2019)

6.6 Drainage for Structures

A suitable drainage arrangement for draining storm water from deck slab shall be provided. Water shall not fall on any surface of the structures, or remain standing or flowing over the road below structure. (Clause No. 6.8 IRC: SP:84-2019)

6.7 Drainage for Underpass and Subways Structures

A suitable drainage arrangement for draining storm water from Underpass and Subways shall be provided. (Clause No. 6.8.3 IRC: SP:84-2019).

6.8 Drainage arrangement of Retaining Structures

Vertical Drop-down drainage pipes with suitable cleaning provision shall be provided at suitable interval. Drainage fixtures and dropdown pipes shall be of rigid, corrosion resistant material not less than 100mm dia. The Storm water of main carriageway draining on service road is not permitted. (No Clause in IRC: SP:84-2019)

Note:-

(i) Side ditches of required cross section shall be provided for project highway &catchment area drainage on both side of carriageway as per cross section schedules mention in schedule "B" and as per Schedule "D".

(ii) Covered RCC drains underneath the sidewalk of proposed facility shall be provided on both sides of carriageway as per cross section schedules mention in schedule "B" and as per Schedule "D".

(iii) Drainage arrangement for grade-separated structures strictly as per provision of IRC: SP: 84-2019 & IRC: SP: 42-2014.

(iv) The actual length of Drain cum footpath shall be determined by the Contractor in accordance with the IRC: SP: 84-2019& site requirements with approval from the Authority Engineer. Any increase in the length/Any drainage provisions (as per site requirements) specified in this Clause of Schedule-B shall not constitute a Change of Scope, save and except any variations in the length arising out of a Change of Scope expressly undertaken in accordance with the provisions of Article 13.

(v) RCC Chamber with drain pipe shall be provided on both sides of carriageway (between main carriageway & service road at end of approach on each direction to discharge the water from MCW to longitudinal drain, as per cross section schedules mention in schedule "B" in accordance with rainfall data of catchment area & shall be approved by Authority Engineer.

7 Design of Structures

7.1 General

Project Highway is proposed to be constructed to **Four lane configuration** with provision for widening to six lane configuration in future. As such, superstructure of all bridges, culverts and structures is to be designed for edge movement of the vehicle considering stitching of new superstructure in future due to widening for additional lane. **Special vehicle loading is to be considered in design of all bridges, culverts and structures.**

All structures except wherever expansion joints have been provided, The pavement layers WMM, DBM & BC shall be continued over the structures for smooth riding quality of the project highway. These structures shall be designed considering the dead load of pavement (WMM, DBM, BC, etc) layers.

All major structures will be designed preferably as continuous slab to reduce the number of expansion joints on the MJB/ ROBs/ flyover/ Interchange etc.

7.1.1 All bridges, culverts and structures shall be designed for IRC class Special Vehicle (SV) loading as per IRC: 6 and constructed in accordance with section-7 of the manual and shall conform to the cross-sectional features and other details specified therein. The new amendment NHAI Policy circular No.18.111 dt:21.10.2025 shall also be followed.

7.1.2 The overall width of the structures shall be as given in Para 7.3 of Annex-I of Schedule-B.
(Clause No. 7.3 IRC: SP:84-2019)

7.1.3 The Safety Barrier and Footpath on Bridges and FOB shall continue on approaches. The footpath shall be provided with paved surface & railing till the embankment height is more than 3m. (Clause No. 7.17 IRC: SP:84-2019)

Details of Structures with footpaths (Clause No. 7.2 ii IRC: SP:84-2019)

Sr. No.	Location at km	Skew Angle	Footpath Width (m)		Remarks
			Left	Right	
Nil					

7.1.4 All bridges shall be high level bridges.

7.1.5 All structures shall be designed to carry utility services on outer side of RCC barrier/Railing as per site requirement.

7.1.6 Cross section of the new culverts and bridges at deck level for the Project Highway shall conform to the typical cross sections given in Section 2.10 of the Schedule-B.

7.2 Culverts (Clause No. 7.3 IRC: SP:84-2019)

7.2.1 Overall width of all culverts shall be equal to the roadway width of the approaches. The overall width of culverts shall be including width of main carriageway and slip/service

roads/Entry ramps/Exit Ramps/ Acceleration/Deceleration lanes, etc. All culverts shall also be continued in median and in gap between main carriageway and service road.

7.2.2 New/ Reconstruction of existing RCC pipe culverts:

The existing culverts at the following locations shall be re-constructed as new culverts:

Sr. No	Design Chainage	Culvert Type	Skew Angle	Span/ Opening (m)	New/ Reconstruction	Culvert Crossing Type (Balancing/Stream, etc)	Remarks
Nil							

7.2.3 Widening of existing RCC pipe culverts:

Sr. No	Design Chainage	Culvert Type	Skew Angle	Span/ Opening (m)	Repairs / Rehabilitation proposals	Culvert Crossing Type (Balancing/ Stream, etc)	Remarks
Nil							

7.2.4 Construction of Box Culverts (Clause No. 7.3 i IRC: SP:84-2019):

New culverts (given in table below) shall be constructed for width equal to the proposed roadway width of the Project Highway & as per typical cross-section given in schedule B. The details are given as under:

Sl. No.	Design chainage (Km)	Span Arrangement (m)	Skew Angle	Culvert Crossing Type	Remarks
Nil					

7.2.5 Widening of existing box culverts:

Sr. No	Design Chainage	Culvert Type	Skew Angle	Span/ Opening (m)	Repairs / Rehabilitation proposals	Culvert Crossing Type (Balancing/ Stream, etc)	Remarks
Nil							

7.2.6 Culverts on Crossroads:

Sr. No	Design Chainage (km)	Span Arrangement (m)	Type (Box/Pipe)	Length of Culvert	Remark
Nil					

Note:

1. The overall width of the above culverts shall be equal to Roadway width including median& service road in case there is any service road. Any additional Barrel length required as per site conditions shall not constitute a Change of Scope.
2. In addition to above cross drainage structures shall be provided on each side of crossroads/ all junctions as per the manual to maintain the continuity of flow as per site condition as per type design of MoRTH drawing and in consultation with Authority Engineer.
3. Cross drainage structures listed in schedules are bare minimum. The actual size and number of such structure may increase based on detailed hydraulic study. Any such change does not constitute a change of scope and shall be treated within the scope of work.
4. The width of the culverts to be taken as per the highway cross section requirement and widened/Reconstructed accordingly.
5. Repair work shall not be limited to the following works & it shall be as per site requirement.
6. Culverts shall be cleaned before repair or rehabilitation work.
7. Removal of debris / vegetation accumulating at the inlet.
8. Joint sealing or crack sealing shall be provided.
9. Local spalls shall be repaired.
10. Flooring & protection work shall be provided.
11. Paint structure numbers in continuous and uniform Chainage.
12. Replace / rehabilitate damaged upstream and downstream launching aprons of bed protection works.
13. Any other item shall be as per clause7.22 of IRC: SP:84-2019/direction of Authority's Engineer.

7.2.7 **Utility ducts in bypasses** (Clause No. 2.16 IRC: SP:84-2019)

Nil

7.3 Bridges

7.3.1 **Existing bridges to be re-constructed/widened:**

(i) Nil

(ii) Existing narrow bridges proposed to be retained and widened: Nil **(Clause No. 7.3 iv IRC: SP:84-2019)**

7.3.2 **Additional New Bridges**

New bridges at the following locations on the Project Highway shall be constructed. GADs for the new bridges are attached in the drawings folder. **(Clause No. 7.3 ii IRC: SP:84-2019)**

Major Bridges:

Sr. No	Design Chainage (Km)	Total Proposed length (m)	Type of Crossing	Total Proposed width (m)		Typical Cross Section of Manual	Skew Angle
				MCW	SR		
Nil							

Minor Bridges:

Sr. No	Design Chainage (Km)	Total Proposed length (m)	Type of Crossing	Total Proposed width (m)		Typical Cross Section of Manual	Skew Angle
				MCW	SR		
1	**1050+800**	**41.650**	**River**	**-**	**10.25**	**As per Annex-II**	**-**

7.3.3 The railings of existing bridges shall be replaced by crash barriers at the following locations: (Clause No. 7.17 iv IRC: SP:84-2019)

Sr. No	Design Chainage		Length (km)	Remarks
	From	To		
Nil				

7.3.4 The existing bridges/ RoB/ Grade Separators/ RUB retained on the project highway shall be upgraded and rehabilitation measures/proposals shall be specified as follows:

Sr. No.	Location at km	Rehabilitation Proposals	Remarks
Nil			

(Clause No. 7.3 iv(b) IRC: SP:84-2019)

7.3.5 **Structures in marine environment:**

Sr. No.	Location at km	Span	Remarks
Nil			

7.4 Railroad Bridges (ROB/RUB) (Clause No. 7.18 IRC: SP:84-2019)

7.4.1 Design, construction & detailing of ROB/RUB shall be as specified in Section 7 of the manual.

7.4.2 Road over bridges (road over rail) shall be provided at the following locations, as per GAD drawings attached**:**

Sr. No.	Design Chainage (Km)	Proposed Span Arrangement (m)	Type of super-structure (i.e. Bow string, simply supported composite structure etc.	Name of crossing	Total Width m)	Skew Angle	Remarks
Nil							

7.4.3 Road under bridges (road under railway line) shall be provided at the following level crossings, as per GAD drawings attached:

Sr. No.	Design Chainage	Proposed Span Arrangement (m)	Name of crossing	Total Width (m)	Skew Angle	Remarks
Nil						

7.5 Grade Separated Structures

The grade separated structures shall be provided at the locations and of the type and length specified in paragraphs 2.9,2.10 and 3 of Annexure-I of Schedule-B. (Clause No. 7.19 IRC: SP:84-2019).

7.6 FoB

FoB shall be provided in builtup areas/ near schools. **(Clause No. 10 IRC: 103 and Clause No. 9.8.5 IRC: SP:84-2019)**

Sr. No.	Location at km	FoB Type	Remarks
1	1018+800	Steel Truss Type	40.100m length FOB with Staircase & Ramp on BHS with the Min. vertical clearance of 5.5m from Road FRL and as specified in Drawing. Solar Panel adequate alternatively with electricity can be installed over the Canopy. (Ref. Cross section & 4-lane manual).
2	1049+000	Steel Truss Type	
3	1063+300	Steel Truss Type	

Note: *The length of the structure / service road / slip road / connecting road given is minimum. However, actual length shall be decided by the Concessionaire based on approved plan and profile. Any increase / decrease up to 5% from the length specified in this Schedule-B shall not constitute Change of Scope.*

8 Traffic Control Devices and Road Safety Works

8.1 Traffic control devices and road safety works shall be provided in accordance with Section 9 of the IRC:SP: 84

8.2 Traffic Signs:

Traffic signs shall be provided as per IRC 67 as mentioned in Schedule-C.

8.3 Pavement Marking:

Pavement markings shall be completed as per IRC 35 as mentioned in Schedule-C.

8.4 Safety Barrier:

The safety barriers shall be provided in accordance with Section-9 of the Clause 9.7 of the manual.

The Safety Barrier length proposed are excluding the safety barrier already proposed on Culverts, Grade Separated Structures, Interchange, Bridges, RoB and RUB as applicable cross sections respectively.

Pedestrian Guard Rails (PGR) shall be provided at FOB approaches, junctions, and high-pedestrian zones in accordance with Section 9 of IRC:SP:84 (2019) and IRC:103 (2012)

The details of the location are as below:

Location	Item	LHS		RHS		Total Length (m)	Remarks
		(From)	(To)	(From)	(To)		
Swahid Madan Rauta Civil Hospital Pathsala	Pedestrian Guardrails	1031+795	1032+295	-	-	500	Service road separator portion

9 Roadside Furniture

9.1 It shall be provided as per the details mentioned in Schedule-C.

10 Hazardous Locations

10.1 The safety barriers shall be provided at the following hazardous location such as ponds, well, electric sub-station, Electric tower, spilt carriageway, etc.

Sr. No.	Location Stretch		Type of Safety Barrier	LHS/ RHS
	From (Km)	To (Km)		
Nil				

11 Special Requirement:

Retaining Structure and protection works shall be provided at locations as indicated below and as provided in TCS schedule in Cl. 2.11 of schedule-B.

Sr. No.	Design Chainage (Km)		Length (m)	Side	Height (m)	Retaining Structure/ Toe Wall	Type of Safety Barrier	Remarks
	From	To						
Nil								

To retain the Embankment at Pond Locations & Keep the Embankment within the ROW the Retaining wall to be constructed.

12 Deleted

13 Shifting of Utilities

The Contractor shall undertake the work of shifting of any utility (including electric lines, water pipes, gas pipelines and telephone cables) to an appropriate location or alignment, in accordance with the provisions of Concession Agreement.

Note: The shifting of all the utilities mentioned in the Schedule A or additional utilities (including underground utilities) has to be done to an appropriate location as per the satisfaction of the utility owning agency. Any change in the numbers/ spacing / diameter /material etc. shall not constitute a change of scope.

Shifting of obstructing utilities to an appropriate location in accordance with the standards and specification of concerned utility Department is a part of scope of work for the Contractor. Shifting of all utilities including electrical/power/water utilities shall be responsible of the contractor, whether indicated in Schedule - A or not. No Change of Scope (COS) shall be allowed for such utilities whether indicated in Schedule - A or not. The bidder may visit the site and assess the quantum of shifting of utilities for the project before submission of their bid. The specification is to be as per the specification of concerned utility owning department.

All the utilities mentioned above shall be considered as scope of work and are to be shifted by the Contractor. The type/spacing/size/specifications of poles/towers/lines/cables to be used in shifting work are as per the guidelines of utility owning department and it is solely between the Contractor and utility owning department. No change of scope shall be eligible or no cost shall be paid for using different type/spacing/size/specification in shifted work in comparison to those in the existing or for making any overhead crossings to underground as per requirement of utility owning department/construction of project highway. The Contractor shall carry out jointly inspection with utility owning department and get the estimates sanctioned from utility owning department. The assistance of the Authority is limited to forward the proposal of Contractor to utility owning department whenever asked by the Contractor. The decision/approval of utility owning department shall be binding on the Contractor. No COS or no cost shall be eligible on any account.

The supervision charges at the rates/charges applicable between implementing agencies of MORTH and utility owning department shall be paid directly by the Authority to the Utility

Owning Entity as and when contractor furnishing a demand of utility owning department along with a copy of sanctioned estimate.

The Survey Charges, Processing Fees, Application Fees, Registration Charges, Safety NOC Fees/Charges (Wherever Applicable), Revenue Loss, Shutdown Charges etc. shall be paid by NHAI directly to the Utility Owning Agency (UOA). In case of rejection of "Deemed Availability" by the Regional Power Committee (RPC), the shutdown charges shall be paid by NHAI directly to the Utility Owning Agency as per actuals after due verification and certification by the concerned Utility Owning Agency, IE/AE and NHAI Representatives. However, if the shutdown period is extended or exceeded beyond the approved period for which RPC "Deemed Availability" is not permitted, the excess Shutdown Charges shall be adjusted against the upcoming payments of the Contractor/ Concessionaire.

The utilities shall be handed over after shifting work is completed to utility owning department up to their entire satisfaction. The maintenance liability shall rest with the utility owning department after handing over process is complete as far as utility shifting works are concerned.

Filling of Existing Irrigation wells along the highway with in ROW Irrigation wells encountered along the project Highway (with in the Right of Way) shall be filled up with sand as directed by Authority Engineer / Client in accordance with IRC specifications, which shall not constitute change of scope.

14 Work Zone Traffic Management Plans

The traffic diversion plans shall be prepared as per IRC SP 55 for smooth flow of traffic and safety. A diversion plan shall be proposed for construction of Culvert, Grade Separated Structures, Bridges, RoB/RUB, etc. and traffic management plan for widening/ reconstruction of carriageway.

