

# CONCESSION AGREEMENT

BETWEEN



**NATIONAL HIGHWAYS AUTHORITY OF INDIA**  
(Ministry of Shipping, Road Transport & Highways)  
**GOVERNMENT OF INDIA**  
G-5&6, Sector-10, Dwarka, New Delhi-110 075

AND

**BANGALORE ELEVATED TOLLWAY LIMITED**  
41, Nagarjuna Hills, Punjagutta,  
Hyderabad – 500 082

FOR

CONSTRUCTION OF ELEVATED HIGHWAY PROJECT FROM SILK  
BOARD JUNCTION TO ELECTRONIC CITY JUNCTION (KM.8.765 TO  
KM.18.750) SECTION OF NH-7 ON BUILD, OPERATE AND  
TRANSFER (BOT) BASIS

**VOLUME – I/IV**

25<sup>th</sup> January, 2006

**TABLE OF CONTENTS****CHAPTER - I  
PRELIMINARY****Preamble**

- |    |                                |    |
|----|--------------------------------|----|
| 1. | Definitions And Interpretation | 6  |
| 2. | Scope Of Project               | 23 |

**CHAPTER - II  
GRANT OF CONCESSION**

- |    |                      |    |
|----|----------------------|----|
| 3. | Grant Of Concession  | 24 |
| 4. | Conditions Precedent | 26 |
| 5. | Performance Security | 28 |
| 6. | Fees                 | 29 |
| 7. | Concession Fee       | 30 |
| 8. | Additional Toll-way  | 30 |

**CHAPTER - III  
OBLIGATIONS AND UNDERTAKINGS**

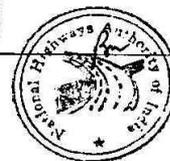
- |     |                                   |    |
|-----|-----------------------------------|----|
| 9.  | Obligations Of The Concessionaire | 32 |
| 10. | Obligations Of NHAI               | 37 |
| 11. | Representations And Warranties    | 39 |
| 12. | Disclaimer                        | 43 |

**CHAPTER - IV  
PROJECT DEVELOPMENT AND OPERATIONS**

- |     |  |    |
|-----|--|----|
| 13. | Use And Development Of The Site              | 44 |
| 14. | Monitoring And Supervision Of Construction   | 46 |
| 15. | Completion                                   | 48 |
| 16. | Tests  | 48 |
| 17. | Change Of Scope                              | 50 |
| 18. | Operation And Maintenance                    | 52 |
| 19. | Monitoring And Supervision During Operations | 58 |
| 20. | Independent Consultant                       | 59 |
| 21. | Traffic Sampling                             | 60 |

**CHAPTER - V  
FINANCING ARRANGEMENTS**

- |     |                         |    |
|-----|-------------------------|----|
| 22. | Financial Close         | 61 |
| 23. | Grants                  | 62 |
| 24. | Revenue Shortfall Loan  | 63 |
| 25. | Escrow Account          | 65 |
| 26. | State Support Agreement | 67 |
| 27. | Insurance               | 67 |
| 28. | Accounts And Audit      | 69 |



**CHAPTER – VI  
FORCE MAJEURE**

29. Force Majeure	71
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**CHAPTER – VII  
SUSPENSION AND TERMINATION**

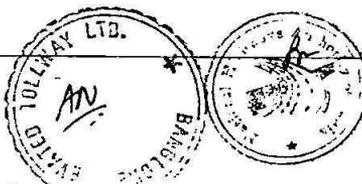
30. Material Breach And Suspension	78
31. Compensation For Breach Of Agreement	79
32. Termination	79
33. Divestment Of Rights And Interests	86

**CHAPTER – VIII  
MISCELLANEOUS**

34. Defects Liability	89
35. Assignments And Charges	90
36. Change In Law	92
37. Liability And Indemnity	93
38. Rights And Title Over The Site	96
39. Dispute Resolution	97
40. Disclosure	98
41. Redressal Of Public Grievances	99
42. Advertising On The Site	99
43. Governing Law And Jurisdiction	100
44. Miscellaneous	100

**Annexures**

- I BETL letter dt. 19/01/2005
- II Memorandum of Association and Article of Association
- III Board Resolution to sign the agreement
- IV Power of Attorney
- V Schedule H
- VI Memorandum of Understanding
- VII Clarification to the queries of pre-bid meeting
- VIII Letter Of Acceptance (LOA)
- IX Confirmation of LOA
- X Gazette Notification that Bangalore Hosur Section is handed over to NHAI



## Schedules:

II	SCHEDULE NO.	PARTICULARS
	A	SITE OF THE PROJECT
	B	SCOPE OF THE PROJECT
	C	PROJECT FACILITIES
	D	SPECIFICATION & STANDARDS
	E	APPLICABLE PERMITS
	F	BANK GUARANTEE FOR PERFORMANCE SECURITY
	G	SCHEDULE OF USER FEE
	H	PROJECT COMPLETION SCHEDULE
	I	DRAWINGS
	J	TESTS
	K	COMPLETION CERTIFICATE
	L	OPERATION & MAINTENANCE REQUIREMENTS
	M	MONTHLY FEE STATEMENT COLLECTION STATEMENT
	N	SELECTION CRITERIA FOR INDEPENDENT CONSULTANT
	O	TERMS OF REFERENCE OF INDEPENDENT CONSULTANT
	P	TRAFFIC SAMPLING
	Q	ESCROW AGREEMENT
	R	STATE SUPPORT AGREEMENT
	S	SAFETY REQUIREMENTS
	T	CRITERIA FOR LIST OF CHARTERED ACCOUNTANTS
	U	SUBSTITUTION AGREEMENT
	V	VESTING CERTIFICATE
	W	PASSENGER CAR UNIT FACTORS
	X	REPORTING AND RECORD REQUIREMENTS
	Y	PROJECTED CASH FLOWS



दिल्ली DELHI

**Concession Agreement**

This Agreement is entered into on this the 25<sup>th</sup> day of January, 2006

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BETWEEN

1. **NATIONAL HIGHWAYS AUTHORITY OF INDIA**, a statutory body constituted under the provisions of the National Highways Authority of India Act, 1988, and having its principal office at G-5 & 6, Sector-10, Dwaraka, New Delhi-110075 (hereinafter referred to as "NHAI" which expression shall unless repugnant to the context or meaning thereof including its administrators, successors and assigns) of One Part,

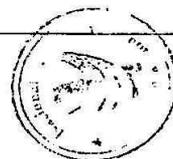
AND

2. **M/s Bangalore Elevated Tollway Limited**, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 41, Nagarjuna Hills, Hyderabad-500 082 (hereinafter referred to as the "Concessionaire" or "Company" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted substitutes) of the Other Part.

**WHEREAS**

- A. NHAI is responsible for development and maintenance of sections of National Highways in India, which are entrusted to it by Ministry of Shipping Road Transport & Highways (MoSRT&H).
- B. The existing Bangalore-Hosur section of the National Highway No. 7 (NH 7) is a 4-lane road and is the main access road to a number of large business units in the Electronic City area ("E-City") located near km 18 of NH-7.
- C. NHAI has decided to take up capacity improvement of NH 7 between km 8/765 to km 33/130, involving the following activities:
  - (i) construction of a 4-lane elevated highway between km 9/5 and 18/750
  - (ii) improvement of the at grade section between km 8/765 and km 18/750 including construction of six numbers of underpasses as specified in **Schedule B**.
  - (iii) expansion of the section between km 18/750 to km 33/130 to six lanes.

through private sector participation on Build Operate and Transfer (BOT) basis wherein the selected private developer would be required to carry out activities



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18 JAN 2005

Banglore Elevated Tollway Ltd  
Hyderabad



under (i) and (ii) above and maintain the same i.e., the elevated highway and at grade section (including underpasses) between km 8/765 to km 18/750 and also maintain the section between km 18/750 to km 33/130. The detailed scope of the Project is set out in **Schedule B**.

D. NHAH had accordingly invited Proposals for shortlisting of bidders for the aforesaid under its Notice inviting Proposals No NHAH/GM(MCIII) dated 29/12/2004("the Tender Notice"), inter alia, for the Project Highway on BOT basis subject to and on the terms and conditions contained in the Tender Notice and had pursuant thereto shortlisted certain bidders including, inter alia, the consortium comprising M/s Soma Enterprise Ltd, M/s Nagarjuna Construction Co. Ltd and M/s Maytas Infra Pvt. Ltd..

E. After evaluation of the proposals so received, NHAH accepted the Proposal of the Consortium and issued its Letter of Acceptance No NHAH/GM(MCIII)/Elevated Highway/440 dated 16/11/2005 ("LOA") to the Consortium requiring, inter alia, the execution of this Concession Agreement within 30 (thirty) days of the date thereof.

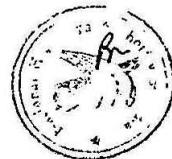
F. The Consortium has promoted and incorporated the Concessionaire as a limited liability company to enter into this Concession Agreement pursuant to the LOA for undertaking, inter alia, the design, engineering, financing, procurement, construction, operation and maintenance of the Project Highway, as defined hereinafter on BOT basis and to fulfill other obligations of the Concessionaire pursuant to the LOA and has requested NHAH to accept the Concessionaire as the entity which shall undertake and fulfill and perform the obligations and exercise the rights of the Consortium under the LOA, including the obligation to enter into this Concession Agreement for the design, engineering, financing, procurement, construction, operation and maintenance of the Project Highway on BOT basis.

G. NHAH has agreed to the said request of the Consortium and has accordingly agreed to enter into this Concession Agreement with the Concessionaire pursuant to the LOA for, inter alia, the design, engineering, financing, procurement, construction, operation and maintenance of the said Project Highway on BOT basis.

H. It is deemed necessary and expedient to enter into this Agreement to record the terms of the said Agreement between the Parties.

NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

AN



## I DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

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 1<sup>st</sup> April of any calendar year and ending on 31<sup>st</sup> March of the next calendar year.

“Additional Facilities” means the facilities which the Concessionaire may provide or procure for the benefit of the users of the Project Highway and which are (i) in addition to the Project Facilities, and (ii) not situated on the Site.

“Affected Party” shall have the meaning set out in Clause 29.1.

“Agreement” means this Agreement, the Schedules ‘A’ through ‘Y’ hereto and any amendments thereto made in accordance with the provisions contained in this Agreement.

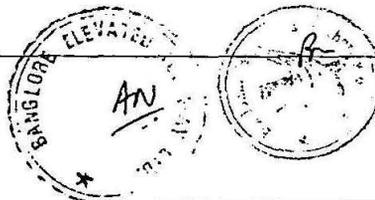
“Applicable Laws” means all laws, promulgated or brought into force and effect by GOI or GOK including regulations and rules made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

“Applicable Permits” means all clearances, permits, authorisations, consents and approvals required to be obtained or maintained under Applicable Laws in connection with the design, engineering, financing, procurement, construction, operation and maintenance of the Project Highway during the subsistence of this Agreement.

“Appointed Date” means the date 180 days from signing of this Agreement and shall be deemed to be the date of commencement of the Concession Period.

“Arbitration Act” means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof as in force from time to time.

“Associates” means in relation to either Party and/or Consortium Members, a person who controls, is controlled by, or is under the common control with such



Party or Consortium Member. As used in this definition, the expression "control" means with respect to a person which is a corporation, the ownership, directly or indirectly, of more than 50% of the voting shares of such person, and with respect to a person which is not a corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise.

"Bank" means a bank incorporated in India and having a minimum net worth of Rs.10,000 million (Rupees ten thousand million) and having a branch in the proximity of the Project or at any other place acceptable to NHAI.

"Bid Security" means the security provided by the Bidder to NHAI along with the Proposal in the sum of Rs. 45 million (Rupees Forty Five Million) in accordance with the Tender Notice and which is to remain in force until substituted by the Performance Security.

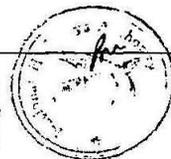
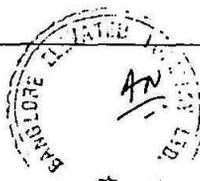
"Bidder" means the single entity/Consortium referred to in Recital 'C' above.

"COD" means the commercial operations date of the Electronic City Section and shall be the date on which the Independent Consultant has issued the final Completion Certificate or the Provisional Certificate upon completion of the Electronic City Section in accordance with this Agreement.

"Change in Law" means the occurrence of any of the following after the date of this Agreement:

- i. the enactment of any new Indian law or its applicability over any area where it was not applicable;
- ii. the repeal, modification or re-enactment of any existing Indian law;
- iii. the commencement of any Indian law which has not entered into effect until the date of this Agreement;
- iv. a change in the interpretation or application of any Indian law by a court of record as compared to such interpretation or application by a court of record prior to the date of this Agreement; or
- v. any change in the rates of any of the Taxes.

"Change of Scope" shall have the meaning ascribed thereto in Clause 17.1.



"Company" means the Company acting as the Concessionaire under this Agreement.

"Completion Certificate" means the Certificate issued by the Independent Consultant pursuant to Clause 16.4.

"Concession" shall have the meaning ascribed thereto in Article III.

"Concession Fee" shall have the meaning ascribed thereto in Article VII.

"Concession Period" means the period beginning from the Appointed Date and ending on the Termination Date.

"Concessionaire" means M/S Soma -NCC-Maytas Consortium and its successors and substitutes expressly approved in writing by NHAI.

"Consortium" shall have the meaning set forth in Recital 'D' above.

"Consortium Members" means M/s Soma Enterprise Ltd, M/s Nagarjuna Construction Co. Ltd and M/s Maytas Infra Pvt. Ltd.

"Construction Period" means the period beginning from the Appointed Date and ending on the COD.

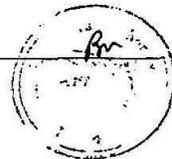
"Construction Works" means all works and things necessary to complete the Electronic City Section for use of the traffic and other users thereof in accordance with this Agreement.

"Contractor" means the contractor or contractors, if any, with whom the Concessionaire has entered into all or any of the Project Agreements.

"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 upon failing of which the Agreement may be terminated by the other Party.

"Damages" shall have the meaning ascribed thereto in Clause 1.2(p).

"Debt Due" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding and payable to the Senior Lenders under the Financing Documents:



- (i) the principal amount of the debt provided by the Senior Lenders under the Financing Documents for financing the Project (the "principal") which is outstanding as on the Termination Date but excluding any part of the principal that had fallen due for repayment one year prior to the Termination Date unless such repayment had been rescheduled with the prior consent of NHAI; and
- (ii) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-clause (i) above upto the date preceding the Termination Date but excluding (a) any interest, fees or charges that had fallen due one year prior to the Termination Date, and (b) penal interest or charges, payable under the Financing Documents to any Senior Lender.