ANNEX-II (SCHEDULE B)

(Typical Cross Sections)

The Typical Cross sections (TCS) of Structures and Highway Sections of the project highway are provided along with bid documents.

SCHEDULE –C

(See Clause 2.1)

PROJECT FACILITIES

1. Project Facilities

The Contractor shall construct the project facilities in accordance with the provisions of this agreement. Such Project facilities shall include:

~~**a) Toll Plaza**~~

b) Road side furniture

~~i. Kilometer and Hectometer Stones~~

ii. Traffic Signs

~~iii. Overhead Signs~~

iv. Road Marking

v. Road Delineators

vi. Reflective Pavement Markers & Solar Studs

vii. Traffic Impact Attenuators

~~viii. Boundary wall and Fencing~~

~~**c) Operation and Maintenance centers**~~

~~**d) Way side Amenities / Service Areas**~~

~~**e) Truck lay-byes**~~

f) Bus Bay and Bus shelter

g) Pedestrian Facilities

~~**h) Highway Lighting**~~

~~**i) Rainwater Harvesting**~~

j) ~~Environmental Management Plan~~

~~**k) Land Scaping and Tree Plantation**~~

~~**l) Advanced Traffic Management System (ATMS)**~~

~~**m) Highway Patrol Units**~~

~~**n) Emergency medical services**~~

o) ~~Crane Service~~

1.1 Project Facilities to be completed on or before project completion date have been described in Annexure-I of this Schedule-C.

Description of Project Facilities

1 Toll Plaza

Deleted

2 Roadside furniture (Clause No. 12.3 IRC: SP:84-2019)

2.1 Kilometer and Hectometer Stones

2.2 Traffic Signs (Clause No. 9.2 IRC: SP:84-2019)

Traffic Signs include roadside signs, overhead signs and kerb mounted signs etc. shall be provided along the entire Project Highway and on all Side, Roads joining the main carriageway/service road. A QR code shall be marked on back of each sign as per IRC 67: 2022. The Font and letters of sign boards shall be followed as per NHAI Policy circular No.12.40 dt:20.10.2025 wherever applicable.

All the sign boards shall be made of high quality Retro-reflective reboundable Sheeting as per IRC 67-2022 . The reflective sheeting to be either applied on Aluminium Composite panel of 3mm thick having aluminum film thickness of not less than 0.25mm or can be directly applied on the structure after surface preparation. The adhesive of the film should be a pressure activated adhesive providing repositionability and has non-visible air release channels to provide a bubble free application. The sheeting should be printed using a sheeting manufacturer authorized printing platform, applied with a suitable overlaminate film for protection and then installed. The MCS warranty should be provided by sheeting manufacturer on the performance of retro-reflectivity and colour fade . Printing on face material must be done with Latex Wide Format Digital Printer with GREENGUARD / GREENGUARD GOLD Certified Inks only. Ink Layer should not peel, crack from base substrate used in the intended print application. The entire print construction must be protected with compatible high-quality UV Resistant Overlaminate film as per manufacturers recommendations. Use of over-laminate is mandatory to protect the print from fading with high conformability to take shape of textured surface of wall. The thickness of the over lamination film should be min 0.05 mm without adhesive. Overlaminate should have good chemical resistance property and should resists mild alkalis, mild acids, and salt. It should show excellent resistance to water (does not include immersion) and should resists occasional fuel spills. In case of retro-reflective sheeting, a test report passing all the parameters including 36months Outdoor as per IRC 67-2022 clause 6.7 to be submitted. The contractor shall submit A4 size sample of the Type I rebound able sheeting with digital printing as per IRC 67-2022 MCS Warranty conditions. The cost to include all the activities like surface preparation, any cladding / Scaffolding need etc as per site requirements and OEM recommendations with full safety protocol.

All shoulder mounted signs shall be supported on GI Pipes. Overhead Signs shall be placed on a structurally sound gantry or cantilever structure made of GI pipes. **(Clause No. 9.2.4 IRC: SP:84-2019)**

On multi lane roads (6 lanes or above), signs shall be mounted overhead. **(Clause No. 4.6 of IRC: 67 2022)**

The siting of signs shall confirm to Table 4.1 and Fig 4.1 of IRC 67. (Clause No. 4.7 IRC: SP:84-2019/ IRC: SP:87-2019). The two successive signs shall be placed at a minimum distance of 0.6 x V metre (V is design speed in Kmph). **(Clause No. 4.8 IRC 67 2022).**

Note: The locations of the placement of signages & no. of signages shall be finalized in consultation with Independent Engineer/ NHAI, as per site requirement.

2.3 Road Marking

Road Markings shall be Hot applied thermoplastic materials with reflectorized beads to achieve visibility confirming to clause 2.7.2 of IRC 35. **(Clause No. 2.2 IRC: 35)**

The cold applied plastics pavement markings shall be used for School Zone Markings, Audible Raised Profile Edge Lines and Block Markings (BM 01/02/03). **(Clause No. 2.4 of IRC: 35)**

Note: The locations of the marking & nos./length shall be finalized in consultation with Independent Engineer/NHAI, as per site requirement.

2.4 Road Delineators (Clause No. 9.4 IRC: SP:84-2019)

S.No.	Item	Number/ Length (m)	Remarks
1	Roadway Indicators	-	
2	Median Marker on Median/RCC Barrier **(Clause 4 of IRC 79 2019)**	-	
3	Object Markers	-	
4	Flexible Object Markers **(Clause 6 of IRC 79 2019)** i. On Metal Beam Barrier ii. On Toll Booth/Toll Island iii. On Entry/Exit of Tunnel iv. On Exit from Main carriageway	-	
5.	Solar Blinkers on Median Opening, on exit from main carriageway and traffic islands of grade separated intersections	-	

Note: The locations/Nos. of the Delineators shall be finalized in consultation with Independent Engineer/NHAI, as per site requirement.

2.5 Reflective Pavement Markers & Solar Studs

The Prismatic Retro-Reflective type confirming to ASTM D-4280 Pavement Markers & Solar Power Studs on Highway shall be provided in accordance with Schedule - D.

(Clause No. 9.5 IRC: SP:84-2019/ IRC: SP:87-2019

2.6 Traffic Impact Attenuators (Clause No. 9.6 IRC: SP:84-2019/ IRC: SP:87-2019)

2.6.1 Provide Impact Attenuators in Gore Areas

It shall be self-restoring confirming to section 10.6 of IRC SP 99 i.e. Manual of Specifications and Standards for Expressways at following locations

2.6.2 Providing End Terminals (As per IRC SP 99)

Provide End Terminals P-4 type confirming to EN 1317-4 to Parapet Walls of Culverts, Structures ends for the safety of approaching traffic etc.

S.No.	Item	Chainage / Number	Remarks
1	Culvert Ends	-	
2	Structures Ends	-	
3	Any other location which Safety Hazard	-	

2.7 Boundary wall and Fencing

Nil

3 Operation and Maintenance centers

Nil

4 Way side Amenities / Service Areas/Rest Area

Nil

5 Truck lay-byes:

5.1 The truck lay-bye shall be provided at below given location and as per the design mentioned in Schedule-D.

Sr. No.	Design Chainage	Side	Remarks
Nil			

5.2 Toilet block

Deleted

5.3 Truck Lay Bye

Deleted

6 Bus Bay and Bus shelter:

As per Schedule-B

7 Pedestrian Facilities

Pedestrian Facilities shall be provided in accordance with the Manual of Specifications and Standards as referred in Clause 9.8 of Schedule D and IRC 103 2022. This shall consist of footpath (sidewalks), pedestrian guard rails and pedestrian crossing. **(Clause No. 9.8 IRC: SP:84-2019/ IRC: SP:87-2019)**

8 Highway Lighting

Deleted

9 Rainwater Harvesting

Deleted

10 Environmental Management Plan

Deleted

11 Land Scaping and Tree Plantation

Deleted

12 Advanced Traffic Management System (ATMS)

Nil

13 Highway Patrol Units

Nil

14 Emergency medical services

Nil

15 Crane Service:

Nil

16 Provision of Vehicle: Nil

17 CCTV Camera: Nil

Schedule – D

(See Clause 2.1)

Specifications and Standards

1. Construction

The Contractor shall comply with the Specifications and Standards set forth in Annex – I of this Schedule-D for construction of the Project Highway.

2. Design Standards

The Project Highway including Project Facilities shall conform to design requirements set out in the following documents:

Manual of Specifications and Standards for Four Laning of Highways (IRC: SP: 84), referred to herein as the Manual.

Annex – I

(Schedule-D)

Specifications and Standards for Construction

1. **Specifications and Standards**

All Materials, works and construction operations shall conform to the Manual of Specifications and Standards for [Four-Laning of Highways (IRC: SP:84)], referred to as the Manual, and MORTH Specifications for Road and Bridge Works. Where the specification for a work is not given, Good Industry Practice shall be adopted to the satisfaction of the Authority's Engineer.

1.1 Codes and Standards:

The codes and standards applicable for the design of the Project and Project Facilities are

(i) Indian Road Congress (IRC) Codes and Standards; and

(ii) Ministry of Shipping, Road Transport and Highways (MORTH) Specifications, for Road and Bridge works (5th Revision -2013)

(iii) IRC: SP: 84-2019, Manual of Specification & Standards for Four laning of Highways.

Both as applicable to National Highways and shall include Policy Circulars, Guidelines and Specific Publications, issued in respect thereof by IRC or MORTH.

2. Deviations from the Specifications and Standards

(i) The terms "Contractor", "Independent Engineer" and "Concession Agreement" used in the Manual shall be deemed to be substituted by the terms "Contractor", "Independent Engineer"(or)"Authority's Engineer" and "Agreement" respectively.

(ii) Carriage way Cross section/structure as per Schedule-B to be followed.

[Notwithstanding anything to the contrary contained in Paragraph 1 above, the following Specifications and Standards shall apply to the Project Highway, and for purposes of this Agreement, the aforesaid Specifications and Standards shall be deemed to be amended to the extent set forth below:]

[Note 1: Deviations from the aforesaid Specifications and Standards shall be listed out here. Such deviations shall be specified only if they are considered essential in view of project-specific requirements.]

Schedule – E

(See Clauses 2.1 and 14.2)

Maintenance Requirements

1. Maintenance Requirements

(i) The Contractor shall, at all times maintain the Project Highway in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits.

(ii) The Contractor shall repair or rectify any Defect or deficiency set forth in Paragraph 2 of this Schedule-E within the time limit specified therein and any failure in this behalf shall constitute non-fulfillment of the Maintenance obligations by the Contractor. Upon occurrence of any breach hereunder, the Authority shall be entitled to effect reduction in monthly lump sum payment as set forth in Clause 14.6 of this Agreement, without prejudice to the rights of the Authority under this Agreement, including Termination thereof.

(iii) All Materials, works and construction operations shall conform to the MORTH Specifications for Road and Bridge Works, and the relevant IRC publications. Where the specifications for a work are not given, Good Industry Practice shall be adopted.

[Specify all the relevant documents]

2. Repair/rectification of Defects and deficiencies

The obligations of the Contractor in respect of Maintenance Requirements shall include repair and rectification of the Defects and deficiencies specified in Annex – I of this Schedule-E within the time limit set forth therein.

3. Other Defects and deficiencies

In respect of any Defect or deficiency not specified in Annex – I of this Schedule-E, the Authority's Engineer may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Contractor within the time limit specified by the Authority's Engineer.

4. Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-E, if the nature and extent of any Defect or deficiency justifies more time for its repair or rectification than the time specified herein, the Contractor shall be entitled to additional time in conformity with Good Industry Practice. Such additional time shall be determined by the Authority's Engineer and conveyed to the Contractor and the Authority with reasons thereof.

5. Emergency repairs / restoration

Notwithstanding anything to the contrary contained in this Schedule-E, if any Defect, deficiency or deterioration in the Project Highway poses a hazard to safety or risk of damage to property, the Contractor shall promptly take all reasonable measures for

eliminating or minimizing such danger.

6. Daily inspection by the Contractor

The Contractor shall, through its engineer, undertake a daily visual inspection of the Project Highway and maintain a record thereof in a register to be kept in such form and manner as the Authority's Engineer may specify. Such record shall be kept in safe custody of the Contractor and shall be open to inspection by the Authority and the Authority's Engineer at any time during office hours.

7. Pre-monsoon inspection / Post-monsoon inspection

The Contractor shall carry out a detailed pre-monsoon inspection of all bridges, culverts and drainage system before [1st June] every year in accordance with the guidelines contained in IRC:SP35.Report of this inspection together with details of proposed maintenance works as required on the basis of this inspection shall be sent to the Authority's Engineer before the [10th June] every year. The Contractor shall complete the required repairs before the onset of the monsoon and send to the Authority's Engineer a compliance report. Post monsoon inspection shall be done by the [30th September] and the inspection report together with details of any damages observed and proposed action to remedy the same shall be sent to the Authority's Engineer.

8. Repairs on account of natural calamities

All damages occurring to the Project Highway on account of a Force Majeure Event or wilful default or neglect of the Authority shall be undertaken by the Authority at its own cost. The Authority may instruct the Contractor to undertake the repairs at the rates agreed between the parties.

Annex – I

(Schedule – E)

Repair / rectification of Defects and deficiencies

The Contractor shall repair and rectify the Defects and deficiencies specified in this Annex-I of Schedule-E within the time limit set forth in the table below.

Table – 1: Maintenance Criteria for Pavements:

Asset Type	Performance Parameter	Level of Service (LOS)		Frequency of Inspection	Tools / Equipment	Standards and References for Inspection and Data Analysis	Time limit for Rectification / Repair	Maintenance Specifications
		Desirable	Acceptable					
Flexible Pavement (Pavement of MCW, Service Road, approaches of Grade structure, approaches of connecting roads, slip roads, lay byes etc as applicable)	Potholes	Nil	< 0.1% of area and subject to limit of 10 mm in depth	Daily	Length Measurement Unit like Scale, Tape, Odometer etc.	IRC 82: 2015 and Distress Identification Manual for Long Term Pavement Performance Program, FHWA 2003 (http://www.tfhrc.com/pavement/lttp/reports/03031/)	24-48 hours	MORT&H Specification 3004.2
	Cracking	Nil	< 5% subject to limit of 0.5 sqm for any 50m length	Daily			7-15 days	MORT&H Specification 3004.3
	Rutting	Nil	< 5 mm	Daily	Straight Edge		15-30 days	MORT&H Specification 3004.2
Flexible Pavement	Corrugations and Shoving	Nil	< 0.1% of area	Daily	Length measurement Unit like		2-7 days	IRC:82-2015

Asset Type	Performance Parameter	Level of Service (LOS)		Frequency of Inspection	Tools / Equipment	Standards and References for Inspection and Data Analysis	Time limit for Rectification / Repair	Maintenance Specifications
		Desirable	Acceptable					
(Pavement of MCW, Service Road, approaches of Grade structure, approaches of connecting roads, slip roads, lay byes etc as applicable)					Scale, Tape, Odometer etc.			
	Bleeding	Nil	< 1% of area	Daily			3-7 days	MORT&H Specification 3004.4
	Ravelling / Stripping	Nil	< 1% of area	Daily			7-15 days	IRC:82-2015 read with IRC SP:81
	Edge Deformation / Breaking	Nil	< 1m for any 100m section and width < 0.1m at any location restricted to 30cm from the edge	Daily			7-15 days	IRC:82-2015
	Roughness BI	2000mm / Km	2400mm / Km	Bi-Annually	Class I Profilometer SCRIM (Sideway-force Coefficient Routine Investigation Machine or equivalent)	Class I Profilometer: ASTM E950 (98):2004 – Standard Test Method for measuring Longitudinal Profile of Travelled Surfaces with Accelerometer Established Inertial Profiling Reference ASTM E1656 - 94:2000 – Standard Guide for Classification of Automatic Pavement Condition Survey Equipment	180 days	IRC:82-2015
	Skid Number	60SN	50SN	Bi-Annually			180 days	BS: 7941-1:2006
Flexible Pavement **(Pavement of MCW, Service Road, approaches of**	Pavement Condition Index	3	2.1	Bi-Annually			180 days	IRC:82-2015

Asset Type	Performance Parameter	Level of Service (LOS)		Frequency of Inspection	Tools / Equipment	Standards and References for Inspection and Data Analysis	Time limit for Rectification / Repair	Maintenance Specifications
		Desirable	Acceptable					
Grade structure, approaches of connecting roads, slip roads, lay byes etc as applicable)	Other Pavement Distresses			Bi-Annually			2-7 days	IRC:82-2015
	Deflection / Remaining Life			Annually	Falling Weight Deflectometer	IRC 115:2014	180 days	IRC 115:2014
Rigid Pavement (Pavement of MCW, Service Road, Grade Structure, approaches of connecting roads, slip roads, lay byes etc. as applicable)	Roughness BI	2200mm / Km	2400mm / Km	Bi-Annually	Class I Profilometer	ASTM E950 (98) :2004 and ASTM E1656-94:2000	180 days	IRC:SP:83-2008
	Skid	Skid resistance no. at different speed of vehicles		Bi-Annually	SCRIM (Sideway-force Coefficient Routine Investigation Machine or equivalent) Coefficient Routine Investigation Machine or equivalent)	IRC:SP:83-2008	180 days	IRC:SP:83-2008
		Minimum SN	**Traffic Speed (Km/h)**					
		36	50					
		33	65					
		32	80					
		31	95					
		31	110					
Embankment / Slope	Edge drop at shoulders	Nil	40mm	Daily	Length measurement Unit like Scale, Tape, Odometer etc.	IRC	7-15 days	MORT&H Specification 408.4
	Slope of camber /	Nil	< 2% variation in	Daily			7-15 days	MORT&H Specification

Asset Type	Performance Parameter	Level of Service (LOS)		Frequency of Inspection	Tools / Equipment	Standards and References for Inspection and Data Analysis	Time limit for Rectification / Repair	Maintenance Specifications
		Desirable	Acceptable					
	cross fall		prescribed slope of camber / cross fall					408.4
	Embankment Slopes	Nil	< 15% variation in prescribe side slope	Daily			7-15 days	MORT&H Specification 408.4
	Embankment Protection	Nil	Nil	Daily	NA		7-15 days	MORT&H Specification
	Rain cuts / Gullies in slope	Nil	Nil	Daily specially during rainy season	NA		7-15 days	MORT&H Specification

In addition to the above performance criterion, the Contractor shall strictly maintain the rigid pavements as per requirements in the following table.

Table – 2: Maintenance Criteria for Rigid Pavements:

Sl. No.	Type of Distress	Measured Parameter	Degree of Severity	Assessment Rating	Repair Action	
					for the case d < D/2	for the case d > D/2
Cracking						
1	Single Discrete Cracks not	w = width of crack	0	Nil, Not discernible	No Action	Not Applicable

	intersecting with any joint	L = length of crack d = depth of crack D = depth of slab	1	w < 0.2mm. Hair cracks		
			2	w = 0.2 – 0.5mm, discernible from slow-moving car	Seal without delay	Seal, and stitch if L > 1m. Within 7 days.
			3	w = 0.5 – 1.5mm, discernible from fast-moving car		
			4	w = 1.5 – 3.0mm	Seal, and stitch if L > 1m. Within 7 days.	Staple or Dowel Bar Retrofit, FDR for affected portion. Within 15 days.
			5	w > 3mm		
2	Single Transverse (or Diagonal) Crack intersecting with one or more joints	w = width of crack L = length of crack d = depth of crack D = depth of slab	0	Nil, Not discernible	No Action	
			1	w < 0.2mm. Hair cracks	Route and seal with epoxy. Within 7 days	Staple or Dowel Bar Retrofit. Within 15 days.
			2	w = 0.2 – 0.5mm, discernible from slow vehicle		
			3	w = 0.5 – 1.5mm, discernible from fast vehicle	Route, seal and stitch if L > 1m. Within 7 days.	Full Depth Repair Dismantle and reconstruct affected. Portion with norms and specifications – See Para 5.5 & 9.2 Within 15 days
			4	w = 3.0 - 6.0mm	Dowel Bar Retrofit. Within 15 days.	
			5	w > 6mm, usually associated with spalling, and/or slab rocking under traffic	Not applicable, as it may be full depth	

3	Single Longitudinal Crack intersecting with one or more joints	w = width of crack L = length of crack d = depth of crack D = depth of slab	0	Nil, Not discernible	No Action	
			1	w < 0.5mm. discernible from slow moving vehicle	Seal with epoxy, if L > 1m. Within 7 days	Staple or Dowel Bar Retrofit. Within 15 days.
			2	w = 0.5 – 3.0mm, discernible from fast vehicle	Route, seal and stitch if L > 1m. Within 15 days.	
			3	w = 3.0 – 6.0mm	Staple, if L > 1m. Within 15 days.	Partial Depth Repair with stapling. Within 15 days
			4	w = 6.0 - 12.0mm, usually associated with spalling	Not applicable, as it may be full depth	
			5	w > 12mm, usually associated with spalling, and/or slab rocking under traffic		Full Depth Repair Dismantle and reconstruct affected portion as per norms and specifications – see para 5.6.4 Within 15 days.
4	Multiple Cracks intersecting with one or more joints	w = width of crack	0	Nil, Not discernible	No Action	-
			1	w < 0.2mm. Hair cracks	Seal and stitch if L > 1m. Within 15 days	
			2	w = 0.2 – 0.5mm, discernible from slow vehicle		
			3	w = 0.5 – 3.0mm,	Full depth repair	Dismantle,

				discernible from fast vehicle	within 15 days	Reinstate subbase, Reconstruct whole slab as per norms and specifications within 30 days.
			4	w = 3.0 - 6.0mm panel broken into 2 or 3 pieces		
			5	w > 6mm and/or panel broken into more than 4 pieces		
5	Corner Break	w = width of crack L = length of crack	0	Nil, Not discernible	No Action	-
			1	w < 0.5mm; only 1 corner broken	Seal with low viscosity epoxy to secure broken parts. Within 7 days.	Seal with epoxy. Within 7 days.
			2	w < 1.5mm; L < 0.6m, only one corner broken		
			3	w < 1.5mm; L < 0.6m, two corners broken	Partial Depth (Refer Fig. 8.3 of IRC:SP:83-2008) Within 15 days	Full depth repair
			4	w > 1.5mm; L > 0.6m or three corners broken		
			5	Three or Four corners broken		Reinstate subbase, and Reconstruct the slab as per norms and specifications within 30 days.
6	Punchout (Applicable to Continuous Reinforced Concrete Pavement (CRCP) only)	w = width of crack L = length (m / m2)	0	Nil, Not discernible		No Action
			1	w < 0.5mm; L < 3m/m^2	Not Applicable, as it may be full	Seal with low viscosity epoxy to
			2	either w > 0.5mm or L <		

				3m /m^2	depth	secure broken parts. Within 15 days.
			3	w > 1.5mm and L < 3m / m^2		
			4	w > 3mm, L < 3m/m^2 and deformation		Full depth repair – Cut out and replace damaged area taking care not to damage reinforcement. Within 30 days.
			5	w > 3mm, L > 3m/m^2 and deformation		
Surface Defects						
7	Ravelling or Honeycomb type surface	r = area damaged surface / total surface of slab (%) h = maximum depth of damage	0	Nil, Not discernible	**Short Term** No action.	**Long Term** Not Applicable
			1	r < 2%	Local repair of areas damaged and liable to be damaged. within 15 days	
			2	r = 2-10%		
			3	r = 10-25%	Bonded inlay, 2 or 3 slabs if affecting. Within 30 days	
			4	r = 25-50%		
			5	r > 50% and h > 25mm	Reconstruct slabs, 4or more slabs if affecting. Within 30 days.	

					Short Term	Long Term
8	Scaling	r = damaged surface / total surface of slab (%) h = maximum depth of damage	0	Nil, Not discernible	No action.	Not Applicable
			1	r < 2%	Local repair of areas damaged and liable to be damaged. within 7 days	
			2	r = 2-10%		
			3	r = 10-20%	Bonded inlay, 2 or 3 slabs if affecting. Within 30 days	
			4	r = 20-30%		
			5	r > 30% and h > 25mm	Reconstruct slabs within 30 days.	
9	Polished Surface / Glazing	t = texture depth, sand patch test	0		No action.	Not Applicable
			1	t > 1mm		
			2	t = 1 – 0.6mm	Monitor rate of deterioration	
			3	t = 0.6 – 0.3mm		
			4	t = 0.3 – 0.1mm		
			5	t < 0.1mm	Diamond Grinding if affecting 50% or more slabs in a continuous stretch of minimum 5 Km. Within 30 days	
10	Popout (Small Hole), Pothole Refer Para 8.4	n = number/m^2 d = diameter	0	d < 50mm; h < 25mm; n < 1 per 5m^2	No action	Not Applicable

		h = maximum depth	1	d = 50-100mm; h < 50mm; n < 1 per $5m^2$	Partial depth repair 65mm deep. Within 15 days	
			2	d = 50-100mm; h > 50mm; n < 1 per $5m^2$		
			3	d = 100-300mm; h < 100mm; n < 1 per $5m^2$	Partial depth repair 110mm deep i.e. 10mm more than the depth of the hole. Within 30 days	
			4	d = 100-300mm; h > 100mm; n < 1 per $5m^2$		
			5	d = 300mm; h > 100mm; n > 1 per $5m^2$	Full depth repair. Within 30 days	
Joint Defects						
					Short Term	**Long Term**
11	Joint Seal Defects	loss or damage L = Length as % total joint length	0	Nil, Not discernible	No action.	Not Applicable
			1	Discernible, L< 25% but of little immediate consequence with regard to ingress of water or trapping incompressible material.	Clean joint, inspect later.	
			3	Notable. L > 25% insufficient protection against ingress of water and trapping incompressible material.	clean and reapply sealant in selected locations. Within 7 days.	
			5	Severe; w > 3mm negligible protection	Clean, widen and reseal the joint.	

				against ingress of water and trapping incompressible material.	Within 7 days.	
12	Spalling of Joints	w = width on either side of the joint L = length of spalled portion (as % joint length)	0	Nil, not discernible	No action.	Not Applicable
			1	w < 10 mm	Apply low viscosity epoxy resin/ mortar in cracked portion. Within 7 days	
			2	w = 10 - 20 mm, L < 25%		
			3	w = 20 - 40 mm, L > 25%	Partial Depth Repair. Within 15 days	
			4	w = 40 - 80 mm, L > 25%	30 - 50 mm deep, h = w + 20% of w, within 30 days	
			5	w > 80 mm, and L > 25%	50 - 100 mm deep repair. H = w + 20% of w. Within 30 days	
13	Faulting (or Stepping) in Cracks or Joints	f = difference of level	0	Not discernible, < 1mm	No action.	No action.
			1	f < 3mm		
			2	f = 3-6mm	Determine cause and observe, take action for diamond grinding	Replace the slab as appropriate. Within 30 days.
			3	f = 6-12mm	Diamond Grinding	
			4	f = 12-18mm	Raise sunken slab.	Replace the slab as appropriate. Within 30 days.
			5	f > 18mm	Strengthen subgrade and sub-	

					base by grouting and raising sunken slab.	
					Short Term	**Long Term**
14	Blowup or Buckling	h = vertical displacement from normal profile	0	Nil, not discernible	No Action	
			1	h < 6mm		
			2	h = 6 – 12mm	Install Signs to Warn Traffic within 7 days	
			3	h = 12 – 25mm		
			4	h > 25mm	Full Depth Repair. Within 30 days	
			5	Shattered slabs i.e. 4 or more pieces	Replace broken slabs. Within 30 days	
15	Depression	h = negative vertical displacement from normal profile L=length	0	Not discernible, h < 5mm	No Action.	Not Applicable
			1	h = 5 – 15mm		
			2	h = 15 – 30mm, Nos <20% joints	Install Signs to Warn Traffic Within 7 days	
			3	h = 30 – 50mm		
			4	h > 50mm or > 20% joints	Strengthen subgrade. Reinstate pavement at normal level if L < 20m. Within 30 days.	
			5	h > 100mm		
16	Heave	h = positive vertical displacement from	0	Not discernible, h < 5mm	No Action.	Scrabble
			1	h = 5 – 15mm	Follow up.	

		normal profile L=length	2	h = 15 – 30mm, Nos <20% joints	Install Signs to Warn Traffic Within 7 days	
			3	h = 30 – 50mm		
			4	h > 50mm or > 20% joints	Stabilize subgrade. Reinstate pavement at normal level if length < 20m. Within 30 days.	
			5	h > 100mm		
17	Bump	h = vertical displacement from normal profile	0	h < 4mm	No Action	
			1	h = 4 – 7mm	Grind, in case of new construction. Within 7 Days	Construction Limit for New Construction.
			3	h = 7 – 15mm	Grind, in case of ongoing Maintenance. Within 15 Days	Replace in case of new construction. Within 30 Days.
			5	h > 15mm	Full Depth Repair. Within 30 days	Full Depth Repair. Within 30 days
18	Lane to Shoulder Dropoff	f = difference of level	0	Nil, not discernible < 3mm	No Action.	
			1	f = 3 – 10mm	Spot repair of shoulder within 7 days.	
			2	f = 10 – 25mm		
			3	f = 25 – 50mm	Fill up shoulder within 7 days	
			4	f = 50 – 75mm		For any 100m stretch reconstruct shoulder, if affecting 25% or more of stretch.
			5	f > 75mm		

						Within 30 days.
Drainage						
19	Pumping	Quantity of fines and water expelled through open joints and cracks Nos.	0	Not discernible	No action	
			1 to 2	Slight / occasional Nos < 10%	Repair cracks and joints without delay	Inspect and repair sub-drainage at distressed sections and upstream.
			3 to 4	Appreciable / frequent 10 - 25%	Lift of jack slab within 30 days	
		Nos / 100m stretch	5	Abundant, crack development > 25%	Repair distressed pavement sections. Strengthen subgrade and subbase. Replace slab. Within 30 days.	
20	Ponding	Ponding on slabs due to blockage of drains.	0 – 2	No discernible problem	No action.	
			3 to 4	Blockages observed in drains, but water flowing	Clean drains etc within 7 days. Follow uo.	Action required to stop water damaging foundation within 30 days.
			5	Ponding, accumulation of water observed.	-do-	

Table – 3: Maintenance Criteria for Safety Related Items and Other Furniture Items:

Asset Type	Performance Parameter	Level of Service (LOS)	Frequency of Measurements	Testing Method	Recommended Remedial measures	Time limit for Rectification	Specifications and Standards
Highway	Availability of Safe Sight	As per IRC SP:84-2014, a minimum of safe stopping sight	Monthly	Manual Measurements	Removal of obstruction within 24 hours, in case of sight line		IRC SP:84-2014