"Debt Service Payments" means the sum of all principal and interest payments due and payable in an Accounting Year to the Senior Lenders under the Financing Documents.

"Development Period" means the period from the date of this Agreement until the Appointed Date.

"Dispute" shall have the meaning set forth in Clause 39.1(a).

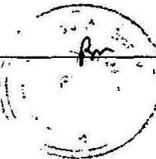
"Dispute Resolution Procedure" means the procedure for Dispute resolution set forth in Article XXXIX.

"Divestment Requirements" means the obligations of the Concessionaire and NHAI for and in respect of the Termination of this Agreement as set forth in Article XXXIII.

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

"Drawings" means all the drawings, calculations and documents pertaining to the Electronic City Section as set forth in Schedule 'B & I' and shall include "as built" drawings of the Electronic City Section.

"Electronic City Section" means section of NH 7 between km 8/765 to km 18/750 and two vehicular underpasses in Km. 18/750 - 33/130.



“EPC Contract” means contract or contracts entered into by the Concessionaire with one or more Contractors for the design, engineering, procurement of materials and equipment, construction, and completion of the Electronic City Section in accordance with the provisions of this Agreement.

“Emergency” means a condition or situation that is likely to endanger the 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.

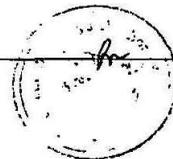
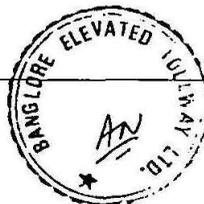
“Encumbrances” means any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project Highway, physical encumbrances and encroachments on the Site where applicable herein.

“Equity” means the sum expressed in Indian Rupees representing the equity share capital or any form of preference share capital of the Company and shall include any interest free funds advanced by the Consortium Members for meeting the equity component of the project cost. However, for determining Termination Payments under this Agreement, Equity shall be reckoned as an amount that is arrived at after excluding from Equity of the Company the sum by which actual capital cost of the Project exceeds the Total Project Cost. It is expressly agreed that any amount contributed as Equity shall be treated as Equity through out the Concession Period even if it has some debt like characteristics for some period of time. It is expressly agreed that Equity shall be computed in Rupees only and for this purpose any Equity contribution in any foreign currency shall be the actual Rupees as received by the Concessionaire if remitted to it. Further, for computing Termination Payments, Equity shall mean the amount actually contributed by the Concessionaire and shall not include Grant.

“Escrow Account” means an Account which the Concessionaire shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement.

“Escrow Agreement” shall have the meaning ascribed thereto in Clause 25.2.

“Exempted Vehicles” as listed in Schedule G.



"Fee" means the charge levied on and payable for a vehicle using the Project Highway in accordance with the Fee Notification and this Agreement.

"Fee Notification" means the Notification to be issued by GOI in exercise of the powers conferred by Section 8(A) of the National Highway Act, 1956 in respect of the levy and collection of the Fees and a copy of which is at Schedule "G" and includes any such subsequent notifications issued from time to time to give effect to the provisions of this Agreement.

"Financial Close" means the date on which the Financing Documents providing for funding by the Senior Lenders have become effective and the Concessionaire has immediate access to such funding under the Financing Documents.

"Financing Documents" means the documents executed by the Concessionaire in respect of financial assistance (including refinancing) for the Project to be provided by the Lenders by way of loans, advances, subscription to debentures and other debt instruments and guarantees, risk participation, take-out financing or any other form of credit enhancement and shall include loan agreements, guarantee agreements, subscription agreements, notes and any documents providing security for such financial assistance, and includes amendments or modifications made thereto in accordance with Clause 9.1(iv).

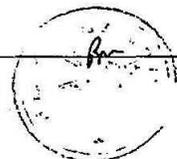
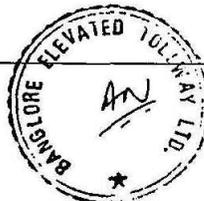
"Financing Package" means the financing package of the Project furnished by the Concessionaire along with its Proposal indicating the Total Project Cost and the means of financing thereof and shall be deemed to have been modified to the extent as submitted to the Senior Lenders and as approved by the Senior Lenders for the purposes of funding of the Project.

"Force Majeure" or "Force Majeure Event" shall mean an act, event, condition or occurrence specified in Article XXIX.

"GOI" means the Government of India.

"GOK" means the Government of the State of Karnataka.

"Good Industry Practice" means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and acting generally in accordance with the provisions of the NH Act, and would mean



good engineering practices in the design, engineering, construction and project management and which would be expected to result in the performance of its obligations by the Concessionaire and in the operation and maintenance of the Project Highway in accordance with this Agreement, Applicable Laws, Applicable Permits, reliability, safety, environment protection, economy and efficiency.

“Governmental Agency” means GOI, GOK or any ministry, department, commission, board, authority, instrumentality or agency, under the control of GOI or GOK 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 Concessionaire under or pursuant to this Agreement.

“Grant” means one-third amount of the Project Support, to be released by NHAI to the Concessionaire as per Clause 23.1.

“Hosur Section” means section of NH 7 between km 18/750 to km 33/130.

“Indemnifying Party” means the Party obligated to indemnify the other Party pursuant to Article XXXVII.

“Independent Consultant” shall have the meaning ascribed thereto in Clause 20.1.

“Indirect Political Event” shall have the meaning ascribed thereto in Clause 29.3.

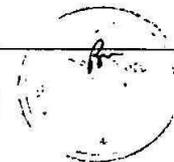
“Lenders’ Representative” means the person(s) duly authorised by the Senior Lenders to deal with the Parties to the Agreement with regard to the issues arising out of and contained in this Agreement.

“Maintenance Manual” shall have the meaning ascribed to it in Clause 18.2.

“Maintenance Programme” shall have the meaning ascribed to it in Clause 18.3.

“Material Adverse Effect” means 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

“Material Breach” means a breach by either Party of any of its obligations in this Agreement which shall be deemed to have a Material Adverse Effect on the Project and which it shall have failed to cure within the Cure Period.



“NHAI Representative” means such person or persons as may be authorised in writing by NHAI to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfill any obligations of NHAI under this Agreement.

“Negative Grant” means the sum of money payable by the Concessionaire to NHAI on date of Financial Close.

“Net Cash Flow” means in any Accounting Year revenue income less tax payments, O&M Expense, Concession Fee, Project Support, Negative Grant and Debt Service Payments to Senior Lenders.

“NHAI Subordinated Debt” means one-third amount of the Project Support, to be released by NHAI to the Concessionaire as per Clause 23.1.

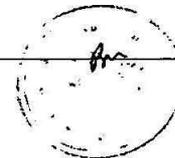
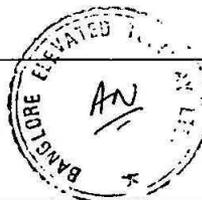
“Non Political Event” shall have the meaning ascribed thereto in Clause 29.2.

“O&M” means the operation and maintenance of the Project Highway during the Operations Period and includes but is not limited to functions of maintenance, collection and appropriation of Fees and performance of other services incidental thereto.

“O&M Contract” means the Operation and Maintenance Contract that may be entered into between the Concessionaire and the O&M Contractor for O&M of the Project Highway. .

“O&M Contractor” means the person or entity with whom the Concessionaire has entered into an O&M Contract for discharging O&M functions for and on behalf of the Concessionaire.

“O&M Expense” means expenses incurred by or on behalf of the Concessionaire duly certified by its Statutory Auditors or by NHAI, as the case may be, for all regularly scheduled and reasonably anticipated O&M during Operations Period, including, without limitation (a) all cost of salaries and other employee compensation and contract fee payable to the O&M Contractor, if any (b) cost of materials, supplies, utilities and other services (c) premia for insurance (d) all franchise, excise, property and other similar taxes and all costs and fees incurred in order to obtain and maintain all Applicable Permits necessary for the O&M of the Project Highway at its full design capacity, (e) all repair, replacement and maintenance costs of the Project Highway, and (f) all other expenditures required



to be incurred under Applicable Law or under Applicable Permits necessary for the operation and maintenance of the Project Highway according to the Specifications and Standards at its full design capacity.

“O&M Works” means all works necessary to keep the Project Highway in operation during the Operations Period.

“Operations Period” means the period commencing from COD and ending on the Termination Date.

“PCU” shall have the meaning ascribed to the passenger car unit in the ‘Indian Roads Congress’, Publication No.IRC-106, 1990, a true copy of which is at Schedule ‘W’, and for the purposes of this Agreement refers only to such PCUs which pay Fees in accordance with the Fee Notification.

“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the Parties to this Agreement individually.

“Performance Security” shall have the meaning ascribed thereto in Clause 5.1

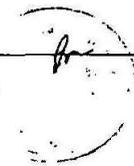
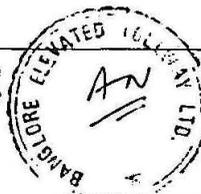
“Political Event” shall have the meaning ascribed thereto in Clause 29.4.

“Preliminary Notice” shall have the meaning attributed thereto in Clause 32.1.2.

“Project” means the development, design, financing, procurement, engineering and construction, operation and maintenance of the Electronic City Section and operation and maintenance of the Hosur Section in accordance with the provisions of this Agreement and shall include all works relating to or in respect of the Project Highway as described in Article II.

“Project Agreements” means this Agreement, the Financing Documents, the EPC Contract, if any, the O&M Contract, if any, the Tolling Contract, if any, and any other agreements or contracts entered into by the Concessionaire with NHAI or others relating to the Project during the subsistence of this Agreement.

“Project Assets” means all physical and other assets relating to and forming part of the Electronic City Section during Concession Period and Hosur Section from COD till Termination Date including but not limited to (i) rights over the Site in the form of license, right of way or otherwise, (ii) tangible assets such as civil works including the foundation, embankments, pavements, road surface,



interchanges, bridges, approaches to bridges and flyovers, road overbridges, drainage works, lighting facilities, traffic signals, sign boards, milestones, toll plazas, equipment for the collection of tolls or relating to regulation of traffic, electrical works for lighting on the Electronic City Section during Concession Period and Hosur Section from COD till Termination Date, telephone and other communication systems and equipment for the Project, rest areas, administration and maintenance depots, relief centers, service facilities etc. (iii) Project Facilities situated on the Site (iv) the rights of the Concessionaire under the Project Agreements, (v) financial assets, such as security deposits for electricity supply, telephone etc. (vi) insurance proceeds and (vii) Applicable Permits and authorisations relating to or in respect of the Electronic City Section during Concession Period and Hosur Section from COD till Termination Date, but does not include Additional Facilities.

“Project Completion” shall have the meaning ascribed thereto in Clause 15.1.

“Project Completion Schedule” means the progressive Project milestone set forth in Schedule ‘H’ for the realization of the Project Highway complete in all respects by the Scheduled Project Completion Date.

“Project Facilities” means all the amenities and facilities situated on the Site, as described in Schedule ‘C’.

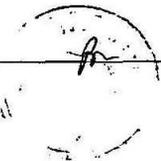
“Project Highway” means Electronic City Section and Hosur Section and shall include the Project Assets and the Project Facilities to be designed, engineered and built on Site and to be operated and maintained during the Concession Period in accordance with the provisions of this Agreement.

“Project Support” shall mean the amount to the maximum extent to be granted by NHAI to the Concessionaire for the Project as per Clause 23.1.

“Proposal” means the documents in their entirety comprised in the proposal submitted by the Bidder in response to the Tender Notice in accordance with the provisions thereof.

“Provisional Certificate” shall have the meaning ascribed to it in Clause 16.5.

“Punch List” shall have the meaning ascribed to it in Clause 16.5.



"RBI" means the Reserve Bank of India as constituted and existing under the Reserve Bank of India Act, 1946 including any statutory modification or replacement thereof, and its successors etc.

"Realisable Fee" means all the Fees due and realisable under this Agreement but does not include Fees that the Concessionaire has not been able to realise after due diligence and best efforts.

"Revenue Shortfall Loan" shall have the meaning ascribed to it in Clause 24.1.

"Rs." Or "Rupees" means the lawful currency of the Republic of India.

"SBI PLR" means the prime lending rate per annum for loans with 1(one) year maturity as fixed from time to time by the State Bank of India, and in the absence of such rate, the average of the prime lending rates for loans with 1(one) year maturity fixed by the Bank of India and the Bank of Baroda and failing that any other arrangement that substitutes such prime lending rate as mutually agreed between the Parties.

"Scheduled Project Completion Date" shall have the meaning set forth in Clause 15.3.

"Senior Lenders" means the financial institutions, banks, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all or any part of the Project and who hold pari passu charge on the Concession granted by this Agreement.

"Site" means the real estate licensed by NHAI to the Concessionaire under and in accordance with this Agreement on which the Project Highway is situated.

"Specifications and Standards" means the specifications and standards relating to the quality, capacity and other requirements for the Project Highway as set forth in Schedule 'D' and any modifications thereof, or additions as included in the design and engineering for the Project Highway submitted by the Concessionaire to and expressly approved by NHAI.

"State Support Agreement" means the agreement to be entered into between the GOK, NHAI and the Concessionaire substantially in the form set forth in Schedule



'R' for provision of support, backup and services required from GOK for the performance of Concessionaire's obligations under this Agreement.

"Statutory Auditors" means an independent, recognized and reputable firm of Chartered Accountants duly licensed to practice in India acting as independent statutory auditors of the Concessionaire under the provisions of the Companies Act, 1956 including any statutory modification or re-enactment or replacement thereof, for the time being in force, and appointed in accordance with Clause 28.2.

"Subordinated Debt" means any borrowings by the Concessionaire subordinated to the financial assistance provided by the Senior Lenders for meeting the Total Project Cost but does not include any interest thereon.

"Subsistence Revenue Level" means the total amount of Fee revenue that is required by the Concessionaire in an Accounting Year to meet the sum of (a) the O&M Expense subject to an annual ceiling of 1.5% (one and a half percent) of the Total Project Cost in the first operations year, to be revised each year to reflect the variations in the WPI in each subsequent years and (b) Debt Service Payments due to the Senior Lenders in an Accounting Year.

"Substitution Agreement" means the agreement referred to in Article XXXV and to be entered into among the Concessionaire, NHAI and the Senior Lenders in the form set forth in Schedule 'U' providing, inter alia, for the substitution of the Concessionaire by any other person subject to and in accordance with the provisions of this Agreement and the Substitution Agreement.

"Taxes" means any Indian taxes on corporate income, Sales tax, excise duties, customs duties and local taxes and any impost of like nature (whether Central, State or local) charged, levied or imposed on the goods, materials, equipment and services incorporated in and forming part of the Project Highway, on the construction, operation and maintenance thereof and on the Project Assets, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever.