<table>
<tr><td></td><td>Distance</td><td>distance shall be available throughout.<table><tr><th>Design, Speed, Kmph</th><th>Desirable Minimum Sight Distance (m)</th><th>Safe Stopping Sight Distance (m)</th></tr><tr><td>100</td><td>360</td><td>180</td></tr><tr><td>80</td><td>260</td><td>130</td></tr></table></td><td></td><td>with Odometer along with video / image backup</td><td colspan="2">affected by temporary objects such as trees, temporary encroachments.
In case of permanent structure or design deficiency: Removalofobstruction/improvementof deficiency at the earliest.
Speed Restriction boards and suitable traffic calming measures such as transverse bar marking, blinkers, etc. shall be applied during the period of rectification.</td><td></td></tr>
<tr><td rowspan="3">Pavement Marking</td><td>Wear</td><td>< 70% of marking remaining</td><td>Bi-Annually</td><td>Visual Assessment as per Annexure-F of IRC:35-2015</td><td>Re-painting</td><td>Cat-1 Defect – Within 24 hours
Cat-2 Defect – Within 2 months</td><td>IRC:35-2015</td></tr>
<tr><td>Day time Visibility</td><td>During expected life Service Time Cement Road – 130mcd/m^2/lux
Bituminous Road – 100mcd/m^2/lux</td><td>Monthly</td><td>As per Annexure-D of IRC:35-2015</td><td>Re-painting</td><td>Cat-1 Defect – Within 24 hours
Cat-2 Defect – Within 2 months</td><td>IRC:35-2015</td></tr>
<tr><td>Night Time Visibility</td><td>Initial and Minimum performance for Dry Retro Reflectivity during night time:</td><td>Bi-Annually</td><td>As per Annexure-E of IRC:35-2015</td><td>Re-painting</td><td>Cat-1 Defect – Within 24 hours
Cat-2 Defect –</td><td>IRC:35-2015</td></tr>
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<table>
<tr><td>Design Speed</td><td>(RL) Retro Reflectivity (mcd/m^2/ lux)</td><td></td></tr>
<tr><td></td><td>Initial (7 days)</td><td>Minimum Threshold leve; (TL) & warranty period required up to 2 years</td></tr>
<tr><td>Up to 65</td><td>200</td><td>80</td></tr>
<tr><td>65 – 100</td><td>250</td><td>120</td></tr>
<tr><td>Above 100</td><td>350</td><td>150</td></tr>
</table>
Initial and Minimum performance for Night Visibility under Wet condition (Retro Reflectivity):
Initial 7 days Retro reflectivity: 100 mcd/m^2/lux
Minimum Threshold Level: 50 mcd/m^2/lux
</td>
<td></td>
<td></td>
<td></td>
<td>Within 2 months</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Skid Resistance</td>
<td>Initial and Minimum performance for Skid Resistance:
Initial (7 Days): 55BPN
Min. Threshold: 44BPN
* Note: shall be considered under urban/city traffic condition</td>
<td>Bi-Annually</td>
<td>As per Annexure – G of IRC:35-2015</td>
<td></td>
<td>Within 24 hours</td>
<td>IRC:35-2015</td>
</tr>
</table>

		encompassing the locations like pedestrian crossings, bus bay, bus stop, cycle track intersection delineation, transverse bar markings etc					
Road Signs	Shape and Position	Shape and Position as per IRC:67-2012. Signboard should be clearly visible for the design speed of the section.	Daily	Visual with video/image backup	Improvement of shape, in case if shape is damaged. Relocation as per requirement.	48 hours in case of Mandatory Signs, Cautionary and Informatory Signs (Single and Dual post signs) 15 Days in case of Gantry/Cantilever Sign Boards	IRC:67-2012
	Retro reflectivity	As per specifications in IRC:67-2012	Bi-Annually	Testing of each signboard using Retro Reflectivity Measuring Device. In accordance with ASTM D 4956-09.	Change of Signboard	48 hours in case of Mandatory Signs, Cautionary and Informatory Signs (Single and Dual post signs) 1 Month in case of Gantry / Cantilever Sign	IRC:67-2012

						Boards	
Kerb	Kerb Height	As per IRC 86:1983 depending upon type of kerb	Bi-Annually	Use of Distance measuring tape	Raising Kerb Height	Within 1 month	IRC:86-1983
	Kerb Painting	Functionality: Functioning of Kerb painting as intended	Daily	Visual with video/image backup	Kerb Repainting	Within 7 days	IRC:35-2015
Other Road Furnitures	Reflective Pavement Markers (Road Studs)	Numbers and Functionality as per specifications in IRC:SP:84-2014 and IRC:35-2015, unless specified in Schedule-B.	Daily	Counting	New Installation	Within 2 months	IRC:SP:84-2014, IRC:35-2015
	Pedestrian Guardrail	Functionality: Functioning of Guardrail as intended	Daily	Visual with video/image backup	Rectification	Within 15 days	IRC:SP:84-2014
	Traffic Safety Barriers	Functionality: Functioning of Safety Barriers as intended	Daily	Visual with video/image backup	Rectification	Within 7 days	IRC:SP:84-2014, IRC:119-2015
	End Treatment of Traffic Safety Barriers	Functionality: Functioning of End Treatment as intended	Daily	Visual with video/image backup	Rectification	Within 7 days	IRC:SP:84-2014, IRC:119-2015
	Attenuators	Functionality: Functioning of Attenuators as intended	Daily	Visual with video/image backup	Rectification	Within 7 days	IRC:SP:84-2014, IRC:119-2015
	Guard Posts and Delineators	Functionality: Functioning of Guard Posts and Delineators as intended	Daily	Visual with video/image backup	Rectification	Within 15 days	IRC:79-1981

	Overhead Sign Structure	Overhead sign structure shall be structurally adequate	Daily	Visual with video/image backup	Rectification	Within 15 days	IRC:67-2012
	Traffic Blinkers	Functionality: Functioning of Traffic Blinkers as intended	Daily	Visual with video/image backup	Rectification	Within 7 days	IRC:SP:84-2014
Highway Lighting System	Highway Lights	Illumination: Minimum 40 Lux Illumination on the road surface	Daily	The illumination level shall be measured with luxmeter	Improvement in Lighting System	24 Hours	IRC:SP:84-2014
		No major failure in the lighting system	Daily	-	Rectification of failure	24 Hours	IRC:SP:84-2014
		No minor failure in the lighting system	Monthly	-	Rectification of failure	8 Hours	IRC:SP:84-2014
	Toll Plaza canopy Lights	Minimum 40 Lux Illumination on the road surface	Daily	The illumination level shall be measured with luxmeter	Improvement in Lighting System	24 Hours	IRC:SP:84-2014
		No major / minor failure in the lighting system	Daily	-	Rectification of failure	8 Hours	IRC:SP:84-2014
Trees and Plantation including median plantation	Obstruction in a minimum head-room of 5.5m above carriageway or obstruction in visibility of road signs	No obstruction due to trees	Monthly	Visual with video/image backup	Removal of trees	Immediate	IRC:SP:84-2014

	Deterioration in health of trees and bushes	Health of plantation shall be as per requirement of specifications & instructions issued by Authority from time to time	Daily	Visual with video/image backup	Timely watering and treatment Or replacement of Trees and Bushes	Within 90 days	IRC:SP:84-2014
	Vegetation affecting sight line and road structures	Sight line shall be free from obstruction by vegetation	Daily	Visual with video/image backup	Removal of Trees	Immediate	IRC:SP:84-2014
Rest Areas	Cleaning of Toilets	-	Daily	-	-	Every 4 hours	
	Defects in electrical, water and sanitary installations	-	Daily	-	Rectification	24 Hours	
Other Project facilities and Approach Roads	Damage or deterioration in Approach roads, pedestrian facilities, truck lay-byes, bus-bays, bus shelters, cattle crossings, Traffic Aid Posts, Medical Aid Posts and Other Works		Daily	-	Rectification	15 days	IRC:SP:84-2014
Pipe / Box / Slab Culverts	Free waterway / unobstructed flow section	85% of culvert normal flow area to available.	2 times in a year (before and after rainy season)	Inspection by Bridge Engineer as per IRC SP:35-1990 and recording of depth of silting and area of	Cleaning silt up soils and debris in culvert barrel after rainy season, removal of bushes and vegetation, U/s	15 days before onset of monsoon and within 30 days after end of rainy season	IRC 5-2015, IRC SP:40-1993 and IRC SP:13-2004

				vegetation	of barrel, under barrel and D/s of barrel before rainy season		
	Leak-proof expansion joints if any	No leakage through expansion joints	Bi-Annually	Physical inspection of expansion joints as per IRC SP:35-1990 if any for leakage strains on walls at joints.	Fixing with sealant suitably	30 days or before onset of rains whichever comes earlier	IRC: SP:40-1993 and IRC:SP:69-2011
	Structurally sound	Spalling of concrete not more than 0.25 sqm Delamination of concrete not more than 0.25 sq.m. Cracks wider than 0.3mm not more than 1m aggregate length	Bi-Annually	Detailed inspection of all components of Culvert as per IRC:SP:35-1990 and recording the defects	Repairs to spalling, cracking, delamination, rusting shall be followed as per IRC:SP:40-1993.	15 days	IRC: SP:40-1993 and MORTH Specifications Clause 2800
	Protection Works in good condition	Damaged of rough stone apron or bank revetment not more than 3 sqm, damage to solid apron (concrete apron) not more than 1 sqm.	2 times in a year (before and after rainy season)	Condition survey as IRC:SP:35-1990	Repairs to damaged aprons and pitching	30 days after defect observation or 2 weeks before onset of rainy seasonwhichever is earlier	IRC:SP:40-1993 and IRC:SP:13-2004
Bridges including ROBs Flyovers etc.	Riding Quality or User Comfort	No pothole in wearing coat on bridge deck	Daily	Visual Inspection as per IRC:SP:35-1990	Repairs to BC or wearing coat	15 days	MORT&H Specification 2811

as applicable							
Bridge – Super structure	Bumps	No bump at expansion joint	Daily	Visual Inspection as per IRC:SP:35-1990	Repairs to BC on either side of expansion joints, profile correction course on approach slab in case of settlement to approach embankment	15 days	MORT&H Specification 3004.2 & 2811
	User Safety (condition of crash barrier and guard rail)	No damaged or missing stretch of crash barrier or pedestrian hand railing	Daily	Visual Inspection and detailed condition survey as per IRC:SP:35-1990	Repairs and replacement of safety barriers as the case may be	3 days	IRC:5-1998; IRC:SP:84-2014 and IRC:SP:40-1993
	Rusted reinforcement	Not more than 0.25 sq.m	Bi-Annually	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	All the corroded reinforcement shall need to be thoroughly cleaned from rusting and applied with anti-corrosive coating before carrying out the repairs to affected	15 days	IRC:SP:40-1993 and MORTH Specification 1600.
	Spalling of Concrete	Not more than 0.50 sq.m					
	Delamination	Not more than 0.50 sq.m					

					concrete portion with epoxy mortar / concrete.		
	Cracks wider than 0.30mm	Not more than 1m total length	Bi-Annually	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	Grouting with epoxy mortar, investigating causes for cracks development and carry out necessary rehabilitation.	48 Hours	IRC:SP:40-1993 and MORTH Specification 1600.
	Rainwater seepage through deck slab	Leakage – Nil	Quarterly	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	Grouting of deck slab at leakage areas, waterproofing, repairs to drainage spouts	1 month	MORTH Specifications 2600 & 2700.
	deflection due to permanent loads and live loads	Within design limits	once in every 10 years for spans more than 40m	Load test method	Carry out major rehabilitation works on bridge to retain original design loads capacity	6 months	IRC:SP:51-1999
	Vibrations in bridge deck due to moving trucks	Frequency of vibrations shall not be more than 5 Hz	Once in every 5 years for spans more than 30m and every 10 years for spans	Laser displacement sensors or laser vibro-meters	Strengthening of Super Structure	4 months	AASHTO LRFD specifications

			between 15 to 30 m				
	Leakage in Expansion joints	No damage to elastomeric sealant compound in strip seal expansion joint, no leakage of rain water through expansion joint in case of buried and asphalt plug and copper strip joint.	Bi-Annually	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	Replace of seal in expansion joint	15 days	MORTH specifications 2600 and IRC:SP:40-1993
	Debris and dust in strip seal expansion joint	No dust of debris in expansion joint gap.	Monthly	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	Cleaning of expansion joint gaps thoroughly.	3 days	MORTH specifications 2600 and IRC:SP:40-1993
	Drainage spouts	No down take pipe missing / broken below soffit of the deck slab. No silt, debris, clogging of drainage spout collection chamber.	Monthly	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	Cleaning of drainage spouts thoroughly. Replacement of missing / broken down take pipes with a minimum pipe extension of 500mm below soffit of slab.Providing sealant around the drainagespout if any leakages	3 days	MORTH specifications 2700

					observed.		
Bridge Substructure	Cracks / Spalling of concrete / rusted steel	No cracks, spalling of concrete and rusted steel	Bi-Annually	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	All the corroded reinforcement shall need to be thoroughly cleaned from rusting and applied with anti-corrosive coating before carrying out repairs to substructure by grouting / guniting and micro concreting depending on type of defect noticed	30 days	IRC:SP:40-1993 and MORTH Specification 2800
	Bearings	Delamination of bearing reinforcement not more than 5%, cracking or tearing of rubber not more than 2 locations per side, no rupture of reinforcement or rubber.	Bi-Annually	Detailed condition survey as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit	In case of failure of even one bearing on any pier/abutment, all the bearings on that pier/abutment shall be	3 months	MORTH Specification 2810 and IRC:SP:40-1993.

					replaced, in order to get uniform load transfer on to bearings.		
Bridge Foundations	Scouring around foundations	Scouring shall not be lower than maximum scour level for the bridge	Bi-Annually	Condition survey and visual inspection as per IRC:SP:35-1990 using Mobile Bridge Inspection Unit. In case of doubt, use Underwater camera for inspection of deep wells in major Rivers.	Suitable protection works around pier/abutment	1 month	IRC:SP:40-1993, IRC:83-2014, MORTH Specification 2500
	Protection works in good condition	Damaged of rough stone apron or bank revetment not more than 3 sq.m, damage to solid apron (concrete apron) not more than 1 sq.m	2 times in a year (before and after rainy season)	Conditions survey as per IRC:SP:35-1990	Repairs to damaged aprons and pitching	30 days after defect observation or 2 weeks before onset of rainy season whichever is earlier.	IRC:SP:40-1993 and IRC:SP:13-2004
Note: Any structure during the entire contract period which is found that does not complies with all requirements of this Table will be prepared, rehabilitated or even reconstructed under the scope of the Contractor.							

Table 4: Maintenance Criteria for Structures and Culverts:

Table 5: Maintenance Criteria for Hill Roads

In addition to above, for hill roads the following provisions for maintenance is also to done.

Hill Roads		
(i)	Damage to Retaining Wall / Breast Wall	7 (Seven) days
(ii)	Landslides requiring clearance	12 (Twelve) hours
(iii)	Snow requiring clearance	24 (Twenty Four) hours

<u>Note:</u> For all tables 1 to 5 above, latest BIS & IRC standards (even those not indicated herewith) along with MoRTH specifications shall be binding for all maintenance activities.

Annex – I

(Schedule-E)

Repair/rectification of Defects and deficiencies

The Contractor shall repair and rectify the Defects and deficiencies specified in this Annex-I of Schedule-E within the time limit set forth in the table below.