"Termination" means the expiry or termination of this Agreement and the Concession hereunder.

"Termination Date" means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice.



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

"Termination Payment" means the amounts payable by NHAI to the Concessionaire under this Agreement upon the Termination of this Agreement and shall consist of payments relating to Debt Due, Subordinated Debt and Equity, as the case may be, and such other amounts as are expressly provided for under this Agreement. Provided, however, that for purposes of determining Termination Payments to be made by NHAI under this Agreement, the capital cost of the Project Highway shall at all times be reckoned as an amount not exceeding the Total Project Cost and the liability of NHAI to make such Termination Payments relating to Debt Due, Subordinated Debt and Equity shall be determined as if such capital cost was restricted to Total Project Cost.

"Tests" mean the tests to be carried out as set forth in and in accordance with Schedule 'J' to determine the Project Completion and its certification by the Independent Consultant for commencement of commercial operation of the Project Highway.

"Toll Plaza" means the structures and barriers erected on the Project Highway for the purpose of regulating the entry/exit of vehicles in accordance with the provisions of this Agreement.

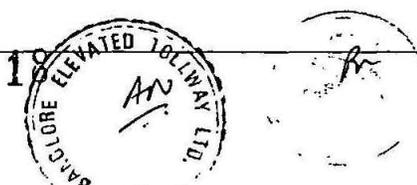
"Tolling Contract" means the contract, if any, entered into by the Concessionaire with the Tolling Contractor for operation of the Toll Plazas including collection of Fees for and on behalf of the Concessionaire.

"Tolling Contractor" means the person, if any, with whom the Concessionaire has entered into a Tolling Contract for operation of Toll Plazas and collection of Fees for and on behalf of the Concessionaire.

"Total Project Cost" means the lowest of the following:

- a. a sum of Rs. 4,500 million;
- b. actual capital cost of the Project upon completion of the Project Highway as certified by the Statutory Auditors; or
- c. total project cost as set forth in Financing Documents.

Provided further that if part of the Total Project Cost is funded in foreign currency, in accordance with the Financing Package, then the rate of exchange shall be determined as on the date of Proposal, and the Total Project Cost shall be computed



as if such foreign currency were converted with reference to such exchange rate. In the event of Termination of this Agreement requiring NHAI to make Termination Payments, the liability of NHAI shall be determined on basis of the rate of exchange prevailing on the date of Termination Notice and the amounts payable by NHAI for Debt Due and Subordinated Debt, as the case may be, shall be computed accordingly.

"Vesting Certificate" shall have the meaning attributed to it in Clause 33.4.

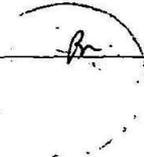
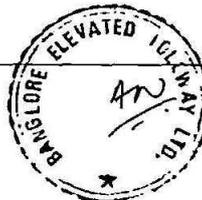
"WPI" means the wholesale price index published by the Ministry of Industry, GOI and shall include any index, which substitutes the WPI.

1.2 In this Agreement, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) references to Indian law shall include the laws, acts, ordinances, rules, regulations, or bye laws which have the force of law in any State or Union Territory forming part of the Union of India;
- (c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (d) the headings are for convenience of reference only and shall not be used in and shall not affect the construction or interpretation of this Agreement;
- (e) terms and words beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein and the terms and words defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules;
- (f) the words "include" and "including" are to be construed without limitation;
- (g) references to "construction" include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation,



- installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (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) any reference to month shall mean a reference to a calendar month;
- (k) the Schedules 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;
- (l) 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, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this clause shall not operate so as to increase liabilities or obligations of NHAI hereunder or pursuant hereto in any manner whatsoever;
- (m) references to Recitals, Articles, Clauses, Sub-clauses, Paragraphs, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, Clauses, Sub-clauses, paragraphs, and Schedules of or to this Agreement;
- (n) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Consultant shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or the Independent Consultant, as the case may be, in this behalf and not otherwise;
- (o) 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;
- (p) 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

- (q) unless otherwise expressly provided in this Agreement any Documentation required to be provided or furnished by the Concessionaire to NHAI and/or the Independent Consultant shall be provided free of cost and in three copies and if NHAI and/or the Independent Consultant are required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.3 Measurements and Arithmetic Conventions

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

1.4 Priority of contract documents and errors/discrepancies

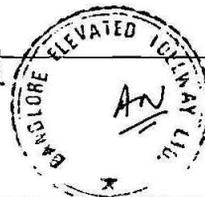
1.4.1 The several documents forming this Agreement are to be taken as mutually explanatory to one another and, unless otherwise expressly provided elsewhere in this Agreement, the priority of the following documents shall in the event of any conflict between them be in the order they are set out:

- (i) this Agreement
- (ii) all other documents forming part of this Agreement

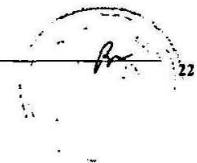
i.e. document at (i) above shall prevail over the documents at (ii) above.

1.4.2 In case of ambiguities or discrepancies within this Agreement the following shall apply:

- (i) between two Clauses of this Agreement, the provisions of the specific clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (ii) Between the Clauses and the Schedules, the Clauses shall prevail save as otherwise expressly set forth in Clause 1.4.1;



- (iii) Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- (iv) Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;
- (v) Between any value written in numerals and that in words, the latter shall prevail.



## II SCOPE OF PROJECT

2.1 The Project shall be executed on the Site, which is described in Schedule 'A' of this Agreement. The scope of the Project shall include :-

- (a) performance and execution by the Concessionaire of all design, engineering, financing, procurement, construction, completion, operation and maintenance of the Electronic City Section during Concession Period as described in Schedule 'B' of this Agreement and
- (b) operation and maintenance of the Hosur Section from COD till Termination Date or upon handing over of the same by NHAI to the Concessionaire, whichever is later, in accordance with the conditions set out in this Agreement.

It shall include improvements at ground level including construction of underpass and construction of elevated highway in Electronic City section and HTMS in Km. 8/765 to Km. 33/130 of NH-7 in accordance with the Specifications and Standards set forth in Schedule 'D' and operation and maintenance thereof in accordance with Schedule 'L'. It shall also include the performance and fulfillment of other obligations by the Concessionaire under this Agreement.

The Concessionaire shall undertake its obligations at its own cost and risk.



## CHAPTER – II

## GRANT OF CONCESSION

## III. GRANT OF CONCESSION

- 3.1 Subject to and in accordance with the terms and conditions set forth in this Agreement, NHAI hereby grants to the Concessionaire and the Concessionaire hereby accepts the Concession for a period of 20 Years (Twenty years) years commencing from the Appointed Date, including the exclusive right, licence and authority during the subsistence of this Agreement to implement the Project and the Concession in respect of the Project Highway.
- 3.2 Subject to and in accordance with the terms and conditions set forth in this Agreement, the Concession hereby granted shall entitle the Concessionaire to enjoy, and oblige the Concessionaire to undertake the following in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits:
- i to develop, design, engineer, finance, procure, construct, operate and maintain the Electronic City Section and operate and maintain the Hosur Section during the Concession Period;
  - ii upon completion of the Project Highway and during the Operations Period to manage, operate & maintain the Project Highway and regulate the use thereof by third parties;
  - iii levy, demand, collect and appropriate the Fees from vehicles and persons liable to payment of Fees for using the Project Highway or any part thereof and refuse entry of any vehicle to the Project Highway if the due Fee is not paid;
  - iv levy, collect and retain advertising revenues subject to the Concessionaire adhering to the conditions stipulated by NHAI.
  - v perform and fulfill all of the Concessionaire's obligations under this Agreement;
  - vi bear and pay all expenses, costs and charges incurred in the fulfillment of all the Concessionaire's obligations under this Agreement ;and



vii not assign or create any lien or Encumbrance on the Concession hereby granted on the whole or any part of the Project Highway nor transfer, lease or part possession therewith save and except as expressly permitted by this Agreement or the Substitution Agreement.

3.3. The Concession Period shall commence on the Appointed Date and shall end on the Termination Date.



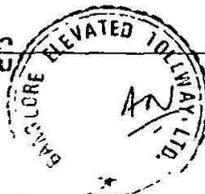
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## IV. CONDITIONS PRECEDENT

## 4.1 Conditions Precedent

Save and except as provided in Articles IV, V and XXII, the rights and obligations of the Concessionaire under this Agreement are subject to the satisfaction in full of the following conditions precedent to be fulfilled on or before Financial Close unless any such condition has been waived as provided in Clause 4.2:

- (a) Concessionaire shall have obtained all such Applicable Permits as listed in Schedule 'E' unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Applicable Permits are and shall be kept in full force and effect for the relevant period during the subsistence of this Agreement;
- (b) the Concessionaire shall have been granted way leaves required in connection with the Project including:
  - (i) right of way of the existing alignment of the Project Highway free from all Encumbrances as set out in Schedule H;
  - (ii) rights of way from public roads to the Site; and
  - (iii) permission/licence to enter upon and utilise the Site for the construction pursuant to and in accordance with this Agreement.
- (c) The concessionaire shall have obtained all Central Government clearances and permits under the applicable laws relating to environmental protection and conservation from the Ministry of Environment and Forest.
- (d) the Concessionaire shall have entered into the State Support Agreement with NHAI and the GOK;
- (e) certified true copies of all Project Agreements, in particular, the Financing Documents, the EPC Contract, O&M Contract, if any and the Tolling Contract, if any, as well as the shareholders funding agreement have been delivered by the Concessionaire to NHAI;
- (f) the Performance Security in full has been provided by the Concessionaire to NHAI in accordance with Clause 5.1;



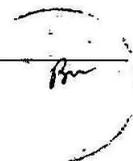
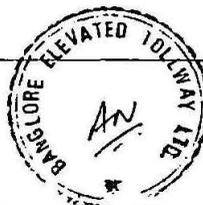
- (g) all of the representations and warranties of the Concessionaire set forth in Article XI are true and correct as on date of this Agreement and as on the Appointed Date;
- (h) NHAI shall have received from the Concessionaire copies (certified as true copies by an authorised officer of the Concessionaire) of the constitutional documents of the Concessionaire;
- (i) NHAI shall have received copies (certified as true copies by a Director of the Concessionaire) of all resolutions adopted by the Board of Directors of the Concessionaire authorising the execution, delivery and performance by the Concessionaire of this Agreement and each of the Project Agreements;
- (j) NHAI shall have received from the Indian legal counsel of the Concessionaire a legal opinion with respect to the authority of the Concessionaire to enter into this Agreement and the Project Agreements and the Financing Documents and the enforceability of the provisions thereof;
- 4.2 Any of the conditions precedent set forth in Clause 4.1, save and except condition of Sub-clause (b) and (c) thereof, may be waived fully or partially by NHAI at anytime in its sole discretion.
- 4.3 **Obligation to Satisfy the Conditions Precedent.**
- The Concessionaire shall make all reasonable endeavors to procure the satisfaction in full of the Conditions Precedent set out in Clause 4.1 above and NHAI shall make all reasonable endeavor to procure fulfillment of the conditions set forth in Sub-clauses (b), (c) and (d) of Clause 4.1. Each Party shall bear its respective cost and expense of satisfying such Condition Precedent unless otherwise expressly provided.
- 4.4 If the Conditions Precedent set forth in Clause 4.1 have not been satisfied on or before the Financial Close and the NHAI has not waived, fully or partially, such conditions under Clause 4.1, NHAI may, notwithstanding anything to the contrary contained in this Agreement, terminate this Agreement in accordance with provisions of Clause 32.2 without being liable in any manner whatsoever to the Concessionaire and forfeit the Bid Security and/or the Performance Security by way of Damages, provided that where NHAI does not fulfill its obligations under



Clause 4.3 and terminates this Agreement under this Clause 4.4, it shall refund in full Bid Security or the Performance Security, as the case may be.

## V. PERFORMANCE SECURITY

- 5.1 The Concessionaire shall for due and faithful performance of its obligations during the Construction Period provide to NHAI a bank guarantee from any Bank in the form set forth in Schedule 'F' (the "Performance Security") for a sum equivalent to Rs. 90 million (Rupees Ninety million) on or before signing of this Agreement.
- 5.2 The Performance Security shall be released by NHAI to the Concessionaire upon contribution of the Equity (excluding Equity Support, if any) by the shareholders of the Concessionaire to the extent of 100% and upon the Concessionaire having expended on the Project and paid out an aggregate sum of not less than 20% (twenty percent) of the Total Project Cost as certified by the Statutory Auditors of the Concessionaire and provided the Concessionaire is not in breach of this Agreement. If the Concessionaire is in breach of this Agreement, the Performance Security shall be continued till the COD or until the breach is cured; whichever is earlier.
- 5.3 In the event of the Concessionaire being in default in the due and faithful performance of its obligations under this Agreement and failing to remedy such default within the Cure Period, the NHAI shall without prejudice to its other rights and remedies hereunder be entitled to encash and appropriate the Performance Security as Damages for such default. Upon such encashment and appropriation of the Performance Security, NHAI shall grant a period of 15 (fifteen) days to the Concessionaire to provide fresh Performance Security and the Concessionaire shall within the time so granted furnish to NHAI such Performance Security failing which NHAI shall be entitled to Terminate this Agreement under clause 32.2. The provision set forth in Clause 5.2 and this Clause 5.3 shall apply mutatis-mutandis to such fresh Performance Security.
- 5.4 Notwithstanding anything to the contrary contained in clause 5.3, upon furnishing of fresh Performance Security in accordance with clause 5.3, the Concessionaire shall be granted an additional period of 60 (Sixty) days as Cure Period for remedying the defaults and complying with his obligations under this Agreement. In the event of the Concessionaire continuing to be in breach of the provisions of this Agreement after such Cure Period, NHAI shall be entitled to terminate this Agreement under the provisions of Clause 32.2.