A. Flexible Pavement

	Nature of Defect or deficiency	Time limit for repair / rectification
ROADS		
(i)	**Carriageway and paved shoulders**	
(i)	Breach or blockade	Temporary restoration of traffic within 24 hours; permanent restoration within 15 (fifteen) days
(ii)	Roughness value exceeding 2,200 mm in a stretch of 1 Km (as measured by a calibrated bump integrator)	120 (one hundred and twenty) days
(iii)	Pot holes	24 (twenty four) hours
(iv)	Any cracks in road surface	15 (fifteen) days
(v)	Any	30 (thirty) days
(vi)	Bleeding/skidding	7 (seven) days
(vii)	Any other defect/distress on the road	15 (fifteen) days
(viii)	Damage to pavement edges	15 (fifteen) days
(ix)	Removal of debris, dead animals	6 (six) hours
(ii)	**Granular earth shoulders, side slopes, drains and culverts**	
(i)	Variation by more than 1 % in the prescribed slope of camber/cross fall (shall not be less than the camber on the main carriageway)	7 (seven) days
(ii)	Edge drop at shoulders exceeding 40 mm	7 (seven) days
(iii)	Variation by more than 15% in the prescribed side (embankment) slopes	30 (thirty) days
(iv)	Rain cuts/gullies in slope	7 (seven) days
(v)	Damage to or silting of culverts and side drains	7 (seven) days

(vi)	Desalting of drains in urban/semi-urban areas	24 (twenty four) hours
(vii)	Railing, parapets, crash barriers	7 (seven) days (Restore immediately if causing safety hazard)
(iii)	**Road side furniture including road sign and pavement marking**	
(i)	Damage to shape or position, poor visibility or loss of retro- reflectivity	48 (forty eight) hours
(ii)	Painting of Km stone, railing, parapets, crash barriers	As and when required / Once every year
(iii)	Damaged/missing signs road requiring replacement	7 (seven) days
(iv)	Damage to road mark ups	7 (seven) days
(iv)	**Road lighting**	
(i)	Any major failure of the system	24 (twenty four) hours
(ii)	Faults and minor failures	8 (eight) hours
(v)	**Trees and Plantation**	
(i)	Obstruction in a minimum head- room of 5 m above carriageway or obstruction in visibility of road signs	24 (twenty four) hours
(ii)	Removal of fallen trees from carriageway	4 (four) hours
(iii)	Deterioration in health of trees and bushes	Timely watering and treatment
(iv)	Trees and bushes requiring replacement	30 (thirty) days
(v)	Removal of vegetation affecting sight line and road structures	15 (fifteen) days
(vi)	**Rest Area**	
(i)	Cleaning of toilets	Every 4 (four) hours
(ii)	Defects in electrical, water and sanitary installations	24 (twenty four) hours
(vii)	**Toll Plaza**	
(viii)	**Other Project Facilities and Approach Roads**	
(i)	Damage in approach roads, pedestrian facilities, truck lay- byes, bus-bays, bus-shelters, cattle crossings, [Traffic Aid Posts, Medical Aid Posts] and service roads	15 (fifteen) days
(ii)	Damaged vehicles or debris on the road	4 (four) hours
(iii)	Malfunctioning of the mobile crane	4 (four) hours

Bridges		
i.	**Superstructure**	
(i)	Any damage, cracks, spalling / scaling Temporary measures Permanent measures	within 48 (forty eight) hours within 15 (fifteen) days or as specified by the Authority's Engineer
ii.	**Foundations**	
(i)	Scouring and/or cavitation	15 (fifteen) days
iii.	**Piers, abutments, return walls and wing walls**	
(i)	Cracks and damages including settlement and tilting, spalling, scaling	30 (thirty) days
iv.	**Bearings (metallic) of bridges**	
(i)	Deformation, damages, tilting or shifting of bearings	15 (fifteen) days Greasing of metallic bearings once in a year
v.	**Joints**	
(i)	Malfunctioning of joints	15 (fifteen) days
vi.	**Other Items**	
(i)	Deforming of pads in elastomeric bearings	7 (seven) days
(ii)	Gathering of dirt in bearings and joints; or clogging of spouts, weep holes and vent-holes	3 (three) days
(iii)	Damage or deterioration in kerbs, parapets, handrails and crash barriers	3 (three) days (immediately within 24 hours if posing danger to safety)
(iv)	Rain-cuts or erosion of banks of the side slopes of approaches	7 (seven) days
(v)	Damage to wearing coat	15 (fifteen) days
(vi)	Damage or deterioration in approach slabs, pitching, apron, toes, floor or guide bunds	30 (thirty) days
(vii)	Growth of vegetation affecting the structure or obstructing the waterway	15 (fifteen) days
vii.	**Hill Roads**	
(i)	Damage to retaining wall/breast wall	7 (seven) days
(ii)	Landslides requiring clearance	12 (twelve) hours
(iii)	Snow requiring clearance	24 (twenty four) hours

[Note: Where necessary, the Authority may modify the time limit for repair / rectification, or add to the nature of Defect or deficiency before issuing the bidding document, with the approval of the competent authority]

Schedule – F

(See Clause 4.1 (vii) (a))

Applicable Permits

1. Applicable Permits

(ix) The Contractor shall obtain, as required under the Applicable Laws, the following Applicable Permits:

i. Permission of the State Government for extraction of boulders from quarry;

ii. Permission of Village Panchayats and Pollution Control Board for installation of crushers;

iii. License for use of explosives;

iv. Permission of the State Government for drawing water from river / reservoir;

v. License from inspector of factories or other competent Authority for setting up batching plant;

vi. Clearance of Pollution Control Board for setting up batching plant;

vii. Clearance of Village Panchayats and Pollution Control Board for setting up asphalt plant;

viii. Permission of Village Panchayats and State Government for borrow earth; and

ix. Any other permits or clearances required under Applicable Laws.

(ii) Applicable Permits, as required, relating to environmental protection and conservation shall have been procured by the Authority in accordance with the provisions of this Agreement.

Schedule – G

(See Clauses 7.1 and 19.2)

Annex – I

Form of Bank Guarantee

[Performance Security / Additional Performance Security]

[The Chairman,
National Highways Authority of India,
G-5 & 6, Sector 10, Dwarka, New Delhi – 110 075]

WHEREAS:

(A) …….[name and address of contractor] (hereinafter called the "**Contractor**") and [name and address of the authority], (hereinafter called the **"Authority"**) have entered into an agreement (hereinafter called the "**Agreement**") for the construction of the ********** section of [National Highway No.**] on Engineering, Procurement and Construction (the "**EPC**") basis, subject to and in accordance with the provisions of the Agreement.

(B) The Agreement requires the Contractor to furnish a Performance Security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the {Construction Period / Defects Liability Period and Maintenance Period} (as defined in the Agreement) in a sum of Rs…..cr. (Rupees…….. crore) (the "**Guarantee Amount**").

(C) We,……..through our branch at …….. (the "**Bank**") have agreed to furnish this bank guarantee (*hereinafter called the* **"Guarantee**") by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Contractor's obligations during the {Construction Period/ Defects Liability Period and Maintenance Period} under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an officer not below the rank of [General Manager in the National Highways Authority of India], that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and

under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfillment and/ or performance of all or any of the obligations of the Contractor contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Contractor under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Guarantee shall cease to be in force and effect on ****$. Unless a demand or claim

under this Guarantee is made in writing before expiry of the Guarantee, the Bank shall be discharged from its liabilities hereunder.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

12. This guarantee shall also be operatable at our …… Branch at New Delhi, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

13. As per NHAI Policy guidelines for smooth operation and verification of genuineness of BG

The guarantor / bank hereby confirms that it is on the SFMS (Structural Finance Messaging System) platform & shall invariably send an advice of this Bank Guarantee to the designated bank of NHAI, detail of which is as under:

Particulars	**Details**
Name of Beneficiary	NHAI, Regional Office, Guwahati
Name of Bank & Branch	Canara Bank & Dispur Branch
Account No.	1861201001995
IFSC Code	CNRB0001861

Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

Notes:

i. The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

ii. The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

[$] Insert date being 2 (two) years from the date of issuance of this Guarantee (in accordance with Clause 7.2 of the Agreement).

(Schedule – G)

(See Clause 19.2)

Form for Guarantee for Advance Payment

[The Chairman,
National Highways Authority of India,
G-5 & 6, Sector 10, Dwarka, New Delhi – 110 075]

WHEREAS:

(A) …….[name and address of contractor] (hereinafter called the "**Contractor**") has executed an agreement (hereinafter called the "**Agreement**") with the [name and address of the authority], (hereinafter called the "**Authority**") for the construction of the ********** section of [National Highway No.**] on Engineering, Procurement and Construction (the "**EPC**") basis, subject to and in accordance with the provisions of the Agreement.

(B) In accordance with Clause 19.2 of the Agreement, the Authority shall make to the Contractor an interest bearing *@ Bank Rate + 3%* advance payment (herein after called "**Advance Payment**") equal to 10% (ten per cent) of the Contract Price; and that the Advance Payment shall be made in two installments subject to the Contractor furnishing an irrevocable and unconditional guarantee by a scheduled bank for an amount equivalent to 110% (one hundred and ten percent) of such installment to remain effective till the complete and full repayment of the installment of the Advance Payment as security for compliance with its obligations in accordance with the Agreement. The amount of {first/second} installment of the Advance Payment is Rs.------ Cr.(Rupees ---------- Crore) and the amount of this Guarantee is Rs.-------Cr. (Rupees ---------- Crore) (the "**Guarantee Amount**")[$].

(C) We,…..through our branch at ……. (the "**Bank**") have agreed to furnish this bank guarantee (*hereinafter called the* **"Guarantee**") by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

[$]The Guarantee Amount should be equivalent to 110% of the value of the applicable instalment.

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful repayment on time of the aforesaid instalment of the Advance Payment under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon

its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an officer not below the rank of [General Manager in the National Highways Authority of India], that the Contractor has committed default in the due and faithful performance of all or any of its obligations for the repayment of the instalment of the Advance Payment under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Advance Payment or to extend the time or period of its repayment or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Advance Payment.

7. Notwithstanding anything contained herein before, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Guarantee shall cease to be in force and effect on ****.[$] Unless a demand or claim under this Guarantee is made in writing on or before the aforesaid date, the Bank shall be discharged from its liabilities hereunder.

9. This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

12. This guarantee shall also be operatable at our …… Branch at New Delhi, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

[$]Insert date being 90 (ninety) days after the end of one year from the date of payment of the Advance payment to the Contractor (in accordance with Clause 19.2 of the Agreement).

13. The guarantor / bank hereby confirms that it is on the SFMS (Structural Finance Messaging System) platform & shall invariably send an advice of this Bank Guarantee to the designated bank of NHAI, detail of which is as under:

Particulars	**Details**
Name of Beneficiary	NHAI, Regional Office, Guwahati

Name of Bank & Branch	Canara Bank & Dispur Branch
Account No.	1861201001995
IFSC Code	CNRB0001861

Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

Notes:

i. The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

ii. The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

Schedule – H

See Clauses 10.1 (iv) and 19.3 Contract Price Weightages

1.1. The Contract Price for this Agreement is **Rs……../-**

1.2. Proportions of the Contract Price for different stages of Construction of the Project Highway shall be as specified below:

Contract Price Weightages:

Item	Weightage in percentage to the Contract Price	Stage for Payment	Percentage weightage
1	**2**	**3**	**4**
I. Road works including culverts, widening and repair of culverts.	**21.88%**	**C.1- New Service Road (Flexible pavement)**	
		(1) Earthwork up to top of the embankment	15.51%
		(2) Sub-Grade	8.88%
		(3) Sub-Base Course	19.40%
		(4) Non Bituminous Base Course	20.20%
		(5) Bituminous Base Course	28.57%
		(6) Wearing Coat	7.44%
II. Minor Bridges/ Underpasses / Overpasses/FOB	**68.84%**	**A.2- New Minor bridges (length >6 and <60 m.)**	
		(1) **Foundation:** On completion of the foundation work of abutments and piers	22.89%
		(2) **Sub-structure**: On completion of abutments and piers with abutment/ pier cap.	15.95%
		(3) **Super-structure:** On completion of the super- structure in all respects including wearing coat, bearings, expansion joints, handrails, crash barriers, road signs and markings, tests on completion etc. complete in all respect.	8.25%
		(4) **Miscellaneous Works** : On completion of wearing coat, expansion joint, crash barrier, railings, protection works and any remaining work associated to bridge including tests on bridge.	0.68%
		(5) **Approaches**: On completion of approaches including wing walls/ return walls, Retaining walls, stone pitching, protection works for floor, embankment slope etc. complete in all respect and fit for use.	1.88%

Item	Weightage in percentage to the Contract Price	Stage for Payment	Percentage weightage
1	2	3	4
		(6) **Guide Bunds and River Training Works:** On completion of Guide Bunds and river Training Works complete in all respects	0.24%
		B.3- Foot Over Bridge	
		Bhawanipur Anchalik College	
		Foundation	7.33%
		Sub-Structure	4.07%
		Super-Structure	4.89%
		Miscellaneous Works	0.41%
		Laudal Chowk, Nalbari	
		Foundation	7.34%
		Sub-Structure	4.08%
		Super-Structure	4.89%
		Miscellaneous Works	0.41%
		St. John's School, Barama	
		Foundation	7.33%
		Sub-Structure	4.07%
		Super-Structure	4.89%
		Miscellaneous Works	0.40%
III. Other works	**9.28%**	(i) Road side drains	64.58%
		(ii) Road signs, markings, Kerb, safety devices etc.	10.86%
		(iii) Bus Bays/ Bus shelter	8.81%
		(iv) Crash Barrier/ PGR	4.00%
		(v) Utility Shifting	
		(a) Electrical Utility	11.75%
		(b) Water Utility	0.00%
		(c) OFC, GAS Pipelines, etc.	0.00%

1.3. Procedure of estimating the value of work done:

1.3.1. Road works including Culverts, widening and repair of culverts

Procedure for estimating the value of road work done shall be as follows:

Table 1.3.1

Stage for payment	Percentage weightage	Payment Procedure
C.1- Reconstruction/ New service road (Flexible pavement)		
(1) Earthwork up to top of the embankment	15.51%	Unit of measurement is linear length. Payment of each stage shall be made on pro rata basis on completion of a stage in full length or 500 m length, whichever is less.
(2) Sub-Grade	8.88%	
(3)Sub Base Course	19.40%	
(4) Non-Bituminous Base Course*	20.20%	
(5) Bituminous Base Course	28.57%	
(6) Wearing Coat	7.44%	

*Note- In case of CTB and AIL layer, this stage may be modified suitably to permit separate weightages for each of these layers.

@. For example, if the total length of bituminous work to be done is 100 km, the cost per km of bituminous work shall be determined as follows:

Cost per km = P x weightage for road work x weightage for bituminous work x (1 /L)

Where P= Contract Price

L = Total length in km

Similarly, the rates per km for other stages shall be worked out accordingly.

Note:

The length affected due to law and order problems or litigation during execution due to which the Contractor is unable to execute the work, may be deducted from the total project length for payment purposes. The total length calculated here is only for payment purposes and will not affect and referred in other clauses of the Contract Agreement.

1.3.2. Minor bridges/ Underpasses/Overpasses

Procedure for estimating the value of Minor bridge and Underpasses/Overpasses shall be as stated in Table 1.3.2

Table 1.3.2

Stage for payment	Percentage weightage	Payment Procedure
A.2- New Minor bridges (length >6 and <60 m.)		