## VI. FEES

- 6.1 The Concessionaire shall be entitled during the Operations Period to levy, demand and collect the Fees from the users of the Project Highway pursuant to and in accordance with the Schedule of User Fee set forth in Schedule 'G' and this Agreement and to appropriate the same. Provided, however, that such Fee shall be rounded off to the nearest five rupees for ensuring ease of payment and collection.
- 6.2 NHAI undertakes that it will arrange for issuance of the Fee Notification as per Schedule "G" by MoSRT&H and publication of the same atleast 90 days prior to the COD.. However, the Concessionaire shall inform NHAI about the proposed COD six months prior to COD.
- 6.3 The Concessionaire acknowledges that the Fee Notification, inter alia, provides for annual revision in the Fees as per the Fee Notification, and hereby confirms that save and except as provided in the Fee Notification, the Concessionaire is not entitled to and shall not seek any relief whatsoever from NHAI, GOI or GOK on account of increase or otherwise in WPI or on any other account except in accordance with the express provisions of this Agreement.
- 6.4 It shall issue appropriate passes or make refunds in a manner that minimises the inconvenience to Local Traffic consistent with the Concessionaire's need to prevent any leakage of Fees. For complying with the provisions of this Clause, the Concessionaire shall formulate, publish and implement an appropriate scheme and carry out such modifications and improvements to such scheme as may reasonably be suggested by NHAI or required by local circumstances from time to time in conformity with the objectives of this Agreement. Provided, however, that if a separate service lane is opened for free use by Local Traffic, the Concessionaire shall levy and collect Fees from such Local Traffic if they use the Project Highway.
- 6.5 Concessionaire shall issue to NHAI vehicle passes on an annual basis for a period of 10 (ten) years from COD in accordance with the detailed list of vehicle registration numbers provided by NHAI. Such vehicle passes shall be issued within 30 (Thirty) days of receipt of the list from NHAI. The value of the vehicle passes shall be calculated as follows:

Year after COD	Vehicle Pass Amount
Year 1	x
Year 2	1.1x



Year after COD	Vehicle Pass Amount
Year 3	1.21x
Year 4	1.33x
Year 5	1.46x
Year 6	1.61x
Year 7	1.77x
Year 8	1.95x
Year 9	2.14x
Year 10	2.36x

where 'x' is an amount such that the net present value of the vehicle passes issued over the period of 10 years from COD discounted @ 7% is equal to one-third of the Project Support calculated as on the Appointed Date.

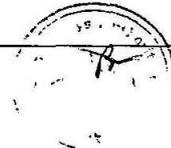
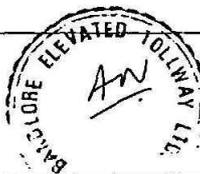
- 6.6 The Concessionaire shall not collect any Fees in relation to Exempted Vehicles.
- 6.7 The Fees collected by the Concessionaire pursuant hereto shall be deposited in the Escrow Account and appropriated in accordance with the provisions of Article XXV.
- 6.8 The Concessionaire may delegate its right to collect Fees to the O&M Contractor or the Tolling Contractor or to any other person provided, however, that notwithstanding such delegation, the Concessionaire shall be and remain solely liable and responsible for the collection of Fees in accordance with this Agreement and its deposit into the Escrow Account.

## VII CONCESSION FEE

- 7.1 In consideration of the grant of Concession under this Agreement, the Concession Fee payable by the Concessionaire to the NHAI shall be Re.1.00 (Rupee One) per year during the term of this Agreement.
- 7.2 The Concession Fee shall be paid in advance within 90 (ninety) days of the commencement of the year for which it is due and payable.

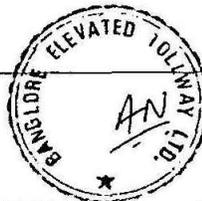
## VIII ADDITIONAL TOLLWAY

- 8.1 Notwithstanding anything to the contrary contained in this Agreement, any of NHAI, GOI or GOK may construct and operate either itself or have the same, inter alia, built and operated on BOT basis or otherwise any Expressway or other toll



road, not being a bye-pass, between, inter alia, km 9.5 to km 33.130 of NH- 7 (the "Additional Tollway") provided that such Additional Tollway shall not be opened to traffic before expiry of 8 (eight) years from the Appointed Date.

- 8.2 Upon commissioning of the Additional Tollway, the Concessionaire shall continue to levy and collect the Fee under this Agreement and shall not offer any discounts or reductions in such Fee except with the prior written consent of NHAI. Provided, however, that any such discounts or reductions that the Concessionaire had offered to any general or special class of users or vehicles for a continuous period of three years prior to the commissioning of the Additional Tollway may continue in the same form and manner after the commissioning of such Additional Tollway.
- 8.3 NHAI shall ensure that the per kilometer fee to be levied and collected from any vehicle or class of vehicles using the Additional Tollway shall at no time be less than an amount which is 133% of the per kilometer Fee levied and collected from similar vehicles or class of vehicles using the Project Highway.



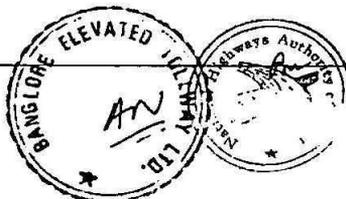
**CHAPTER -III  
OBLIGATIONS AND UNDERTAKINGS****IX. OBLIGATIONS OF THE CONCESSIONAIRE**

9.1 The Concessionaire shall at its own cost and expense observe, undertake, comply with and perform, in addition to and not in derogation of its obligations elsewhere setout in this Agreement, the following:

- (i) make, or cause to be made, necessary applications to the relevant Governmental Agencies with such particulars and details, as may be necessary for obtaining all Applicable Permits, and obtain such Applicable Permits in conformity with the Applicable Laws;
- (ii) notify to NHAI forthwith the occurrence of Financial Close;
- (iii) submit to NHAI certified true copies of each of the Project Agreements within 7 (seven) days of their execution;
- (iv) not make any replacement, amendment or modifications to any of the Project Agreements without the prior written consent of NHAI, where such replacement, amendment or modification has or may have the effect of increasing or imposing any financial liability or obligation on NHAI in any manner, and where such amendment or modification is made without such consent, not to enforce such amendment or modification nor permit enforcement thereof against NHAI in any manner whatsoever;
- (v) give NHAI not less than 30 (thirty) days written notice prior to entering into, amending or replacing any Project Agreement so as to enable NHAI to provide its consent or offer its comments, if any thereon which, if made, shall be duly considered and given effect to by the Concessionaire before entering into, amending or replacing such Project Agreement;
- (vi) remove promptly from the Project Highway all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials and waste water), rubbish and other debris (including without limitation accident debris) and shall keep the Site in a neat and clean condition and in conformity with the Applicable Laws and Applicable Permits;



- (vii) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project Highway;
- (viii) provide all assistance to the Independent Consultant as it may require for the performance of its duties and services;
- (ix) provide to NHAI reports on regular basis during the Construction Period and the Operations Period in the form and manner set forth in this Agreement and Schedule 'X';
- (x) obtain and maintain in force on and from the Appointed Date all insurance in accordance with the provisions of this Agreement and Good Industry Practice;
- (xi) acquire such real estate, as the Concessionaire may deem appropriate for the Additional Facilities and to indemnify and save harmless and defend GOI, NHAI, and GOK from and against all proceedings, claims, demands, costs, expenses, losses and damages arising out of or relating to the securing of rights to use such real estate by the Concessionaire or any person claiming through or under the Concessionaire;
- (xii) undertake Debt Service Payments in accordance with the Financing Documents;
- (xiii) repay NHAI Subordinated Debt as mentioned in Clause 23.5;
- (xiv) ensure and procure that each Project Agreement contains provisions that entitle NHAI to step into such agreement in its discretion in place and substitution of the Concessionaire in the event of Termination of this Agreement on account of default or breach by the Concessionaire;
- (xv) appoint, supervise, monitor and control the activities of Contractors under their respective Project Agreements as may be necessary;
- (xvi) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of the Concessionaire's obligations under this Agreement;



- (xvii) comply with all Applicable Permits and Applicable Laws in the performance of the Concessionaire's obligations under this Agreement including those being performed by any of the Contractors;
- (xviii) develop, implement and administer a surveillance and safety program for the Project Highway, the users thereof, and the Contractors personnel engaged in the provision of any services under any of the Project Agreements including correction of safety violations and deficiencies, and taking of all other actions necessary to provide a safe environment in accordance with Schedule 'S', Applicable Laws and Good Industry Practice;
- (xix) take all reasonable precautions for the prevention of accidents on or about the Project Highway and provide all reasonable assistance and emergency medical aid to accident victims;
- (xx) not to place or create and nor permit any Contractor or other person claiming through or under the Concessionaire to create or place any Encumbrance or security interest over all or any part of Site or the Project Assets, or on any rights of the Concessionaire therein or under this Agreement, save and except as expressly set forth in this Agreement;
- (xxi) make its own arrangements for quarrying, and observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits at Concessionaire's own cost and expense;
- (xxii) be responsible for safety, soundness and durability of the Project Highway including other structures forming part thereof and their compliance with the Specifications and Standards;
- (xxiii) not claim or demand possession or control of any roads, structures or real estate which do not form part of the Project Highway;
- (xxiv) after receiving vacant possession of the site or part thereof, ensure that such site remains free from all encroachments and take all steps necessary to remove encroachments, if any
- (xxv) make payment to Police department or any Government Agency, if required, for provision of such services as are not provided in the normal course or are available on payment;

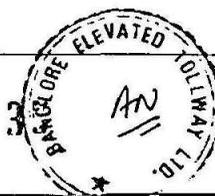


- (xxvi) indemnify the NHAI against all actions, suits, claims, demands and proceedings and any loss or damage or cost or expense that may be suffered by them on account of anything done or omitted to be done by the Concessionaire in connection with the performance of its obligations under this Agreement;
- (xxvii) comply with the Divestment Requirements and hand over the Project Highway to NHAI upon Termination of the Agreement.
- (xxviii) work in optimizing the use of existing Right of Way handed over to them. Identify and submit proposal for acquisition of additional land in accordance with the requirement of concerned State Government revenue department or the relevant LA Act, and pursue with the GOK for early accomplishment of Land Acquisition.
- (xxix) make all necessary arrangements for accomplishing the tasks of physical removal of the encroachments at his own cost.
- (xxx) obtain all the necessary environmental clearances, cut the trees and carry out compensatory afforestation.
- (xxxi) carry out shifting of utility services.
- (xxxii) liaise with GOK for implementation of the Rehabilitation and Resettlement plan.

9.2 Subject to the terms and conditions of this Agreement the Concessionaire shall at its cost and expense:

- (i) undertake the design, engineering, procurement and construction and financing of the Electronic City Section in accordance with this Agreement;
- (ii) operate and maintain the Project Highway in conformity with this Agreement including but not limited to the Specifications and Standards set forth in Schedule 'D', Schedule 'L', the Maintenance Programme and Good Industry Practice.

9.3 The Concessionaire shall, before commencement of construction of the Electronic City Section:

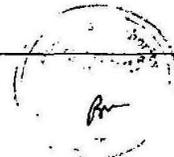
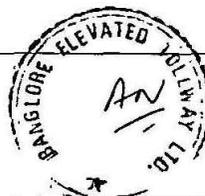


- (i) submit to NHAI with due regard to Project Completion Schedule as set forth in Schedule 'H' and Scheduled Project Completion Date, its design, engineering and construction time schedule and shall formulate and provide CPM/PERT charts for the completion of the said activities;
- (ii) finalise the design and detailed engineering basis;
- (iii) have requisite organisation and designate and appoint a Project manager and such other managers, officers and representatives as it may deem appropriate to supervise the Project and to deal with the NHAI Representative and be responsible for all necessary exchanges of information required pursuant to this Agreement; and
- (iv) undertake, do and perform such acts, deeds and things as may be necessary or required for construction and Project completion under and in accordance with this Agreement.

9.4 In respect of the Concessionaire's obligations with respect to the Drawings of the Electronic City Section as set forth in Schedule 'B', the following shall apply

- (i) The Concessionaire shall proof check and adopt the designs and drawings made available by NHAI in accordance to the conditions set out in Schedule D. The Concessionaire shall bear all the cost of design changes as a consequence of proof checking of design by proof consultant / Independent Consultant.
- (ii) Within 90 (ninety) days of the COD, the Concessionaire shall furnish NHAI with "as built" Drawings reflecting the Electronic City Section as actually engineered and constructed, including without limitation on "as built" survey illustrating the layout of the Electronic City Section and setback lines, if any, of the buildings and structures forming part of Project Facilities.

9.5 The Concessionaire shall submit to NHAI the drafts of the Project Agreements including in particular the EPC Contract, the Financing Documents, the O&M Contract and the Tolling Contract for its review. NHAI shall have the right but not the obligation to provide its comments and observations, if any, in respect of the Project Agreements within 30 (thirty) days of the receipt thereof by NHAI and the Concessionaire shall consider all such comments/observations. Any such comments/observations by NHAI on any Project Agreements or the failure to provide such comments shall not relieve or absolve in any manner whatsoever the Concessionaire of its obligations, duties and liabilities under this Agreement nor shall it make NHAI and/or Independent Consultant liable to the Concessionaire in



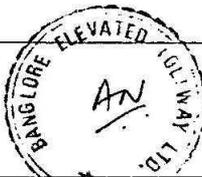
any manner whatsoever and shall be without prejudice to the rights of NHAI hereunder.

- 9.6 During the Construction Period, the Concessionaire shall be responsible for maintaining the Site including the existing four lanes of the Electronic City Section including service roads at its own cost and expense. During this period, the Concessionaire shall modify, repair or otherwise make improvements to the existing four lanes before expiry of six months from the Appointed Date so that the existing four lanes comply with requirements provided in Schedule 'L' and at least 4 (four) lanes of the Electronic City Section including continuous service roads are ordinarily open to traffic at all times. The Concessionaire shall promptly undertake all such repairs and maintenance works as may be necessary to keep the Electronic City Section traffic-worthy and safe during the Construction Period.
- 9.7 The Concessionaire shall, at all times, afford access to the Site to the authorised representatives of NHAI, Senior Lenders, and the Independent Consultant and to the persons duly authorised 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 Concessionaire 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.

## X. OBLIGATIONS OF NHAI

10.1 NHAI agrees to observe, comply and perform the following:

- (i) enable access to the Site, free from Encumbrances, in accordance with this Agreement;
- (ii) ensure widening of Hosur Section from the existing 4-lane to 6-lane prior to COD. and handing over the same to the Concessionaire prior to COD to comply and perform its obligations under this Agreement.
- (iii) provide land to the Concessionaire as set out in **Schedule H** by the Appointed Date on the Hosur Section for the purpose of construction of Toll Plaza.



- (iv) permit peaceful use of the Site by the Concessionaire as licensee under and in accordance with the provisions of this Agreement without any let or hindrance from NHAI or persons claiming through or under it;
- (v) assist and provide all reasonable support to the Concessionaire in obtaining Applicable Permits;
- (vi) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;
- (vii) procure that no barriers are erected or placed by GOK or any Governmental Agency on the Project Highway except on account of any law and order situation or upon national security considerations;
- (viii) enter into the State Support Agreement and Substitution Agreement;
- (ix) assist the Concessionaire in obtaining necessary assistance to regulate traffic on the Project Highway subject to and in accordance with the Applicable Laws;
- (x) assist the Concessionaire in obtaining Police assistance from GOK against payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Highway;
- (xi) operate and maintain the Electronic City Section during the Development Period, at its own cost and expense, in a manner that the level of service is at no time inferior to the level prevailing on the date when bids were received for this Concession; and
- (xii) Observe and comply with its obligations set forth in this Agreement.
- (xiii) take all necessary steps towards accomplishment of acquisition of additional land. NHAI shall bear the cost of additional land.



- (xiv) coordinate with GOK authorities for completing the legal requirements and maintaining law and order during removal of encroachments by the concessionaire.
- (xv) provide necessary support to the concessionaire in obtaining necessary clearances/permissions/permits in respect of environmental clearances, tree cutting, compensatory afforestation, shifting of all types of utility services, rehabilitation and resettlement.
- (xvi) bear all expenses as per demand note raised by the concerned government or other concerned agencies in respect of environmental clearances, tree cutting, compensatory afforestation, shifting of all types of utility services, and rehabilitation and resettlement.
- (xvii) will arrange to issue fee notification substantially in the form of Schedule 'G' atleast 90 days prior to COD.
- (xviii) provide the list of vehicle passes to be issued atleast 45 days prior to each anniversary of COD with the first submission being made one month prior to scheduled COD.

## XI. REPRESENTATIONS AND WARRANTIES

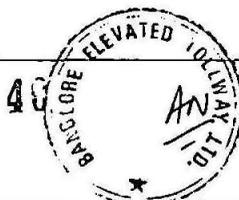
### 11.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to NHAI that:

- (i) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation;
- (ii) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (iii) It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (iv) It has the financial standing and capacity to undertake the Project;

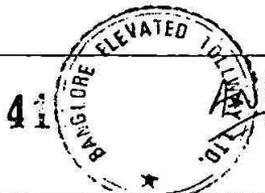


- (v) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (vi) It is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- (vii) All the information furnished in the Proposal is, and shall be, true and correct as on the Appointed Date and COD and the Balance Sheet and Profit and Loss Account of the Concessionaire for each of its Accounting Years after the Appointed Date furnished to NHAI shall give true and fair view of the affairs of the Concessionaire;
- (viii) It shall furnish a copy of the audited accounts of the Company within 120 (one hundred twenty) days of the close of its each Accounting Year after the Appointed Date and any material change subsequent to the date of such accounts shall be notified to NHAI by the Concessionaire within 30 (thirty) days of its occurrence and warrants that the accounts and the information furnished as aforesaid shall be true and correct;
- (ix) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Memorandum and Articles of Association of the Concessionaire or any Member of the Consortium or any Applicable Laws or any covenant, agreement, 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;
- (x) There are no actions, suits, proceedings, or investigations pending or, to the Concessionaire's 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 or constitute a default of the Concessionaire under this Agreement or which individually or in the aggregate may result in any Material Adverse Effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under this Agreement;
- (xi) 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



any Governmental Agency which may result in any Material Adverse Effect or impairment of the Concessionaire's ability to perform its obligations and duties under this Agreement;

- (xii) It has complied with all Applicable Laws 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 Material Adverse Effect on its financial condition or its ability to perform its obligations and duties under this Agreement;
- (xiii) The equity share holding of the single entity / aggregate holding of Consortium Members (in case of consortium) and their Associates as the case may be in the issued and paid up equity share capital of the Concessionaire shall not be less than (a) 51% (fifty one percent) during the Construction Period and for 1 (one) year following COD, and (b) 26% (twenty six per cent) during the balance remaining Operations Period;
- (xiv) Single entity/each Consortium Member was and is duly organised and existing under the laws of the jurisdiction of its incorporation and has full power and authority to consent to and has validly consented to and requested NHAI to enter into this Agreement with the Concessionaire pursuant to the LOA and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (xv) All rights and interests of the Concessionaire in and to the Project Highway shall pass to and vest in NHAI on the Termination Date free and clear of all liens, claims, and Encumbrances without any further act or deed on the part of the Concessionaire or NHAI and that none of Project Assets including materials, supplies or equipment forming part thereof shall be acquired by the Concessionaire subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person save and except as expressly provided in this Agreement;
- (xvi) No representation or warranty by the Concessionaire contained herein or in any other document furnished by it to NHAI, or to any Governmental Agency 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

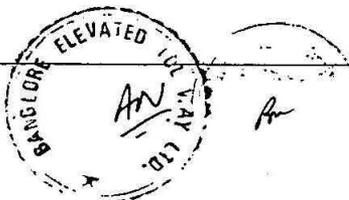


- (xvii) It warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Concessionaire, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of NHAI, GOI or GOK in connection therewith.

## 11.2 Representations and Warranties of NHAI.

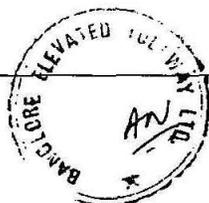
NHAI represents and warrants to the Concessionaire that:

- (i) NHAI is duly organised and validly existing under the laws of India;
- (ii) NHAI has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (iii) NHAI has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (iv) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
- (v) NHAI is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any sovereign immunity in any jurisdiction in regard to matters set forth in this Agreement.
- (vi) There are no actions, suits, proceedings pending to its knowledge, the outcome of which may result in the breach of or constitute a default of NHAI under this Agreement;
- (vii) It has no knowledge of any violation or default with respect to any order, writ, injunction or any legally binding order which may result in any Material Adverse Effect on NHAI's ability to perform its obligations and duties under this Agreement;
- (viii) It has complied with all Applicable Laws and has not been subject to any fines, penalties which may have material adverse effect on its financial condition or its ability to perform its obligations and duties under this Agreement;



**XII. DISCLAIMER**

- 12.1 The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the traffic volumes, Specifications and Standards, Site and all the information provided by NHAI and has determined to the Concessionaire's satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.
- 12.2 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 12.1 above and hereby confirms that NHAI shall not be liable for the same in any manner whatsoever to the Concessionaire, the Consortium Members or their Associates.



## CHAPTER – IV PROJECT DEVELOPMENT AND OPERATIONS

### XIII. USE AND DEVELOPMENT OF THE SITE

- 13.1 NHAI hereby grants to the Concessionaire for the Development Period access to the Site for carrying out such surveys, investigations and soil tests as the Concessionaire may deem necessary at the Concessionaire's cost, expense and risk without causing disruption in the traffic on the existing lanes of the Electronic City Section.
- 13.2 NHAI hereby grants to the Concessionaire for the Concession Period the right and licence to enter upon all real estate comprised in the Site as briefly described in Schedule 'A' and to survey design, engineer, procure, construct, operate and maintain the Project Highway including the Project Facilities in accordance with the provisions of this Agreement. Such right and licence of the Concessionaire to the use the Site shall be subject to:
- 13.2.1 Any existing utilities on, under or above the Site are kept in continuous satisfactory use, if necessary by the use of suitable temporary or permanent diversions with the authority of the controlling body of that utility;
- 13.2.2 Any existing roads or right of ways are kept in continuous satisfactory use, if necessary, by the use of suitable temporary or permanent diversions with the authority of the controlling body of that road or right of way;
- 13.2.3 The rights of the road users to use the road in accordance with this Agreement;
- 13.2.4 A right of access by the NHAI itself and any of its agents to perform their obligations and rights under the Concession Agreement or any other functions that they have, and to conduct any study or trial for the purpose of research;
- 13.3 The license and the right to use the Site shall be granted for the purpose of carrying out the functions placed upon the Concessionaire under the Agreement and not for any other purposes;
- 13.4 The Concessionaire shall bear all costs and charges for special and temporary rights of way required by it in connection with access to the Site. The Concessionaire 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.

- 13.5 The Site shall be made available to the Concessionaire pursuant hereto by NHAI free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to NHAI on account of any costs, expenses and charges for the use of such Site for the duration of the Concession Period save and except as otherwise expressly provided in this Agreement. NHAI shall procure for the Concessionaire access to the Site, free of Encumbrances in accordance with the dates indicated in Schedule H. Provided, however, that if NHAI does not enable such access to any part or parts of the Site for any reason other than a Force Majeure Event or breach of this Agreement by the Concessionaire, NHAI shall pay to the Concessionaire Damages at the rate of Rs.1000 (Rupees one thousand) per month per 1000 (one thousand) sq. meters or part thereof if such area is required by the Concessionaire for Construction Works. Such Damages shall be raised to Rs.2000 (Rupees two thousand) per month after COD if such area is essential for the smooth and efficient operation of the Electronic City Section. Provided further that the Completion Certificate or the Provisional Certificate, as the case may be, for the Electronic City Section shall not be affected or delayed as a consequence of such parts of the Site remaining under construction even after the Scheduled Project Completion Date.
- 13.6 On or after the Appointed Date, the Concessionaire shall commence, undertake and complete all Construction Works on the Electronic City Section in accordance with this Agreement.
- 13.7 Construction of the Electronic City Section shall be undertaken by the Concessionaire in conformity with the Project Completion Schedule 'H' and the Project milestones set forth in Schedule 'H' for completion of the Electronic City Section on or before the Scheduled Project Completion Date. If the Concessionaire fails to achieve any such Project milestone other than Project Completion, within a period of 90 (ninety) days from the date set forth in Schedule 'H' then it shall pay Damages to NHAI at the rate of Rs.1,000,000 (Rs. One million) per day until such milestone is achieved. NHAI may either recover such Damages from the Performance Security or demand payment thereof from the Concessionaire. The Concessionaire shall make such payment within 7 (seven) days of receiving such demand from NHAI and any delay in making such payment shall attract interest @ SBI PLR plus two per cent. If the Concessionaire fails to achieve Project completion as per the Scheduled Project Completion Date as set forth in Schedule 'H', then it shall pay damages to NHAI as per Article XV. However, in the event

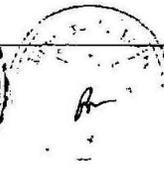
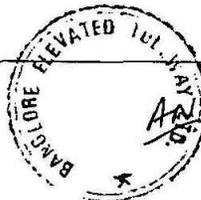


that the Concessionaire achieves the Provisional Certification or the Completion Certificate by Scheduled Project Completion Date, the damages recovered under this clause, if any, would be refunded (without interest) to the Concessionaire.

- 13.8 Widening of the Hosur Section shall be undertaken by NHAI and completed prior to COD. NHAI shall handover the Hosur Section to the Concessionaire prior to the COD.

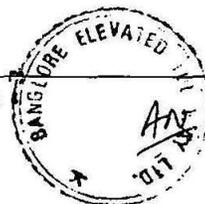
#### XIV. MONITORING AND SUPERVISION OF CONSTRUCTION

- 14.1 During the Construction Period, the Concessionaire shall furnish to NHAI and the Independent Consultant monthly progress reports of actual progress of the Construction Works comprised in the Electronic City Section and shall give all such other relevant information as may be required by NHAI and/or the Independent Consultant.
- 14.2 The Independent Consultant shall inspect the Construction Works and the Electronic City Section at least once a month during the Construction Period and make out an Inspection Report of such inspection (the "Inspection Report"). It shall send a copy of its Inspection Report to NHAI and the Concessionaire. The Concessionaire shall take necessary action to remedy the lapses, if any, stated in the Inspection Report for ensuring compliance with the provisions of this Agreement. Such inspection or submission of Inspection Report by the Independent Consultant shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.
- 14.3 For the purposes of determining that Construction Works are being undertaken in accordance with Specifications and Standards and Good Industry Practice, the Independent Consultant shall require the Concessionaire to carry out such Tests at such time and frequency and in such manner as may be necessary in accordance with Good Industry Practice for quality assurance. The Concessionaire shall with due diligence carry out, or cause to be carried out, all such tests in accordance with the instructions of the Independent Consultant and furnish the results of such tests forthwith to the Independent Consultant. The Concessionaire shall promptly carry out such remedial measures as may be necessary to cure the defects or deficiencies, if any, indicated in such test results and furnish a report to the Independent Consultant in this behalf.
- 14.4 If the Independent Consultant or NHAI shall reasonably determine that the rate of progress of the Construction of the Electronic City Section is such that the Project



Completion is not feasible on or before the Scheduled Project Completion Date by the Concessionaire, it shall so notify the Concessionaire about the same and the Concessionaire shall within 15 (fifteen) days thereof notify the NHAI and the Independent Consultant about the steps it proposes to take to expedite progress and the period within which it shall achieve COD.

- 14.5 (a) Upon recommendation of the Independent Consultant or suo-moto, NHAI may by written notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if in the reasonable opinion of the NHAI such work is being carried on in a manner which threatens the safety of the works or of the users of the Electronic City Section.
- (b) The Concessionaire, shall upon instructions of the NHAI pursuant to sub-clause (a) above suspend the Construction Works or any part thereof for such time and in such manner as may be specified by NHAI and subject to sub-clause (c) below, the costs incurred during such suspension to properly protect and secure the Construction Works or such part thereof as is necessary in the opinion of the Independent Consultant ("Preservation Costs"), shall be borne by the Concessionaire.
- (c) If the suspension pursuant to Sub-clause (a) above, is caused by:
- (i) any reason other than default or breach of this Agreement by the Concessionaire including breach of any of the obligations of the Concessionaire under this Agreement, the Preservation Costs shall be borne by NHAI;
  - (ii) reason of default or breach of this Agreement by NHAI the Preservation Costs shall be borne by NHAI; or
  - (iii) reason of any Force Majeure Event, the Preservation Costs shall be borne by the Concessionaire save and except to the extent otherwise expressly provided in Article XXIX.
- (d) If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Consultant shall determine any extension to the Project Completion Schedule, the Scheduled Project Completion Date and the Concession Period, to which the Concessionaire is reasonably entitled and shall notify NHAI accordingly. NHAI shall extend the Project Completion Schedule, the Scheduled Project Completion Date and the Concession Period in accordance with the recommendations of the Independent Consultant.

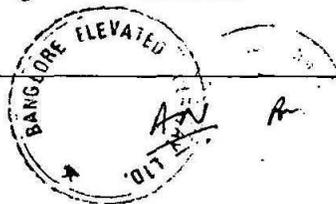


**XV. COMPLETION**

- 15.1 The Electronic City Section shall be deemed to be complete and open to traffic only when the Completion Certificate or the Provisional Certificate is issued in accordance with the provisions of Article XVI (the "Project Completion").
- 15.2 COD shall be the date on which the Independent Consultant has issued the Completion Certificate or the Provisional Certificate, as the case may be, under this Agreement and the Concessionaire shall not levy and collect any Fee until it has received such Completion Certificate or the Provisional Certificate.
- 15.3 The Concessionaire guarantees that the Project Completion shall be achieved in accordance with the provisions of this Agreement on a date not later than 24 (twenty four) months from the Appointed Date ("Scheduled Project Completion Date").
- 15.4 If the Project Completion is not achieved by the Scheduled Project Completion Date for any reason other than conditions constituting Force Majeure or for reasons attributable to NHAI or any Governmental Agency, the Concessionaire shall pay to NHAI as weekly Damages for delay in the achievement of the COD, an amount calculated at the rate of 0.01% (point zero one per cent) of the Total Project Cost per week or part thereof.
- 15.5 If the COD does not occur within 12 (twelve) months from the Scheduled Project Completion Date, NHAI shall be entitled to Terminate this Agreement in accordance with the provisions of Clause 32.2.