Stage for payment	Percentage weightage	Payment Procedure
(1) **Foundation:** On completion of the foundation work of abutments and piers	22.89%	Cost of each minor bridge shall be determined on pro rata basis with respect to the total linear length (m) of the minor bridges. (i) Foundation: Payment against foundation shall be made on pro-rata basis on completion of a stage completion of atleast two foundations of each bridge. In case where load testing is specified for foundation, the trigger of first payment shall include load testing also.
(2) **Sub–structure**: On completion of abutments and piers with abutment/ pier cap.	15.95%	
(3) **Super-structure:** On completion of the super-structure upto deck slab including bearings.	8.25%	
(4) **Miscellaneous Works** : On completion of wearing coat, expansion joint, crash barrier, railings, protection works and any remaining work associated to bridge including tests on bridge.	0.68%	(ii) Sub - structure - Payment shall be made on pro-rata basis on completion of stage i.e. completion of atleast one sub-structure upto abutment/ pier cap level of each bridge.
(5) **Approaches**: On completion of approaches including wing walls/ return walls, Retaining walls, stone pitching, protection works for floor, embankment slope etc. complete in all respect and fit for use.	1.88%	(iii) Super-structure: Payment shall be made on pro-rata basis on completion of a stage i.e., completion of super-structure of at least one span upto deck slab including bearing as specified in the column of "Stage of Payment" in this sub-clause. If pre-cast girders/ segments are used, interim payments shall be made at 75% of the cost of that element, as derived from MoRTH Data Book, applicable SOR of State PWD on Base Date with tender discount/premium applied thereon.
(6) **Guide Bunds and River Training Works:** On completion of Guide Bunds and river Training Works complete in all respects	0.24%	(iv) Miscellaneous Works: Payment shall be made on pro-rata basis on completion of a stage i.e. completion of wearing coat, expansion joint, crash barrier, railing, protection works, drainage and any other remaining work associated to bridge including tests on bridge for each bridge
B.3- Foot Over Bridge		
Bhawanipur Anchalik College		
Foundation	7.33%	Payment shall be made on completion of Foundation in all respects.
Sub-Structure	4.07%	Payment shall be made on completion of Sub-structure works in all respects.

Stage for payment	Percentage weightage	Payment Procedure
Super-Structure	4.89%	Payment shall be made on completion of Super-structure works in all respects.
Miscellaneous Works	0.41%	Payments shall be made on completion of all miscellaneous works.
Laudal Chowk, Nalbari		
Foundation	7.34%	Payment shall be made on completion of Foundation in all respects.
Sub-Structure	4.08%	Payment shall be made on completion of Sub-structure works in all respects.
Super-Structure	4.89%	Payment shall be made on completion of Super-structure works in all respects.
Miscellaneous Works	0.41%	Payments shall be made on completion of all miscellaneous works.
St. John's School, Barama		
Foundation	7.33%	Payment shall be made on completion of Foundation in all respects.
Sub-Structure	4.07%	Payment shall be made on completion of Sub-structure works in all respects.
Super-Structure	4.89%	Payment shall be made on completion of Super-structure works in all respects.
Miscellaneous Works	0.40%	Payments shall be made on completion of all miscellaneous works.

1.3.3. Major Bridge works, ROB/RUB and Structures.

Table 1.3.3

Stage of Payment	Weightage	Payment Procedure
Nil		

1.3.4. Other works.

Procedure for estimating the value of other works done shall be as stated in table 1.3.4.

Stage of Payment	Weightage	Payment Procedure
(i) Road side drains	64.58%	Drains: Unit of measurement is linear length in metre Payment shall be made on pro rata basis on completion of a stage in a length of not less than 100 m on one side.
(ii) Road signs, markings, Kerb, safety devices etc.	10.86%	Unit of measurement is linear length in km. Payment shall be made on pro rata basis on completion of a stage in a length of not less than one Km on both sides.

Stage of Payment	Weightage	Payment Procedure
(iii) Bus Bays/ Bus shelter	8.81%	Unit of measurement is each number. Payment shall be made on pro rata basis for completed facilities.
(iv) Crash Barrier/ PGR	4.00%	Unit of measurement is linear length. Payment against items (a), (b) & (c) shall be made on pro rata basis on completion of a stage in a length of not less than 10% (ten per cent) of the total length and 100 m whichever is less.
(v) Utility Shifting		Payment shall be made on completion of Utility shifting in all respects.
(a) Electrical Utility	11.75%	
(b) Water Utility	0.00%	
(c) OFC, GAS Pipelines, etc.	0.00%	

2. Procedure for payment for Maintenance

(a) The cost for maintenance shall be as stated in Clause 14.1(v).

(b) Payment for Maintenance shall be made in accordance with the provisions of Article 14 and Article 19.

(See Clause 10.2 (iv))

Drawings

1. Drawings

In compliance of the obligations set forth in Clause 10.2 of this Agreement, the Contractor shall furnish to the Authority's Engineer, free of cost, all Drawings listed in Annex – I of this Schedule – I.

2. Additional Drawings

If the Authority's Engineer determines that for discharging its duties and functions under this Agreement, it requires any drawings other than those listed in Annex-I, it may by notice require the Contractor to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the Contractor shall promptly prepare and furnish such drawings to the Authority's Engineer, as if such drawings formed part of Annex-I of this Schedule-I.

Annex – I

(Schedule – I)

List of Drawings

[**Note:** The Authority shall describe in this Annex-I, all the Drawings that the Contractor is required to furnish under Clause 10.2]

List of drawings to be submitted by Contractor shall include but not be limited to:

1. Drawing of Horizontal Alignment, Vertical profile and Cross section.
2. General Arrangement Drawing Vehicle Under Pass
3. General Arrangement Drawing of Minor Bridge
4. General Arrangement Drawing of Box Culverts/Pipe culverts
5. General Arrangement Drawing of RE Wall approaches and service roads
6. Drawing of General Arrangement of drainage work
7. Drawing for Good for Constructions for all works.
8. Drawing of Road Furniture items including traffic signage, road marking, safety barrier, Traffic signal etc.
9. Drawing of Highway Lighting (High Mast Light/Street lights)
10. Drawing of Traffic diversion plans and traffic control measures.

Schedule – J

(See Clause 10.3 (ii))

Project Completion Schedule

1. Project Completion Schedule

During Construction period, the Contractor shall comply with the requirements set forth in this Schedule-J for each of the Project Milestones and the **Scheduled Completion Date**. Within 15 (fifteen) days of the date of each Project Milestone, the Contractor shall notify the Authority of such compliance along with necessary particulars thereof.

2. Project Milestone-I

(i) Project Milestone-I shall occur on the date falling on the **192nd [One Hundred and Ninety Two]** day from the Appointed Date (the "**Project Milestone-I**").

(ii) Prior to the occurrence of Project Milestone-I, the Contractor shall have commenced construction of the Project Highway and submitted to the Authority duly and validly prepared Stage Payment Statements for an amount not less than 10% (ten per cent) of the Contract Price.

3. Project Milestone-II

(i) Project Milestone-II shall occur on the date falling on the **329th [Three Hundred and Twenty Nine]** from the Appointed Date (the "**Project Milestone-II**").

(ii) Prior to the occurrence of Project Milestone-II, the Contractor shall have commenced construction of the Project Highway and submitted to the Authority duly and validly prepared Stage Payment Statements for an amount not less than 35% (thirty five per cent) of the Contract Price **and should have started construction of all bridges**.

4. Project Milestone-III

(i) Project Milestone-III shall occur on the date falling on the **466th [Four Hundred and Sixty Six]** day from the Appointed Date (the "**Project Milestone-III**").

(ii) Prior to the occurrence of Project Milestone-III, the Contractor shall have continued with construction of the Project Highway and submitted to the Authority duly and validly prepared Stage Payment Statements for an amount not less than 70% (seventy per cent) of the Contract Price **and should have started construction of all project facilities**.

5. Scheduled Completion Date

(i) The Scheduled Completion Date shall occur on the (Scheduled Construction Period)

548th day from the Appointed Date.

(ii) On or before the Scheduled Completion Date, the Contractor shall have completed construction in accordance with this Agreement.

6. Extension of Time

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.

Schedule – K

(See Clause 12.1 (ii))

Tests on Completion

1. Schedule for Tests

(i) The Contractor shall, no later than 30 (thirty) days prior to the likely completion of construction, notify the Authority's Engineer and the Authority of its intent to subject the Project Highway to Tests, and no later than 10 (ten) days prior to the actual date of Tests, furnish to the Authority's Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of Works.

(ii) The Contractor shall notify the Authority's Engineer of its readiness to subject the Project Highway to Tests at any time after 10 (ten) days from the date of such notice, and upon receipt of such notice, the Authority's Engineer shall, in consultation with the Contractor, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Authority's Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conducted in accordance with Article 12 and this Schedule-K.

2. Tests

(i) Visual and physical test: The Authority's Engineer shall conduct a visual and physical check of construction to determine that all works and equipment forming part thereof conform to the provisions of this Agreement. The physical tests shall be decided with Authority's Engineer at the time of physical tests as per relevant IRC code/Manual. The physical tests shall include ***to be decided with Authority's Engineer at the time of physical tests as per standard relevant IRC code Manual***.

(ii) Riding quality test: Riding quality of each lane of the carriageway shall be checked with the help of a calibrated bump integrator and Network Survey Vehicle (NSV) fitted with latest equipment's and the maximum permissible roughness for purposes of this Test shall be [2,000 (two thousand)] mm for each kilometer.

(iii) Tests for bridges: All major and minor bridges shall be subjected to the rebound hammer and ultrasonic pulse velocity tests, to be conducted in accordance with the procedure described in Special Report No.17:1996 of the IRC Highway Research Board on Nondestructive Testing Techniques, at two spots in every span, to be chosen at random by the Authority's Engineer. Bridges with a span of 15 (fifteen) meters or more shall also be subjected to load testing.

(iv) Other tests: The Authority's Engineer may require the Contractor to carry out or cause to be carried additional tests, in accordance with Good Industry Practice, for determining the compliance of the Project Highway with Specifications and Standards, except tests as

specified in clause 5, but shall include measuring the reflectivity of road markings and road signs; and measuring the illumination level (lux) of lighting using requisite testing equipment.

(v) Environmental audit: The Authority's Engineer shall carry out a check to determine conformity of the Project Highway with the environmental requirements set forth in Applicable Laws and Applicable Permits.

(vi) Safety Audit: The Authority's Engineer shall carry out, or cause to be carried out, a safety audit to determine conformity of the Project Highway with the safety requirements and Good Industry Practice.

3. Agency for conducting Tests

All Tests set forth in this Schedule-K shall be conducted by the Authority's Engineer or such other agency or person as it may specify in consultation with the Authority.

4. Completion Certificate

Upon successful completion of Tests, the Authority's Engineer shall issue the Completion Certificate in accordance with the provisions of Article 12.

5. The Authority Engineer will carry out tests with following equipment at his own cost in the presence of contractor's representative.

Sr. No.	Key metrics of Asset	Equipment to be used	Frequency of condition survey
1	~~Surface defects of Pavement~~	~~Network Survey Vehicle (NSV)~~	~~At least twice a year (As per survey months defined for the state basis rainy season)~~
2	~~Roughness of Pavement~~	~~Network Survey Vehicle (NSV)~~	~~At least twice a year (As per survey months defined for the state basis rainy season)~~
3	Strength of Pavement	Falling Weight Deflectometer (FWD)	At least once a year
4	Bridges	Mobile Bridge Inspection Unit (MBU)	At least twice a year (As per survey months defined for the state basis rainy season)
5	Road Signs	Retro-reflectometer	At least twice a year (As per survey months defined for the state basis rainy season)

~~The first testing with the help of NSV shall be conducted at the time of issue of Completion Certificate.~~

(See Clause 12.2)

Completion Certificate

1 I, ……. (Name of the Authority's Engineer), acting as the Authority's Engineer, under and in accordance with the Agreement dated ……. (the "**Agreement**"), for [construction of the ****section (Km** to Km **) of NationalHighwayNo.***](the"**ProjectHighway**")onEngineering,ProcurementandConstruction(EPC)basis through …….. (Name of Contractor), hereby certify that the Tests in accordance with Article 12 of the Agreement have been successfully undertaken to determine compliance of the Project Highway with the provisions of the Agreement, and I am satisfied that the Project Highway can be safely and reliably placed in service of the Users thereof.

2 It is certified that project facilities have been provided by the Contractor as per Schedule C of the Contract Agreement, and are functional. Details (with location chainage) are as given in Annex-…….

3 It is certified that, in terms of the aforesaid Agreement, all works forming part of Project Highway have been completed, and the Project Highway is hereby declared fit for entry into operation on this the …… day of …… 20…, Scheduled Completed Date for which was the ……. Day of …….20……

Signed, Sealed and Delivered

For and on behalf of the Authority's Engineer by:

(Signature)

(Name)

(Designation) (Address)

Schedule – M

(See Clauses 14.6, 15.2 and 19.7)

Payment reduction for Non-compliance

1. Payment reduction for non-compliance with the Maintenance Requirements

(i) Monthly lump sum payments for maintenance shall be reduced in the case of non-compliance with the Maintenance Requirements set forth in Schedule-E.

(ii) Any deduction made on account of non-compliance with the Maintenance Requirements shall not be paid even after compliance subsequently. The deductions shall continue to be made every month until compliance is done.

(iii) The Authority's Engineer shall calculate the amount of payment reduction on the basis of weightage in percentage assigned to non-conforming items as given in Paragraph 2.

2. Percentage reductions in lump sum payments on monthly basis

(i) The following percentages shall govern the payment reduction:

S. No.	Item / Defect / Deficiency	Percentage
(a)	**Carriageway / Pavement**	
(i)	Potholes, cracks, other surface defects	15%
(ii)	Repairs of Edges, Rutting	5%
(b)	**Road, Embankment, Cuttings, Shoulders**	
(i)	Edge drop, inadequate cross fall, undulations, settlement, potholes, ponding, obstructions	10%
(ii)	Deficient slopes, rain cuts, disturbed pitching, vegetation growth, pruning of trees	5%
(c)	**Bridges and Culverts**	
(i)	Desilting, cleaning. vegetation growth, damaged pitching, flooring, parapets, wearing course, footpaths, any damage to foundations	20%
(ii)	Any Defects in superstructures, bearings and sub-structures	10%
(iii)	Painting, repairs/replacement kerbs, railings, parapets, guideposts/crash barriers	5%
(d)	**Roadside Drains**	
(i)	Cleaning and repair of drains	5%
(e)	**Road Furniture**	
(i)	Cleaning, painting, replacement of road signs, delineators, road markings, 200m / Km/5thKmstones	5%
(f)	**Miscellaneous Items**	

(i)	Removal of dead animals, broken down / accidented vehicles, fallen trees, road blockades or malfunctioning of mobile crane	10%
(ii)	Any other Defects in accordance with paragraph 1.	5%
(g)	**Defects in Other Project Facilities**	**5%**

(ii) The amount to be deducted from monthly lump-sum payment for non-compliance of particular item shall be calculated as under:

$$R = {}^{P}/_{100} \text{ x (M1 or M2) x } {}^{L1}/_{L}$$

Where,

P = Percentage of particular item/Defect/deficiency for deduction

M1 = Monthly lump-sum payment in accordance para 1.2 above of this Schedule

M2 = Monthly lump-sum payment in accordance para 1.2 above of this Schedule

L1 = Non-complying length

L = Total length of the road

R = Reduction (the amount to be deducted for non-compliance for a particular item/Defect/deficiency

The total amount of reduction shall be arrived at by summation of reductions for such items/Defects/deficiency or non-compliance.

For any Defect in a part of one kilometer, the non-conforming length shall be taken as one kilometer.

Schedule – N

(See Clause 18.1 (i))

Selection of Authority's Engineer

1. Selection of Authority's Engineer

(i) The provisions of the Model Request for Proposal for Selection of Technical Consultants, issued by the Ministry of Finance in May 2009, or any substitute thereof shall apply for selection of an experienced firm to discharge the functions and duties of an Authority's Engineer.

(ii) In the event of termination of the Technical Consultants appointed in accordance with the provisions of Paragraph 1.1, the Authority shall appoint another firm of Technical Consultants forthwith and may engage a government-owned entity in accordance with the provisions of Paragraph 3 of this Schedule-N.

2. Terms of Reference

The Terms of Reference for the Authority's Engineer (the **"TOR"**) shall substantially conform with Annex 1 to this Schedule N.

3. Appointment of Government entity as Authority's Engineer

Notwithstanding anything to the contrary contained in this Schedule, the Authority may in its discretion appoint an existing Independent Engineer of the BOT (Toll) or a government-owned entity as the Authority's Engineer; provided that such entity shall be a body corporate having as one of its primary functions the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government-owned entity which is owned or controlled by the Authority shall not be eligible for appointment as Authority's Engineer.

Annex – I

(Schedule – N)

Terms of Reference for Authority's Engineer

1. Scope

(i) These Terms of Reference (the **"TOR"**) for the Authority's Engineer are being specified pursuant to the EPC Agreement dated ..... (the **"Agreement**), which has been entered into between the [name and address of the Authority] (the **"Authority"**) and ..... (the **"Contractor"**)[#] for [Two-Laning]of the **** section(Km** to Km **) of National Highway No.** in the State of *** on Engineering, Procurement, Construction (EPC) basis,and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

- In case the bid of Authority's Engineer is invited simultaneously with the bid of EPC project, then the status of bidding of EPC project only to be indicated.

(ii) The TOR shall apply to construction and maintenance of the Project Highway.

2. Definitions and interpretation

(i) The words and expressions beginning with or in capital letters and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

(ii) References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

(iii) The rules of interpretation stated in Article 1 of the Agreement shall apply, mutatis mutandis, to this TOR.

3. General

(i) The Authority's Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

(ii) The Authority's Engineer shall perform the duties and exercise the authority in accordance with the provisions of this Agreement, but subject to obtaining prior written approval of the Authority before determining:

(a) any Time Extension;

(b) any additional cost to be paid by the Authority to the Contractor;

(c) the Termination Payment; or

(d) issuance of Completion Certificate or

(e) any other matter which is not specified in (a), (b), (c) or (d) above and which creates a financial liability on either Party.

(iii) The Authority's Engineer shall submit regular periodic reports, at least once every month, to the Authority in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Authority's Engineer within 10 (ten) days of the beginning of every month.

(iv) The Authority's Engineer shall inform the Contractor of any delegation of its duties and responsibilities to its suitably qualified and experienced personnel; provided, however, that it shall not delegate the authority to refer any matter for the Authority's prior approval in accordance with the provisions of Clause 18.2.

(v) The Authority's Engineer shall aid and advise the Authority on any proposal for Change of Scope under Article 13.

(vi) In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Authority's Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

4. Construction Period

(i) During the Construction Period, the Authority's Engineer shall review and approve the Drawings furnished by the Contractor along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys, and the recommendations of the Safety Consultant in accordance with the provisions of Clause 10.1 (vi). The Authority's Engineer shall complete such review and approval and send its observations to the Authority and the Contractor within 15 (fifteen) days of receipt of such Drawings; provided, however that in case of a Major Bridge or Structure, the aforesaid period of 15 (fifteen) days may be extended up to 30 (thirty) days. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

(ii) The Authority's Engineer shall review and approve any revised Drawings sent to it by the Contractor and furnish its comments within 10 (ten) days of receiving such Drawings.

(iii) The Authority's Engineer shall review and approve the Quality Assurance Plan submitted by the Contractor and shall convey its comments to the Contractor within a period of 21 (twenty one) days stating the modifications, if any, required thereto.

(iv) The Authority's Engineer shall complete the review and approve of the methodology

proposed to be adopted by the Contractor for executing the Works, and convey its comments to the Contractor within a period of 10 (ten) days from the date of receipt of the proposed methodology from the Contractor.

(v) The Authority's Engineer shall grant written approval to the Contractor, where necessary, for interruption and diversion of the flow of traffic in the existing lane(s) of the Project Highway for purposes of maintenance during the Construction Period in accordance with the provisions of Clause 10.4.

(vi) The Authority's Engineer shall review the monthly progress report furnished by the Contractor and send its comments thereon to the Authority and the Contractor within 7 (seven) days of receipt of such report.

(vii) TheAuthority'sEngineershallinspecttheConstructionWorksandtheProjectHighwayandshall submit a monthly Inspection Report bringing out the results of inspections and the remedial action taken by the Contractor in respect of Defects or deficiencies. In particular, the Authority's Engineer shall include in its Inspection Report, the compliance of the recommendations made by the Safety Consultant.

(viii) The Authority's Engineer shall conduct the pre-construction review of manufacturer's test reports and standard samples of manufactured Materials, and such other Materials as the Authority's Engineer may require.

(ix) For determining that the Works conform to Specifications and Standards, the Authority's Engineer shall require the Contractor to carry out, or cause to be carried out, tests at such time and frequency and in such manner as specified in the Agreement and in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 4 (ix), the tests specified in the IRC Special Publication-11 (Handbook of Quality Control for Construction of Roads and Runways) and the Specifications for Road and Bridge Works issued by MORTH (the "Quality Control Manuals") or any modification/substitution thereof shall be deemed to be tests conforming to Good Industry Practice for quality assurance.

(x) The Authority's Engineer shall test check at least 50 (fifty) percent of the quantity or number of tests prescribed for each category or type of test for quality control by the Contractor.

(xi) The timing of tests referred to in Paragraph 4 (ix), and the criteria for acceptance/ rejection of their results shall be determined by the Authority's Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Contractor for its own quality assurance in accordance with Good Industry Practice.

(xii) In the event that results of any tests conducted under Clause 11.10 establish any Defects or deficiencies in the Works, the Authority's Engineer shall require the Contractor to carry out remedial measures.

(xiii) The Authority's Engineer may instruct the Contractor to execute any work which is

urgently required for the safety of the Project Highway, whether because of an accident,unforeseeableeventorotherwise;providedthatincaseofanyworkrequired on account of a Force Majeure Event, the provisions of Clause 21.6 shall apply.

(xiv) In the event that the Contractor fails to achieve any of the Project Milestones, the Authority's Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Authority's Engineer shall determine that completion of the Project Highway is not feasible within the time specified in the Agreement, it shall require the Contractor to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Contractor, the Authority's Engineer shall review the same and send its comments to the Authority and the Contractor forthwith.

(xv) The Authority's Engineer shall obtain from the Contractor a copy of all the Contractor's quality control records and documents before the Completion Certificate is issued pursuant to Clause12.2.

(xvi) Authority's Engineer may recommend to the Authority suspension of the whole or part of the Works if the work threatens the safety of the Users and pedestrians. After the Contractor has carried out remedial measure, the Authority's Engineer shall inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked.

(xvii) In the event that the Contractor carries out any remedial measures to secure the safety of suspended works and Users, and requires the Authority's Engineer to inspect such works, the Authority's Engineer shall inspect the suspended works within 3 (three) days of receiving such notice, and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.

(xviii) The Authority's Engineer shall carryout, or cause to be carried out, all the Tests specified in Schedule-K and issue a Completion Certificate, as the case may be. For carrying out its functions under this Paragraph 4(xviii) and all matters incidental thereto, the Authority's Engineer shall act under and in accordance with the provisions of Article 12 and Schedule-K.

5. Maintenance Period

(i) The Authority's Engineer shall aid and advise the Contractor in the preparation of its monthly Maintenance Programme and for this purpose carry out a joint monthly inspection with the Contractor.

(ii) The Authority's Engineer shall undertake regular inspections, at least once every month, to evaluate compliance with the Maintenance Requirements and submit a Maintenance Inspection Report to the Authority and the Contractor.

(iii) The Authority's Engineer shall specify the tests, if any, that the Contractor shall carry out, or cause to be carried out, for the purpose of determining that the Project Highway is

in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Contractor in this behalf.

(iv) In respect of any defect or deficiency referred to in Paragraph 3 of Schedule-E, the Authority's Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.

(v) The Authority's Engineer shall examine the request of the Contractor for closure of any lane(s) of the Project Highway for undertaking maintenance/repair thereof, and shall grant permission with such modifications, as it may deem necessary, within 5 (five) days of receiving a request from the Contractor. Upon expiry of the permitted period of closure, the Authority's Engineer shall monitor the reopening of such lane(s), and in case of delay, determine the Damages payable by the Contractor to the Authority under Clause14.5.

6. Determination of costs and time

(i) The Authority's Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.

(ii) TheAuthority'sEngineershalldeterminetheperiodofTimeExtensionthatisrequired to be determined by it under the Agreement.

(iii) The Authority's Engineer shall consult each Party in every case of determination in accordance with the provisions of Clause 18.5.

7. Payment

(i) The Authority's Engineer shall withhold payments for the affected works for which the Contractor fails to revise and resubmit the Drawings to the Authority's Engineer in accordance with the provisions of Clause 10.2 (iv) (d).

(ii) Authority's Engineer shall –

(a) within 10 (ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 19.4, determine the amount due to the Contractor and recommend the release of 90 (ninety) percent of the amount so determined as part payment, pending issue of the Interim Payment Certificate; and

(b) within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, deliver to the Authority and the Contractor an Interim Payment Certificate certifying the amount due and payable to the Contractor, after adjustments in accordance with the provisions of Clause 19.10.

(iii) The Authority's Engineer shall, within 15 (fifteen) days of receipt of the Monthly Maintenance Statement from the Contractor pursuant to Clause 19.6, verify the Contractor's monthly statement and certify the amount to be paid to the Contractor in

accordance with the provisions of the Agreement.

(iv) The Authority's Engineer shall certify final payment within 30 (thirty) days of the receipt of the final payment statement of Maintenance in accordance with the provisions of Clause 19.16.

8. Other duties and functions

The Authority's Engineer shall perform all other duties and functions as specified in the Agreement.

9. Miscellaneous

(i) A copy of all communications, comments, instructions, Drawings or Documents sent by the Authority's Engineer to the Contractor pursuant to this TOR, and a copy of all the test results with comments of the Authority's Engineer thereon, shall be furnished by the Authority's Engineer to the Authority forthwith.

(ii) The Authority's Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.

(iii) Within 90 (ninety) days of the Project Completion Date, the Authority's Engineer shall obtain a complete set of as-built Drawings, in 2 (two) hard copies and in micro film form or in such other medium as may be acceptable to the Authority, reflecting the Project Highway as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project Highway and setback lines, if any, of the buildings and structures forming part of Project Facilities; and shall hand them over to the Authority against receipt thereof.

(iv) The Authority's Engineer, if called upon by the Authority or the Contractor or both, shall mediate and assist the Parties in arriving at an amicable settlement of any Dispute between the Parties.

(v) The Authority's Engineer shall inform the Authority and the Contractor of any event of Contractor's Default within one week of its occurrence.

Schedule – O

(See Clauses 19.4 (i), 19.6(i) and 19.8 (i))

Forms of Payment Statements

1. Stage Payment Statement for Works

The Stage Payment Statement for Works shall state:

(i) the estimated amount for the Works executed in accordance with Clause 19.3 (i) subsequent to the last claim;
(ii) amounts reflecting adjustments in price for the aforesaid claim;
(iii) the estimated amount of each Change of Scope Order executed subsequent to the last claim;
(iv) amounts reflecting adjustment in price, if any, for (c) above in accordance with the provisions of Clause 13.2 (iii) (a);
(v) total of (a), (b), (c) and (d) above;
(vi) Deductions:
  i. Any amount to be deducted in accordance with the provisions of the Agreement except taxes;
  ii. Any amount towards deduction of taxes; and
  iii. Total of (i) and (ii) above.
(vii) Net claim: (e) - (f) (iii);
(viii) The amounts received by the Contractor upto the last claim:
  i. For the Works executed (excluding Change of Scope orders);
  ii. For Change of Scope Orders, and
  iii. Taxes deducted

2. Monthly Maintenance Payment Statement

The monthly Statement for Maintenance Payment shall state:

(a) the monthly payment admissible in accordance with the provisions of the Agreement;
(b) the deductions for maintenance work not done;
(c) net payment for maintenance due, (a) minus (b);
(d) amounts reflecting adjustments in price under Clause 19.12; and
(e) amount towards deduction of taxes

3. Contractor's claim for Damages

Note: The Contractor shall submit its claims in a form acceptable to the Authority.

Schedule – P

(See Clause 20.1)

Insurance

1. Insurance during Construction Period

(i) The Contractor shall effect and maintain at its own cost, from the Appointed Date till the date of issue of the Completion Certificate, the following insurances for any loss or damage occurring on account of Non Political Event of Force Majeure, malicious act, accidental damage, explosion, fire and terrorism:

(a) insurance of Works, Plant and Materials and an additional sum of [15 (fifteen)] per cent of such replacement cost to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature; and

(b) insurance for the Contractor's equipment and Documents brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site.

(ii) The insurance under sub para (a) and (b) of paragraph 1(i) above shall cover the Authority and the Contractor against all loss or damage from any cause arising under paragraph 1.1 other than risks which are not insurable at commercial terms.

2. Insurance for Contractor's Defects Liability

The Contractor shall effect and maintain insurance cover of not less than 15% of the Contract Price for the Works from the date of issue of the Completion Certificate until the end of the Defects Liability Period for any loss or damage for which the Contractor is liable and which arises from a cause occurring prior to the issue of the Completion Certificate. The Contractor shall also maintain other insurances for maximum sums as may be required under the Applicable Laws and in accordance with Good Industry Practice.

3. Insurance against injury to persons and damage to property

(i) The Contractor shall insure against its liability for any loss, damage, death or bodily injury, or damage to any property (except things insured under Paragraphs 1 and 2 of this Schedule or to any person (except persons insured under Clause 20.9), which may arise out of the Contractor's performance of this Agreement. This insurance shall be for a limit per occurrence of not less than the amount stated below with no limit on the number of occurrences.

The insurance cover shall be not less than: Rs.[*****] Rs. [1.25 Crore]

(ii) The insurance shall be extended to cover liability for all loss and damage to the Authority's property arising out of the Contractor's performance of this Agreement excluding:

(a) the Authority's right to have the construction works executed on, over, under, in or through any land, and to occupy this land for the Works; and

(b) damage which is an unavoidable result of the Contractor's obligations to execute the Works

4. Insurance to be in joint names

The insurance under paragraphs 1 to 3 above shall be in the joint names of the Contractor and the Authority.

Schedule – Q

(See Clause 14.10)

Tests on Completion of Maintenance Period

1. Riding Quality Test:

Riding quality test: Riding quality of each lane of the carriageway shall be checked with the help of a calibrated bump integrator and the maximum permissible roughness for purposes of this Test shall be [2,200 (two thousand and two hundred only)] mm for each kilometer.

2. Visual and Physical Test:

The Authority's Engineer shall conduct a visual and physical check of construction to determine that all works and equipment forming part thereof conform to the provisions of this Agreement. The physical tests shall include measurement of cracking, rutting, stripping and potholes and shall be as per the requirement of maintenance mentioned in Schedule-E.

The Authority Engineer will carry out tests with following equipment at his own cost in the presence of contractor's representative.

Sr. No.	Key metrics of Asset	Equipment to be used	Frequency of condition survey
1	~~Surface defects of Pavement~~	~~Network Survey Vehicle (NSV)~~	~~At least twice a year (As per survey months defined for the state basis rainy season)~~
2	~~Roughness of Pavement~~	~~Network Survey Vehicle (NSV)~~	~~At least twice a year (As per survey months defined for the state basis rainy season)~~
3	Strength of Pavement	Falling Weight Deflectometer (FWD)	At least once a year
4	Bridges	Mobile Bridge Inspection Unit (MBU)	At least twice a year (As per survey months defined for the state basis rainy season)

Sr. No.	Key metrics of Asset	Equipment to be used	Frequency of condition survey
5	Road Signs	Retro-reflectometer	At least twice a year (As per survey months defined for the state basis rainy season)

Schedule – R

(See Clause 14.10)

Taking Over Certificate

I, …… (Name and designation of the Authority's Representative) under and in accordance with the Agreement dated …… (the "**Agreement**"), for [construction of the **** section (Km ** to Km **) of ****] (the "**Project Highway**") on Engineering, Procurement and Construction (EPC) basis through (Name of Contractor), hereby certify that the Tests on completion of Maintenance Period in accordance with Article 14 of the Agreement have been successfully undertaken to determine compliance of the Project Highway with the provisions of the Agreement and I hereby certify that the Authority has taken over the Project highway from the Contractor on this day.....