**XVI. TESTS**

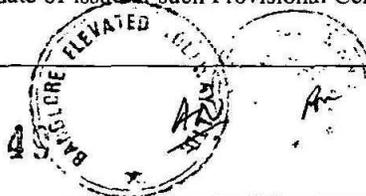
- 16.1 All Tests shall be conducted in accordance with Schedule 'J' and the Applicable Laws and Applicable Permits. NHAI shall designate a NHAI Representative to witness and observe the Tests. All Tests shall be held in accordance with the schedule notified by the Concessionaire to the Independent Consultant and the NHAI Representative who may either witness the Tests themselves or designate their representatives for this purpose, if they choose.
- 16.2 The Independent Consultant shall monitor the results of the Tests to determine the compliance of the Electronic City Section with the Specifications and Standards. The Concessionaire shall provide to the Independent Consultant and the NHAI with copies of all Test data including detailed Test results.



- 16.3 At least 30 (thirty) days prior to the likely completion of the Electronic City Section the Concessionaire shall notify the Independent Consultant and NHAI of the same and shall give notice of its intent to conduct any final Tests. The Concessionaire shall give to NHAI and the Independent Consultant at least 10 (ten) days' prior notice of the actual date on which it intends to commence the Tests and at least 7 (seven) days' prior notice of the commencement date of any subsequent Tests. The Independent Consultant shall have the right to suspend or delay any Test if it is reasonably anticipated or determined during the course of the Test that the performance of the Electronic City Section or any part thereof does not meet the Specifications and Standards.
- 16.4 Upon the Independent Consultant determining the Tests to be successful and the Electronic City Section can be legally, safely and reliably placed in commercial operations, the Independent Consultant shall forthwith issue to the Concessionaire and NHAI a Certificate substantially in the form set forth in Schedule 'K' (the "Completion Certificate").
- 16.5 Independent Consultant may at the request of the Concessionaire issue a provisional certificate of completion ("Provisional Certificate") if the Tests are successful in respect of any stretch referred to in Clause 16.3 and such stretch of the Project Highway can be legally, safely and reliably placed in commercial operation though certain works or things out of the following list are not yet complete.
1. Properly marking ROW limits with indicative stones.
  2. Carrying out the civil engineering works for the emergency telephone system, the local public telephone system.
  3. Providing & maintaining vehicles, cell phones for Clients & Consultants.
  4. Seeding and planting in median on elevated highway and at ground level.

NHAI shall have discretion to delete any item of the above list and can direct Independent Consultant accordingly. Independent Consultant however may issue provisional certificate with prior written permission of NHAI, if in his view highway can be legally, safely and reliably placed in commercial operation without completing certain other works, not included in the above list.

In such an event such Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Consultant and the Concessionaire ("Punch List"). The Concessionaire shall complete all Punch List items within 120 (One Hundred Twenty days) days of the date of issue of such Provisional Certificate. Subject to



payment of Damages equal to Rs. 200,000 (Rs. Two hundred Thousand) per week or part thereof on account of any delay beyond the aforesaid period of 120 (One Hundred Twenty) days, the Concessionaire shall be entitled to a further period of upto 180 (One Hundred Eighty) days for completion of Punch List items. Upon completion of all Punch List items to the satisfaction of the Independent Consultant, the Independent Consultant shall issue the Completion Certificate to the Concessionaire. Failure to complete the Punch List items in the manner set forth in this Clause 16.5 shall entitle NHAI to Terminate this Agreement in accordance with the provisions of Clause 32.2.

16.6 If the Independent Consultant certifies to NHAI and the Concessionaire that it is unable to issue the Completion Certificate or Provisional Certificate because of events or circumstances which excuse the performance of the Concessionaire's obligations in accordance with this Agreement and as a consequence thereof the Tests could not be held or had to be suspended, the Concessionaire shall re-schedule the Tests and hold the same as soon as reasonably practicable.

16.7 Upon receipt of a report from the Independent Consultant or after conducting its own review or inspection, if NHAI is not satisfied with the results of any Tests, it shall within 7 (seven) days thereof notify the Concessionaire of its reasons to conclude that the Completion Certificate should not be issued, in which case the Concessionaire shall promptly take such action as will achieve such satisfaction. Such procedure shall be repeated as necessary after rectification and remedy of reasons/ causes by the Concessionaire on account of which the Tests were unsuccessful, until the Completion Certificate or Provisional Certificate has been issued in accordance with this Agreement by the Independent Consultant.

16.8 The Concessionaire shall bear all the expenses relating to Tests under this Agreement. Provided, however, that if the NHAI Representative requires any Test to be conducted which is not specified in this Agreement and such Test is not necessary in the opinion of the Independent Consultant, then the expenses on such Test shall be reimbursed by NHAI to the Concessionaire.

## XVII. CHANGE OF SCOPE

17.1 NHAI may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition /deletion to the works and services on or about the Electronic City Section which are beyond the scope of the Project as contemplated by this Agreement ("Change of Scope"), provided such changes do not require expenditure exceeding 5% (five per cent) of the Total Project Cost and do not adversely affect the COD. All such changes shall be made by NHAI by an



order (the "Change of Scope Order") issued in accordance with the procedure set forth in this Article XVII.

## 17.2 Procedure for Change of Scope

- (a) NHAI shall whenever it desires provision of addition/deletion of works and services referred to in Clause 17.1, issue to the Concessionaire a notice of change of scope (the "Change of Scope Notice").
- (b) Upon receipt of such Change of Scope Notice, the Concessionaire shall within 15 days provide to NHAI and the Independent Consultant such information as is necessary and reasonable together with preliminary documentation in support of the following:
- (i) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the work is required to be carried out before COD, and
  - (ii) the cost to the Concessionaire of complying with such Change of Scope Notice (including, without limitation, material and labour cost information furnished in accordance with the current schedule of rates applicable to the works assigned by NHAI to its contractors, including the premium on such rates), the options suggested for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time for the implementation thereof including a detailed breakdown by work classifications. Provided, however, that the cost of providing such information shall be reimbursed to the Concessionaire by NHAI to the extent such costs are certified to be reasonable by the Independent Consultant.
- (c) If NHAI desires, after receipt of information set forth in sub-clause (b) to proceed with the Change of Scope, it shall convey the desired option (with or without modification) to the Concessionaire by issuing a Change of Scope Order within 30(Thirty) days from the date of recommendation made by Independent Consultant and thereupon the Parties shall make good faith efforts to mutually agree upon the costs and time for implementing of the same. Upon reaching an agreement relating to such costs and time, NHAI shall issue a written confirmation of the Change of Scope and thereupon the Concessionaire shall proceed with performance of such order.



In the event, the Parties are unable to agree, NHAI may, by issuing a confirmation in writing of such Change of Scope Order, require the Concessionaire to proceed with the performance of the Change in Scope Order pending resolution of such dispute.

17.3 A Change of Scope Order will be effective and binding upon issuance of a confirmation of such Change of Scope Order by NHAI. Notwithstanding a dispute regarding cost and time for implementation of such Change of Scope Order, the Concessionaire shall proceed with the performance of such Change of Scope Order promptly following NHAI's confirmation pursuant to Clause 17.2( c ). Pending resolution of such dispute, NHAI shall either pay to the Concessionaire, if the Change of Scope Order involves increase in Bill of Quantities or recover from the Concessionaire if the said Change of Scope Order involves decrease in Bill of Quantities, an amount equal to the costs that are certified by the Independent Consultant to be reasonable plus/minus (as the case may be) one-half the difference between the amount certified by the Independent Consultant and the amount claimed by the Concessionaire with final adjustments to be made in accordance with the resolution of dispute under the Dispute Resolution Procedure. In case NHAI has to recover from the Concessionaire, the amount will be recovered directly from the Escrow Account and for that purpose the Concessionaire hereby expressly authorised NHAI and hereby gives irrevocable instructions to Escrow Bank to make payment from the Escrow Account in accordance with instructions of NHAI under this clause.

17.4 All claims by the Concessionaire pursuant to this Article XVII shall be supported by such documentation as is reasonably sufficient for NHAI/IC to determine the accuracy thereof, including invoices from Contractors and certification of such claims by the Statutory Auditors.

#### XVIII. OPERATION AND MAINTENANCE

18.1 The Concessionaire shall operate and maintain the Project Highway by itself, or through O&M Contractors and if required, modify, repair or otherwise make improvements to the Project Highway to comply with Specifications and Standards, and other requirements set forth in this Agreement, Good Industry Practice, Applicable laws and Applicable Permits and manufacturer's guidelines and instructions with respect to toll systems, and more specifically:

- (i) permitting safe, smooth and uninterrupted flow of traffic during normal operating conditions;



- (ii) charging, collecting and retaining the Fees in accordance with this Agreement;
- (iii) minimizing disruption to traffic in the event of accidents or other incidents affecting the safety and use of the Project Highway by providing a rapid and effective response and maintaining liaison procedures with emergency services;
- (iv) undertaking routine maintenance including prompt repairs of potholes, cracks, concrete joints, drains, line marking, lighting and signage;
- (v) undertaking major maintenance such as resurfacing of pavements, repairs to structures, repairs and refurbishment of tolling system and hardware and other equipment;
- (vi) carrying out periodic preventive maintenance to Project Highway including tolling system;
- (vii) preventing with the assistance of concerned law enforcement agencies unauthorised entry to and exit from the Project Highway;
- (viii) preventing with the assistance of the concerned law enforcement agencies encroachments on the Project Highway including Site and preserve the right of way of the Project Highway;
- (ix) maintaining a public relations unit to interface with and attend to suggestions from users of the Project Highway, the media, Government Agencies, and other external agencies; and
- (x) adherence to the safety standards set out in Schedule 'S'.

18.2 The Concessionaire shall in consultation with the Independent Consultant prepare not later than 180 (one hundred and eighty) days before the Scheduled Project Completion Date, the repair and maintenance manual (the "Maintenance Manual") for the regular and periodic maintenance, and shall ensure and procure that at all times during the Operations Period, the Project Highway is maintained in a manner that it complies with the Specifications and Standards and the minimum maintenance requirements set forth in Schedule L. The Concessionaire shall supply, at least two months before the COD, 10 (ten) copies of the Maintenance Manual to NHAI and 3 (three) copies each to GOK and Independent Consultant.



Copies of the Maintenance Manual shall also be made available by the Concessionaire for public inspection during office hours at a conspicuous place adjacent to each Toll Plaza on the Project Highway.

- 18.3 Not later than forty five (45) days before the beginning of each Accounting Year, the Concessionaire, shall in consultation with the Independent Consultant prepare and provide to NHAI, its proposed programme of preventive and other scheduled maintenance of the Project Highway subject to the minimum maintenance requirements set forth in Maintenance Manual and in Schedule 'L' necessary to maintain the Project Highway at all times in conformity with the Specifications and Standards (the "Maintenance Programme"). Such Maintenance Programme shall include but not be limited to the following:
- (i) intervals and procedures for the carrying out of inspection of all elements of the Project Highway;
  - (ii) criteria to be adopted for deciding maintenance needs;
  - (iii) preventive maintenance schedule;
  - (iv) intervals at which the Concessionaire shall carry out periodic maintenance;
  - (v) intervals for major maintenance and the scope thereof; and
  - (vi) lane closures schedule for each type of maintenance (length and time).
- 18.4 Maintenance shall include replacement of equipment/consumables, horticultural maintenance and upkeep of all Project Assets in good order and working condition. Maintenance shall not include the extension of any existing pavements, bridges, structures and other civil works unless part of the Project.
- 18.5 The Concessionaire shall keep the carriageways, rest areas and other Project Facilities and Toll Plazas in a clean, tidy and orderly condition free of litter and debris.
- 18.6 During the Operations Period, the Concessionaire shall not carry out any material modifications to the Project Highway save and except where such (i) modification is required by Good Industry Practice; or (ii) modification is necessary for the Project Highway to operate in conformity with the Specifications and Standards prescribed under this Agreement. Provided that the Concessionaire shall notify NHAI of the proposed modifications along with details thereof at least fifteen days before commencing work on such modifications and shall reasonably consider such suggestions as NHAI may make within 15 (fifteen) days of receipt of such details by NHAI.



- 18.7 The Concessionaire shall be responsible for the maintenance of the approach roads to and underpasses and overpasses upto 100 mtrs from the Project Highway in accordance with Good Industry Practice.
- 18.8 Safety, Vehicle Breakdown and Accident
- 18.8.1 In the case of unsafe conditions, vehicle breakdowns and accidents, the Concessionaire shall follow the relevant operating procedures, which shall include the setting up of temporary traffic cones and lights as well as the removal of obstruction and debris expeditiously. Such procedures shall be in accordance with Applicable Laws, Applicable Permits and provisions of this Agreement.
- 18.8.2 The Concessionaire shall ensure that any diversion or interruption of traffic is remedied without delay. The Concessionaire's responsibility for rescue operations on the Project Highway shall be limited to the removal of vehicles or debris or any other obstruction, which may endanger or interrupt the smooth traffic flow on the Project Highway.
- 18.8.3 The Concessionaire shall ensure that safety standards specified in Schedule 'S' are strictly complied with in the event of any lane closure or diversion of traffic. Compliance with Schedule 'S' will be monitored by the Independent Consultant and a breach by the Concessionaire of its obligations in respect of this Schedule identified by the Independent Consultant shall be notified immediately and is required to be cured within 24 hours of its notification notwithstanding inspection, reporting procedures outlined elsewhere in this Agreement. In addition, each notified breach shall lead to the award of a penalty point to the Concessionaire. A total of five penalty points in any continuous period of 365 days shall constitute a Material Breach of this Agreement.
- 18.9 Emergency De-commissioning
- 18.9.1 If, in the reasonable opinion of the Concessionaire there exists an emergency which warrants decommissioning and closure to traffic of whole or any part of the Project Highway, the Concessionaire shall be entitled to de-commission and close the whole or the relevant part of the Project Highway to traffic for so long as such emergency and the consequences thereof warrant, provided however that such emergency decommissioning will be notified to NHAI promptly. NHAI may issue directions to the Concessionaire for dealing with such situations and the Concessionaire shall abide by such directions.



- 18.9.2 The Concessionaire shall re-commission the Project Highway or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist.
- 18.10 The Concessionaire shall not close any lane of the Project Highway for undertaking maintenance or repair works except with the prior written approval of the NHAI which may delegate its authority to the Independent Consultant. Such approval shall be sought by the Concessionaire through a written request to be made at least 7 (seven) days before the proposed closure of lane and shall be accompanied by particulars indicating the nature and extent of repair works, the length and section required to be closed and the period of closure. The Concessionaire shall also furnish particulars indicating the minimum time required for completing such repair works. Within 5 (five) days of receiving such request, NHAI or the Independent Consultant, as the case may be, shall grant permission with such modifications as it may deem necessary. Upon receiving such permission, the Concessionaire shall be entitled to close the lane in accordance with such permission and re-open it within the period stipulated in such permission. For any delay in re-opening such lane during the first Operations Year, the Concessionaire shall pay Damages to NHAI calculated at the rate of Rs.10,000 (Rs. Ten thousand), per day or part thereof for every stretch of 100 (one hundred) meters or part thereof in each lane until such time the stretch has been re-opened for traffic. These damages of Rs.10,000 (Rupees ten thousand) shall be applicable in the first Operations year and shall be revised by WPI in each subsequent Operations year. Provided, however, that these provisions shall not apply to Emergency decommissioning under Clause 18.9.
- 18.11 Save and except as otherwise be expressly provided in this Agreement, if the Project Highway including Construction Works or any part thereof shall suffer any loss or damage during the Concession Period, from any cause whatsoever, the Concessionaire shall, at its cost and expense rectify and remedy such loss or damage forthwith in a manner so as to make the Project Highway conform in every respect to the Specifications and Standards, quality and performance as prescribed by this Agreement.
- 18.12 In the event the Concessionaire does not maintain and/ or repair the Project Highway or a part thereof upto and in accordance with the Specifications and Standards and/or in accordance with the Maintenance Programme or the Maintenance Manual, and shall have failed to commence remedial works within 30 (thirty) days of receipt of notice in this behalf from NHAI or the Independent Consultant, or the O&M Inspection Report, as the case may be, NHAI shall,



without prejudice to its rights under this Agreement, including Termination thereof, be entitled to undertake the repair and maintenance of the Project Highway at the risk and cost of the Concessionaire and to recover the same from the Concessionaire. In addition to recovery of the aforesaid cost of repair and maintenance by NHAI, a sum equal to 25% (twenty five per cent) of such cost shall also be recovered by NHAI from the Concessionaire as Damages. NHAI shall have the right and the Concessionaire hereby expressly grants to NHAI the right to recover the same directly from the Escrow Account and for that purpose the Concessionaire hereby expressly authorises NHAI and hereby gives irrevocable instructions to the Escrow Bank to make payment from the Escrow Account in accordance with the instructions of NHAI under this Clause.

- 18.13 In the event NHAI does not exercise its option to undertake the required repair and maintenance after expiry of the 30 (thirty) days period stipulated in Clause 18.12 it shall recover Damages from the Concessionaire for default in operating and maintaining the Project Highway in conformity with this Agreement. Such Damages shall be payable after the aforesaid period of 30 (thirty) days and until the default is cured. The amount of Damages shall be calculated for each day of default at the higher of the following, namely (a) Rs.10,000 (Rs. Ten thousand), and (b) 0.1% (zero point one per cent) of the cost of such repair as estimated by the Independent Consultant. Recovery of such Damages shall be without prejudice to the rights of NHAI under this Agreement, including Termination thereof.
- 18.14 If the Concessionaire commences any works for curing any defects or deficiencies in the Project Highway, it shall complete such works expeditiously in accordance with Good Industry Practice. If such works are carried out in a manner that results in a delay of more than 30 (thirty) days as compared to the time required in accordance with Good Industry Practice, NHAI shall recover Damages from the Concessionaire as if a default had occurred under Clause 18.13.
- 18.15 The Concessionaire shall not be considered in breach of its obligations under this Agreement if any part of the Project Highway is not available to traffic after the COD on account of any of the following for the duration thereof:
- (i) an event of Force Majeure;
  - (ii) measures taken to ensure the safe use of the Project Highway except when unsafe conditions on the road occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or



- (iii) compliance with a request from NHAI or the directions of any Governmental Agency the effect of which is to close all or any part of the Project Highway.

Notwithstanding the above, the Concessionaire shall keep all unaffected parts of the Project Highway open to traffic and use provided they can be safely operated and kept open to traffic.

## XIX MONITORING AND SUPERVISION DURING OPERATION

- 19.1 The Concessionaire shall undertake periodic (at least once every calendar month but once every week during monsoons) inspection of the Project Highway to determine the condition of the Project Highway including its compliance or otherwise with the Maintenance Manual, the Maintenance Programme, Specifications and Standards and the maintenance required and shall submit reports of such inspection ("Maintenance Reports") to NHAI and the Independent Consultant.
- 19.2 The Independent Consultant shall review the Maintenance Reports and inspect the Project Highway at least once a month during the Operations Period and make out an Inspection Report of such inspection (the "O&M Inspection Report"). The Independent Consultant shall send a copy of its O&M Inspection Report to NHAI and the Concessionaire. The Concessionaire shall within 30 (thirty) days of the receipt of the O&M Inspection Report remedy the defects and deficiencies, if any, set forth in such O&M Inspection Report and submit its report in respect thereof to the Independent Consultant and NHAI within the said 30 (thirty) days period. Where the remedying of such defects or deficiencies is likely to take more than 30 (thirty) days in accordance with Good Industry Practice, the Concessionaire shall undertake the works in accordance with such practice and submit progress reports of such works every fortnight. The O&M Inspection Report may also require the Concessionaire to undertake such tests as may be specified by the Independent Consultant for the purpose of determining that the Project Highway is at all times in conformity with the Specifications and Standards. The Concessionaire shall undertake such Tests without any delay and furnish a copy of the results thereof to the Independent Consultant and NHAI along with a written statement specifying in reasonable detail the measures, if any, that it proposes to undertake for curing the defaults or deficiencies indicated in such results. Such inspection or submission of O&M Inspection Report by the Independent Consultant or submission of O&M Inspection Compliance Report by the Concessionaire shall not relieve or absolve



the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

- 19.3 NHAI may inspect the Project Highway at any time for a review of the compliance by the Concessionaire with its maintenance obligations under this Agreement.
- 19.4 The Concessionaire shall furnish to NHAI within 7 (seven) days of completion of each calendar month during the Operations Period, a statement of Fees in the form set forth in Schedule 'M' (the "Monthly Fee Statement").

## XX. INDEPENDENT CONSULTANT

- 20.1 NHAI shall appoint a consulting engineering firm or body corporate out of the 3 (three) names proposed by the Concessionaire from the panel of 5 (five) consultants selected by NHAI in accordance with the selection process set forth in Schedule 'N' to be the Independent Consultant to undertake and perform the duties, work, services and activities set forth in Schedule 'O'.
- 20.2 The appointment of the Independent Consultant pursuant to Clause 20.1 shall initially be for a period of four years from the date of its appointment. The date of such appointment shall be no later than 160 (one hundred sixty) days from the date of this Agreement. After the expiry of the aforesaid appointment, NHAI shall appoint for a term of 3 (three) years as Independent Consultant such person as it may deem appropriate from the list drawn in accordance with Schedule 'N' as amended from time to time by mutual consent of NHAI and the Concessionaire and who may or may not be the same person, who was Independent Consultant during the initial term. NHAI may in its discretion thereafter renew such appointment or appoint another person out of the list determined pursuant to Schedule 'N', as NHAI may deem appropriate to be the Independent Consultant for a term of three years at a time.
- 20.3 The Independent Consultant shall report to NHAI about their work, services, and activities pursuant hereto through regular periodic reports (at least once every month) as the situation may warrant. Such report of Independent Consultant shall include but not be limited to the matters and things set forth in said Schedule 'O'.
- 20.4 The remuneration, cost and expenses of the Independent Consultant shall be paid by NHAI. One-half of such remuneration, cost and expenses shall be reimbursed by the Concessionaire to NHAI within 15 (fifteen) days of receiving a statement of expenditure from NHAI.



- 20.5 NHAI may terminate the appointment of the Independent Consultant at any time subject to appointment of their replacement by another Independent Consultant in accordance with this Article XX.
- 20.6 If the Concessionaire has reason to believe that the Independent Consultant is not discharging its duties in a fair, efficient and diligent manner, it may make a written representation to NHAI, stating its reasons in detail, seeking termination of the appointment of the Independent Consultant. Upon receipt of such representation, NHAI shall hold a tripartite meeting with the Concessionaire and Independent Consultant for amicable resolution of the dispute. If the dispute remains unresolved, it shall be resolved in accordance with the Dispute Resolution Procedure. In case the appointment of Independent Consultant is terminated under this Clause, it shall be replaced by another Independent Consultant in accordance with this Article XX.
- 20.7 If either party disputes any advice, instruction or award of the Independent Consultant, the dispute shall be resolved in accordance with the Dispute Resolution Procedure.

## XXI. TRAFFIC SAMPLING

- 21.1 For the purpose of determination and/or verification of the actual traffic on the Project Highway, NHAI shall, in addition to inspection of Concessionaire's records, be entitled to undertake traffic sampling at such frequency and in such manner as NHAI may deem appropriate including in the manner as set forth in Schedule 'P' hereto. The Concessionaire shall provide all facilities and assistance as NHAI may reasonably require for undertaking such traffic sampling.
- 21.2 If the data collected from traffic sampling undertaken pursuant to Clause 21.1 demonstrates that actual traffic is more than the traffic according to the records of the Concessionaire, the actual traffic for the purposes of this Agreement shall be deemed to be the traffic as determined by such NHAI traffic sampling pursuant to this Article XXI.
- 21.3 The Concessionaire may, in consultation with NHAI, commission an independent agency to conduct traffic sampling under this Article. The report of such agency shall be furnished to NHAI for such use as it may deem fit.
- 21.4 In the event of any dispute arising as to the actual traffic on the Project Highway the same shall be resolved in accordance with the Dispute Resolution Procedure under this Agreement.



CHAPTER - V  
FINANCING ARRANGEMENTS

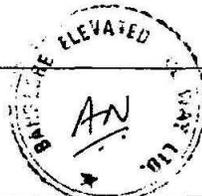
XXII. FINANCIAL CLOSE

- 22.1 The Concessionaire shall provide to NHAI, a copy of the Financing Package furnished by it to the prospective Senior Lenders. As and when such Financing Package is approved by the Senior Lenders, with or without modifications, a copy of the same shall be furnished by the Concessionaire to NHAI forthwith.
- 22.2 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire covenants with NHAI that it shall achieve Financial Close within 180 (one hundred eighty) days from the date of this Agreement. If the Concessionaire shall fail to achieve Financial Close within the said 180 (one hundred eighty) days period, the Concessionaire shall be entitled to a further period of 90 (ninety) days subject to an advance weekly payment by the Concessionaire to NHAI of a sum of Rs.100,000 (Rupees one hundred thousand) per week or part thereof for any delay beyond the said 180 (one hundred eighty) day period, as Damages on account of such delay in achieving Financial Close within the said 180 (one hundred eighty) day period by the Concessionaire.
- 22.3 Notwithstanding anything to the contrary contained in this Agreement, NHAI shall be entitled to terminate this Agreement forthwith, without being liable in any manner whatsoever to the Concessionaire, by a communication in writing to the Concessionaire pursuant to Clause 32.2 if the Concessionaire shall have failed to pay in advance the Damages to NHAI under and in accordance with Clause 22.2 above.
- 22.4 Notwithstanding anything to the contrary contained in this Agreement, if the Financial Close shall not occur within 270 (two hundred seventy) days as set forth in Clause 22.2 above, all rights, privileges, claims and entitlements, if any, of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 22.5 Upon Termination of this Agreement under Clauses 22.2 and 22.3, NHAI shall be entitled to encash the Bid Security or the Performance Security, as the case may be, and appropriate the proceeds thereof as Damages.



**XXIII. PROJECT SUPPORT /NEGATIVE GRANT**

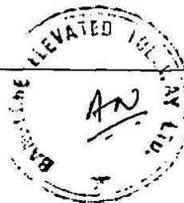
- 23.1 NHAI agrees to provide to the Concessionaire financial support to the Project to the extent of Rs.NIL (Rupees NIL) ("Project Support") in the following manner:
- (a) Rs. NIL in the form of capital grant ("Grant") which shall be applied by the Concessionaire for meeting the capital cost of the Project
  - (b) Rs. NIL as NHAI Subordinated Debt
  - (c) Rs. NIL as advance payment which will be adjusted against vehicle passes to be issued in accordance with Clause 6.9).
- 23.2 The whole or any part of the Project Support shall be disbursed by NHAI to the Concessionaire if and only if :
- 23.2.1 the Concessionaire is not in Material Breach of this Agreement at the time of such disbursement; and
  - 23.2.2 the Concessionaire has contributed and spent on the Project at least 80% (Eighty percent) of the total Equity required to be provided as part of the Total Project Cost.
- 23.3 The disbursement of the Project Support pursuant to this Article XXIII shall be made by NHAI to the Concessionaire proportionately along with the balance loan funds to be disbursed by the Senior Lenders under the Financing Documents for meeting the Total Project Cost. NHAI shall disburse each tranche of the Project Support as aforesaid by credit to the Escrow Account within 15 (fifteen) days of the release of each loan installment by the Senior Lenders to the Concessionaire provided the Concessionaire has submitted to NHAI along with each disbursement request a certificate from its Statutory Auditors certifying the above particulars and has given at least 7 (seven) days to NHAI for processing such request.
- 23.4 If NHAI shall fail to disburse any tranche of the Project Support within the periods set forth for the payment thereof to the Concessionaire, NHAI shall pay interest on such delayed tranche @ SBI PLR plus two per cent.
- 23.5 The Concessionaire shall repay to NHAI, the NHAI Subordinated Debt in 5 equal annual installments of Rs. NIL crore each commencing from the 15<sup>th</sup> anniversary of the date of signing of the Concession Agreement. The first of such instalment shall be paid by the Concessionaire to NHAI on NIL.