SIGNED, SEALED AND DELIVERED

(Signature)

(Name and Designation of Authority's Representative)

(Address)

SCHEDULE – S

Procedure for Dispute Resolution Board

The parties to the Contract Agreement mutually agree as follows:

1. The Board shall comprise of three Members having experience in the field of construction or have been involved in the Works related to construction and with the interpretation of contractual documents. One Member shall be selected by each of the Authority and the Contractor from the list maintained by NHAI hosted on its website (www.nhai.gov.in). In the event the parties fail to select the member within 28 days of the date of the signing of Contract Agreement, in that eventuality, upon the request of either or both parties such Member shall be selected by SAROD within 14 days. The third Member shall be selected by the other two members from the same list. If the two Members selected by or on behalf of the parties fail to select the third Member within 14 days after the later of their selections, then upon the request of either or both parties such third Member shall be selected by SAROD within 14 days. The third Member shall serve as Chairman of the Board.

2. The Board shall be constituted when each of the three Board Members has signed a Board Member's declaration of Acceptance as required by the DRB's rules and procedures (which, along with the declaration of acceptance form, are attached as Annexure herewith).

3. In the event of death, disability, or resignation of any Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for any other reason, a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman then either of the other Members) shall inform the Parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within 28 days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by SAROD in the same manner as described above. Replacement shall be considered complete when the new Member signs the Board Member's Declaration of Acceptance. Throughout any replacement process, the Members not being replaced shall continue to serve and the Board shall continue to function and its activities shall have the same force and effect as if the vacancy had not occurred, provided, however, that the Board shall not conduct a hearing nor issue a decision until the replacement is completed.

4. If either the Authority or the Contractor is dissatisfied with any decision of the Board, and/or if the Board fails to issue its decision within 56 days after receipt of all the pleadings (along with the supporting documents) of the parties by the Chairman of the Board or any extension mutually agreed upon by the Authority and the Contractor, in such a case, either the Authority or the Contractor may, within 28days after his receipt of the decision, or within 28 days after the expiry of the said period, as the case may be, give notice to the other party, with a copy for information to the Authority Engineer, of his intention to refer the matter to the Conciliation Committee of Independent Experts (CCIE) of the Authority for Conciliation / amicable settlement.

5. It is mandatory to refer all the disputes to DRB before issuance of completion certificate and satisfactory completion of punch list items. No dispute shall be entertained after completion of aforementioned date.

6. If the Board has issued a decision to the Authority and the Contractor within the said 56 days or any extension mutually agreed upon by the Authority and the Contractor and no notice of intention to commence Conciliation by the Conciliation Committee of Independent Experts (CCIE) of the Authority for Conciliation/amicable settlement as to such dispute has been given by either the Authority or the Contractor within 28 days after the parties received such decision from the Board, the decision shall become final and binding upon the Authority and Contractor.

7. Whether or not it has become final and binding upon the Authority and the Contractor, a decision shall be admissible as evidence in any subsequent dispute resolution procedure, including any arbitration or litigation having any relation to the dispute to which the decision relates.

8. All decision of DRB which have become final and binding or till they have been reversed in subsequent conciliation / Arbitration process shall be implemented by the parties forthwith. Such implementation shall also include any relevant action of the Authority's Engineer.

9. If during the Contract Period, the Authority and the Contractor are of the opinion that the Disputes Resolution Board is not performing its functions properly, the Authority and the Contractor may together disband the Disputes Resolution Board and reconstitute it. In that case, a new board shall be selected in accordance with the provisions applying to the selection of the original Board as specified above, except that words "within 28 days after the signing of this Contract Agreement" shall be replaced by the words "within 28 days after the date on which the notice disbanding the original Board became effective".

10. The Authority and the Contractor shall jointly signed a notice specifying that the Board shall stand disbanded with effect from the date specified in the notice. The notice shall be posted by email to each Member of the Board. A Member shall be deemed to have received the email even if he refuses to have received the same.

11. All other terms and conditions of the original Contract Agreement shall remain

unaltered/unaffected and the parties shall remain bound by terms and conditions as contained therein.

Annexure to Schedule - S

Disputes Resolution Board's Rules and Procedures

1. Except for providing the services required hereunder, the Board Members shall not give any advice to either party or to the Authority's Engineer concerning conduct of the Works. The Board Members.

   i. Shall have no financial interest in any party to the Contract Agreement, or the Authority's Engineer, or a financial interest in the Contract, except for payment for services on the Board.

   ii. Shall have had no previous employment by, or financial ties to, any party to the Contract Agreement, or the Authority's Engineer, except for fee based consulting services/advisers on other projects, and/or be Retired Government Officers (not connected in whole or part with the project), all of which must be disclosed in writing to both parties prior to appointment to the Board.

   iii. Shall have disclosed in writing to both parties prior to appointment to the Board any and all recent or close professional or personal relationships with any director, officer, or employee of any party to the Contract Agreement, or the Authority's Engineer, and any and all prior involvement in the project to which the Contract relates;

   iv. Shall not, while Board member, be employed whether as a consultant or adviser or otherwise by either party to the Contract Agreement, or the Authority's Engineer, except as a Board Member, without the prior consent of the parties and the other Board Members;

   v. Shall not, while a Board Member, engage in discussion or make any agreement with any party to the Contract Agreement, or with the Authority's Engineer, regarding employment whether as a consultant or otherwise whether after the Contract is completed or after service as a Board Member is completed.

   vi. Shall remain and be impartial and independent of the parties and shall disclose in writing to the Authority, the Contractor and one another any fact or circumstance which might be such as to cause either the Authority or the Contractor to question

the continued existence of the impartiality and independence required of Board Members; and

vii. Shall be fluent in the language of the Contract.

2. Except for its participation in the Board's activities as provided in the Contract Agreement and in this Agreement none of the Authority, the Contractor, and or the Authority's Engineer shall solicit advice or consultation from the Board or the Board Members on matters dealing with the conduct of the Works.

3. The Contractor shall:

a. Furnish to each Board member one copy of all documents which the Board may request including Contract Agreement, progress reports and other documents pertinent to the performance of the Contract Agreement.

b. In co-operation with the Authority, coordinate the site visits of the Board, including conference facilities, and secretarial and copying service.

4. The Board shall begin its activities following the signing of a Board Member's Declaration of Acceptance by all three Board Members, and it shall terminate these activities as set forth below:

a. The Board shall terminate its regular activities when either (i) issuance of completion certificate and completion of punch list items or (ii) the parties have terminated the Contract and when, in either case, the Board has communicated to the parties and the Authority's Engineer its decision on all disputes previously referred to it.

b. Once the Board has terminated its regular activities as provided by the previous paragraph, the Board shall remain available to process any dispute referred to it by either party. In case of such a referral, Board Members shall receive payments as provided in paragraphs 7 (a) (ii), (iii) and (iv).

5. Board Members shall not assign or subcontract any of their work under these Rules and Procedures.

6. The Board Members are Independent and not employees or agents of either the Authority or the Contractor.

7. Payments to the Board Members for their services shall be governed by the following provisions.

a. Each Board Member will receive payments as follows:

i. A retainer fee per calendar month as specified in the schedule of fee made part of this Schedule and its revision from time to time. This retainer fee shall be considered as payment in full for:

A. Being available, on 7 days' notice, for all hearings, Site Visits, and other meetings of the Board.

B. Being conversant with all project developments and maintaining relevant files.

C. All offices and overhead expenses such as secretarial services, photocopying and office supplies (but not include telephone calls, faxes and telexes) incurred in connection with the duties as a Board Member.

ii. A daily fee as specified in the schedule of fee in respect of fee for site visit & meeting, fee for meeting / hearing not at site and extra charges for days (max. of 02 days for travel on each occasion) other than hearing / meeting days.

iii. Expenses, in addition to the above, all reasonable and necessary travel expenses (including economy class air fare, subsistence, and other direct travel expenses). Receipts for all expenses in excess of Rs.2000/- (Rupees Two Thousand only) shall be provided.

iv. Reimbursement of any taxes that may be levied on payments made to the Board Member pursuant to this paragraph 7.

b. The retainer fee and other fees shall remain fixed for the period of each Board Member's term until revised by NHAI.

c. Phasing out of monthly retainer fee. Beginning with the next month after the completion certificate (or, if there are more than one, the one issued last) has been issued, the Board members shall receive only one-third of the monthly retainer fee till next one year. Beginning with the next month after the Board has terminated its regular activities pursuant to paragraph 4(a) above, the Board members shall no longer receive any monthly retainer fee.

d. Payments to the Board Members shall be shared equally by the Authority and the Contractor. The concerned Project Implementation Unit (PIU) of Authority shall pay members' invoices within 30 calendar days after receipt of such invoices and shall invoice the Contractor for one-half of the amounts of such invoices. The Contractor shall pay such invoices within 30 days' time period after receipt of such invoices.

8. Board Site Visits:

a. The Board shall visit the Site and meet the representatives of the Authority, the Contractor and the Authority's Engineer at regular intervals, at times of critical construction events, at the written request of either party, and in any case not less than 6 times in any period of 12 months. The timing of Site visits shall be as agreed among the Authority, the Contractor and the Board, but failing agreement

shall be fixed by the Board.

b. Site visits shall include an informal discussion of the status of the construction of the Works. Site visits shall be attended by personnel from the Authority, the Contractor and the Authority's Engineer.

c. At the conclusion of each Site visit, the Board shall prepare a report covering its activities during the visit and shall send copies to the parties and to the Authority's Engineer.

9. Procedure for Dispute Referral to the Board

a. If either party objects to any action or inaction of the other party or the Authority Engineer, the objecting party may file a written Notice of Dispute to the other party with a copy to the Authority's Engineer stating that it is given pursuant to the Agreement and state clearly and in details the basis of the dispute.

b. The party receiving the Notice of Dispute will consider it and respond to it in writing within 14 days after receipt.

c. This response shall be final and conclusive on the subject, unless a written appeal to the response is filed with the responding party within 10 days after receiving the response and call upon Authority's Engineer to mediate and assist the parties in arriving an amicable settlement thereof. Both parties are encouraged to pursue the matter further to attempt to settle the dispute.

d. If the Authority Engineer receiving the Notice of Dispute fails to provide a written response within 14 days after receipt of such Notice or failing mediation by Authority's Engineer, either party may require such dispute to be referred to the Board, either party may refer the dispute to the Board by written Request to the Board. The Request for decision shall state clearly and in full detail the specific issues of the dispute (s) to be considered by Board and shall be addressed to the Chairman of the Board, with copies to the other Board Members, the other party, and the Authority Engineer, and it shall state that it is made pursuant to this Agreement.

e. When a dispute is referred to the Board, and the Board is satisfied that the dispute requires the Board's assistance, the Board decides when to conduct a hearing on the dispute. The Board may request that written documentation and arguments from both parties be submitted to each Board Member before the hearing begins. The parties shall submit in so far as possible agreed statements of the relevant facts.

f. During the hearing, the Contractor, the Authority, and the Authority's Engineer shall each have ample opportunity to be heard and to offer evidence. The Board's decision for resolution of the dispute will be given in writing to the Authority, the Contractor and the Authority's Engineer as soon as possible, and in any event not more than 56 days or any mutually extended period between the Authority and the Contractor. The time period of 56 days of issuance of DRB decision will reckon/start from the day of first hearing that

begins
aftersubmissionofcompletepleadings(includingsupportingdocuments,ifany)bytheparties.

10. Conduct of Hearings:

    a. Normally hearings will be conducted at the Site, but any location that would be more convenient and still provide all required facilities and access to necessary documentation may be utilized by the Board. Private session of the Board may be held at any cost effective location convenient to the Board. Video recordings of all hearings shall invariably be made.

    b. The Authority, the Authority's Engineer and the Contractor shall be given opportunity to have representatives at all hearings. Parties should restrain to bring any Advocate / Law Firm during DRB hearings.

    c. During the hearings, no Board Member shall express any opinion concerning the merit of the respective arguments of the parties.

    d. After the hearings are concluded, the Board shall meet privately to formulate its decision. The private meeting(s) of the Board shall not exceed 3 sittings. All Board deliberations shall be conducted in private, with all Members' individual views kept strictly confidential. The Board's decisions, together with an explanation of its reasoning shall be submitted in writing to both parties and to the Authority's Engineer. The decision shall be based on the pertinent Contract provisions, applicable laws and regulations and the facts and circumstances involved in the dispute.

    e. The Board shall make every effort to reach a unanimous decision. If this proves impossible the majority shall decide and the dissenting Member may prepare a written minority report together with an explanation of its reasoning for submission to both parties and to the Authority's Engineer.

11. In all procedural matters, including the furnishing of written documents and arguments relating to disputes, site visits and conduct of hearings, the Board shall have full and the final authority. If a unanimous decision on any such matter proves impossible, the majority shall prevail.

12. After having been selected and where necessary approved each Board Member shall sign two copies of the following declaration and make one copy available each to the Authority and to the Contractor.

BOARD MEMBER'S DECLARATION OF ACCEPTANCE

WHEREAS

a. A Contract Agreement (the Contract) for the …… project [fill in the name of project] has been signed on ……..[fill in date] between ……[name of Authority] and …….. [name of Contractor] (the Contractor).;

b. The provisions of Agreement and Dispute Resolution Board's rules and procedure provided for establishment and operation of Dispute Resolution Board (DRB).

c. The undersigned has been selected to serve as a Board Member on said Board;

NOW THEREFORE, the undersigned Board Member hereby declares as follows

1. I accept the selection as a Board Member and agree to serve on the Board and to be bound by the provisions of Contract Agreement and rules and procedure provided for establishment and operation of Dispute Resolution Board (DRB).s

2. With respect to paragraph 1 of Dispute Resolution Board's Rules and Procedure. Said Annex A, I declare

    a. that I have no financial interest of the kind referred to in subparagraph (a):
    b. that I have had no previous employment nor financial ties of the kind referred to in subparagraph (b); and
    c. that I have made to both parties any disclosures that may be required by subparagraph (b) and (c).

3. I declare that I have …… No. of Arbitrations (list enclosed) and ……. No. of DRBs (list enclosed) in progress and that I will give sufficient time for the current assignment.

BOARD MEMBER

_____
_____ [insert name of Board Member]

Date: _____

Schedule of expenses and fees payable to the Member(s) of Dispute Resolution Board (DRB)

The fee and other expenses payable to the Members of DRB shall be as under

S. No.	Particular	Amount Payable

1	Retainer-ship fee, secretarial assistance and incidental charges (telephone, fax, postage etc)	Rs.50,000/- per month for one package and maximum of Rs.75,000/- per month for 2 or more packages
2 (i)	Fee for site visit or meetings at site	Rs.25,000/- per day
(ii)	Fee for meetings/hearings not at site	Rs.10,000/- per day
3	Travelling Expenses	Economy class by Air, AC first class by train and AC taxi by road
4	Lodging & Boarding	Rs.15,000/- per day (Metro Cities); or Rs.10,000/- per day (in other cities); or Rs.5,000/- per day (own arrangement)
5	Extra charges for days other than hearing/meeting days (travel days maximum of 2 days on each occasion)	Rs.5,000/-
6	Local conveyance	Rs.2,000/-

Notes:

i. Lodging, boarding and travelling expenses will be allowed only for those members who are residing 100 Km away from the place of meeting.

ii. Delhi, Mumbai. Chennai, Kolkata, Bangalore and Hyderabad shall be considered as Metro Cities.

iii. The above schedule of fee and expenses shall be applicable on or after the date of issue of this circular.

iv. The expenses are to be shared equally by the parties i.e. Authority and Contractor.

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