- 24.3 Upon the receipt of the request and documents as set forth in Clause 24.2 above and provided the same is not found by NHAI to be wrong or incorrect, NHAI shall disburse the Revenue Shortfall Loan within 30 days (thirty) thereof.
- 24.4 In the event Realisable Fees during the first six months of an Accounting Year shall fall as a result of an Indirect Political Event or a Political Event and the amount of such Realisable Fees is less than the Debt Service Payments due for the first six months of such Accounting Year, NHAI shall upon request provide an advance to the Concessionaire for meeting the shortfall in such Debt Service Payments. For claiming such advance, the Concessionaire shall make a demand to NHAI accompanied by a certificate from the Statutory Auditors setting forth the Realisable Fees during the first six months of the Accounting Year, the reserves of the Concessionaire and the outstanding amount on account of Debt Service Payments due in the first six months of such year. The Statutory Auditors shall also certify the amount of advance required by the Concessionaire from NHAI for meeting such Debt Service Payments after deducting such Realisable Fees and the reserves of the Concessionaire. Within 15 (fifteen) days of receiving such demand, NHAI shall disburse the advance due to the Concessionaire at an interest rate equal to SBI PLR. Not later than 15 (fifteen) days after completion of such Accounting Year, the Concessionaire shall either refund such advance with interest to NHAI or adjust it against such Revenue Shortfall Loan as may be due to the Concessionaire under this Article.
- 24.5 The Revenue Shortfall Loan disbursed by NHAI pursuant hereto and the interest thereon shall be repaid by the Concessionaire in a sum equal to 50% (fifty per cent) of the Net Cash flow of the Concessionaire as and when made and such repayments shall be made in one or more years as necessary.
- 24.6 Notwithstanding anything to the contrary contained in Clause 24.5, the Concessionaire shall repay the entire Revenue Shortfall Loan and interest thereon at least two years before the expiry of the Concession Period. If any sum remains due or outstanding from the Concessionaire under this Article XXIV at any time during a period of two years preceding the Termination Date, it shall constitute a Concessionaire Event of Default under Article XXXII and NHAI shall be entitled to Terminate this Agreement under Clause 32.2.

## XXV. ESCROW ACCOUNT

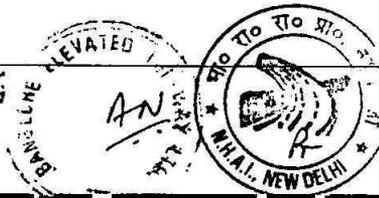


25.1 The Concessionaire shall within 30 days from the date of this Agreement open and establish the Escrow Account with a Bank (the "Escrow Bank") and all funds constituting the Financing Package for meeting the Total Project Cost shall be credited to such Escrow Account. During Operations Period all Fees collected by the Concessionaire from the users of the Project Highway shall be exclusively deposited therein. In addition, all disbursements or payments by NHAI pursuant hereto shall subject to the rights of deductions and appropriations therefrom of NHAI under this Agreement, be deposited by NHAI in the Escrow Account.

25.2 Disbursements from Escrow Account

25.2.1 The Concessionaire shall give, at the time of the opening of the Escrow Account, irrevocable instructions by way of an Escrow Agreement substantially in form set forth in Schedule 'Q' (the "Escrow Agreement") to the Escrow Bank instructing, inter alia, that the deposits into the Escrow Account shall subject to Clause 25.2.3, be appropriated in the following order every month and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out therefrom in the month when due unless otherwise expressly provided in the instruction letter:

- (a) All taxes due and payable by the Concessionaire;
- (b) All expenses in connection with and relevant to the Construction of Project Highway by way of payment to the EPC Contractor and such other persons as may be specified in the Financing Documents;
- (c) O&M Expenses including Fees collection expenses incurred by the Concessionaire directly or through O&M Contractor and/or Tolling Contractor, if any, subject to the items and ceiling in respect thereof as set forth in the Financing Documents but not exceeding 1/12 (one twelfth) of the annual liability on this account;
- (d) The whole or part of the expense on repair work or O&M Expense including Fees collection expenses incurred by NHAI on account of exercise of any of its rights under this Agreement provided NHAI certifies to the Escrow Bank that NHAI had incurred such expenses in accordance with the provisions of this Agreement;
- (e) All Concession Fees and repayment of NHAI Subordinated Debt due to NHAI from the Concessionaire under this Agreement;



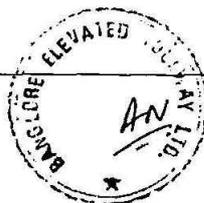
- (f) Monthly proportionate provision of Debt Service Payments due in an Accounting Year and payment of Debt Service Payments in the month when due;
- (g) Any payments and Damages due and payable by the Concessionaire to NHAI pursuant to this Agreement, including repayment of Revenue Shortfall Loans, recovery due to reduction in the scope of work; and
- (h) Balance in accordance with the instructions of the Concessionaire.

25.2.2 The Concessionaire shall not in any manner modify the order of payment specified in this clause 25.2 except with the prior written approval of NHAI.

25.2.3 In the event the Grant, if any, to the Concessionaire shall exceed 10% of the Total Project Cost, all disbursements on account of Total Project Cost other than those to the EPC Contractor in accordance with the EPC Agreement, shall be made in accordance with the express provisions contained in that behalf in the Financing Documents. Provided, however, that if the total of such disbursements exceed 10% of the Total Project Cost, prior written consent of NHAI shall be required in respect of the disbursement arrangements for such excess amounts, and such consent shall not be unreasonably withheld by NHAI.

25.3 Notwithstanding anything to the contrary contained in the Escrow Agreement and subject to the provisions contained in Clauses 33.5 and Article XXXIV, upon Termination of this Agreement, all amounts standing to the credit of the Project Escrow Account shall be appropriated and dealt with in the following order:

- (a) all Taxes due and payable by the Concessionaire;
- (b) all Concession Fees (including Negative Grant) due and payable to NHAI under this Agreement;
- (c) all accrued Debt Service Payment;
- (d) any payments and Damages due and payable by the Concessionaire to NHAI pursuant to this Agreement, including Termination claims, Recovery due to reduction in Scope of Work and repayment of Revenue Shortfall Loans;



- (e) all accrued O&M Expenses;
- (f) any other payments required to be made under this Agreement; and
- (g) balance, if any, on the instructions of the Concessionaire.

25.4 The instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 25.3 have been discharged.

## XXVI. STATE SUPPORT AGREEMENT

- 26.1 The Concessionaire acknowledges that for the performance of its obligations under this Agreement, it requires support and certain services from GOK. The nature and scope of such support and services required by the Concessionaire from GOK are fully described in the draft State Support Agreement set forth at Schedule 'R'.
- 26.2 The Concessionaire acknowledges its obligation to enter into the State Support Agreement and accordingly the Concessionaire agrees and undertakes to enter into at its cost and expense the State Support Agreement with NHAI and GOK substantially in form and content as set forth in Schedule 'R'.

## XXVII. INSURANCE

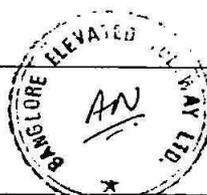
- 27.1 Insurance during the Construction Period: The Concessionaire shall effect and maintain, or cause to be effected and maintained, at no cost to NHAI during the Construction Period such insurances upto such maximum sums as may be required under and in accordance with the Financing Documents, Applicable Laws and such insurance as the Concessionaire may reasonably consider necessary or desirable in accordance with Good Industry Practice. The Concessionaire shall also effect and maintain such insurance as may be necessary for mitigating the risks that may devolve on NHAI as a consequence of any act of omission by the Concessionaire during the Construction Period.
- 27.2 Insurance during the Operations Period: Not later than 4 months prior to the anticipated Completion of the Project Highway, the Concessionaire shall obtain and maintain at no cost to NHAI during the Operations Period in respect of the Project Highway and its operations such insurance as may be required under any of



the Financing Documents, Applicable Laws and such insurance as the Concessionaire may reasonably consider necessary or desirable in accordance with Good Industry Practice. Provided, however, the level of insurance to be maintained after satisfaction of Senior Lenders' dues in full, shall be determined on the same principles as applicable for determining the level of Insurance prior to such date. This level shall be agreed with NHAI within 120 days of date of this Agreement.

For the sake of brevity, the aggregate of the maximum sums insured under the insurance taken out by the Concessionaire pursuant to this Article XXVII are herein referred to as the "Insurance Cover".

- 27.3 Evidence of Insurance Cover: All insurance obtained by the Concessionaire in accordance with this Article XXVII shall be maintained with insurer or reinsurers, and on terms consistent with Good Industry Practice. Within thirty days of obtaining any insurance cover, the Concessionaire shall furnish to NHAI, copies of certificates of insurance, copies of the insurance policies signed by an authorised representative of the insurer and copies of all premia payment receipts in respect of such insurance received from each insurance carrier, and such insurance will not be cancelled, changed or not renewed until the expiration of at least 45 (forty five) days after written notice of such cancellation, change of non-renewal has been received by NHAI.
- 27.4 Remedy on Failure to Insure: If the Concessionaire shall fail to effect and keep in force the insurance for which it is responsible pursuant hereto, NHAI shall have the option to keep in force any such insurance, and pay such premia and recover the costs thereof from the Concessionaire, or for the purposes of computation of payments to the Concessionaire pursuant to Article XXIX treat the insurance cover i.e. the maximum sums which such insurance was providing for had it been in force and effect as being deemed to have been received by the Concessionaire.
- 27.5 Waiver of Subrogation: All insurance policies supplied by the Concessionaire shall include a waiver of any right of subrogation of the insurers thereunder against, inter alia, NHAI, and its assigns, subsidiaries, affiliates, employees, insurers and underwriters and of any right of the insurers of 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.
- 27.6 Concessionaire Waiver: The Concessionaire hereby further releases, assigns and waives any and all rights of recovery against, inter alia, the NHAI, and its affiliates,

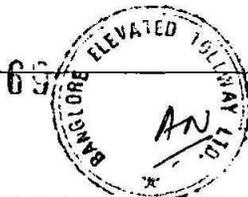


subsidiaries, employees, successors, permitted assigns, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

- 27.7 Application of Insurance Proceeds: The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire by credit to the Escrow Account (unless otherwise required by the Financing Documents) who shall, subject to its obligations under the Financing Documents, and notwithstanding anything contained in Article XXV, apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project Highway.

#### XXVIII. ACCOUNTS AND AUDIT

- 28.1 The Concessionaire shall maintain full accounts of all Fees including Realisable Fees and other revenues derived/collected by it from and on account of use of the Project Highway and of O&M Expenses and other costs paid out of the Project Escrow Account and shall provide copies of the said accounts duly audited and certified by the Concessionaire's Statutory Auditors within 120 (one hundred twenty) days of the close of each Accounting Year to which they pertain, during the subsistence of this Agreement. Such audited accounts shall form the basis of various payments by either Party under this Agreement. The Concessionaire shall also furnish, within one week of its publication, a certified copy of the audited accounts and annual report published by the Company under the Applicable Laws.
- 28.2 The Concessionaire shall appoint and have during the subsistence of this Agreement as its Statutory Auditors a firm of Chartered Accountants duly licensed to practice in India out of the mutually agreed list of 10 (ten) independent and reputable firms of Chartered Accountants in India (the "List of Chartered Accountants"). The criteria for preparing the List of Chartered Accountants are set forth in Schedule 'T'. Subject to a 30 days notice to NHAI and the replacement Statutory Auditors being appointed from the List of Chartered Accountants, the Concessionaire may terminate the appointment of any Statutory Auditor appointed in accordance with this Article. The fees and expenses of the Statutory Auditors shall be borne by the Concessionaire.



- 28.3 On or before the fifteenth day of April each Year, the Concessionaire shall provide for the preceding Accounting Year a statement duly audited by its Statutory Auditors giving summarised vehicle/user wise information on (i) the traffic count for each category of vehicles using the Project Highway and liable for payment of Fees therefore, and (ii) Fees charged and the amount of Fees received, Realizable Fees and other revenues derived from the Project Highway and such other information as NHAI may reasonably require.
- 28.4 Notwithstanding anything to the contrary contained in this Agreement, NHAI shall have the right but not the obligation to appoint at its cost another firm of chartered accountants from the List of Chartered Accountants (the "Additional Auditor") to audit and verify all those matters, expense, costs, realisations and things which the Statutory Auditors of the Concessionaire, are required to do, undertake or certify pursuant to this Agreement.
- 28.5 Where a Project Support has been provided, NHAI shall have the right to appoint for the duration of the Construction Period as Concurrent Auditor a firm of Chartered Accountants from the List of Chartered Accountants (the "Concurrent Auditor") who shall undertake concurrent audit of the Concessionaire during the Construction Period. The charges and expenses of such Concurrent Auditor shall be borne by the NHAI. After such Construction Period, NHAI may at its option have concurrent audit done at such time and for such period as NHAI may deem appropriate at its cost and expenses.
- 28.6 In the event of their being any difference between the finding of the Additional Auditor or the Concurrent Auditor, as the case may be, and the certification provided by the Statutory Auditors of the Concessionaire, such Auditors shall meet to resolve such differences and if they are unable to resolve the same such disputed certification shall be resolved by recourse to the Dispute Resolution Procedure.



**CHAPTER – VI  
FORCE MAJEURE****XXIX. FORCE MAJEURE**

- 29.1 Force Majeure Event: As used in this Agreement, a Force Majeure Event shall mean occurrence in India of any or all of Non Political Event, Indirect Political Event and/or Political Event as defined in Clauses 29.2, 29.3, and 29.4 respectively hereinafter which prevent the Party claiming Force Majeure (the "Affected Party") from performing its obligations under this Agreement and which act or event is (i) beyond the reasonable control and not arising out of the fault of the Affected Party, (ii) the Affected Party has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts, skill and care, including through expenditure of reasonable sums of money and (iii) has a Material Adverse Effect on the Project.
- 29.2 Non Political Force Majeure Events: For purposes of Clause 29.1 Non-Political Events shall mean one or more of the following acts or events:
- (i) acts of God or events beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, exceptionally adverse weather conditions, lightning, earthquake, cyclone, flood, volcanic eruption or fire (to the extent originating from a source external to the Site or beyond design specifications for the Construction Works) or landslide;
  - (ii) radioactive contamination or ionizing radiation;
  - (iii) strikes or boycotts (other than those involving the Concessionaire, 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 period exceeding a continuous period of 7 (seven) days in an Accounting Year, and not being an Indirect Indian Political Event set forth in Clause 29.3 hereof;
  - (iv) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;



- (v) Any judgement or order of any court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings for reasons other than failure of the Concessionaire to comply with any Applicable Law or Applicable Permits or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement by NHAI; or
- (vi) Any event or circumstance of a nature analogous to any of the foregoing.

29.3 Indirect Political Force Majeure Events: For purposes of Clause 29.1, Indirect Political Event shall mean one or more of the following acts or events:

- (i) 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 which prevents collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year;
- (ii) industry wide or state wide or India wide strikes or industrial action which prevent collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year; or
- (iii) any public agitation which prevents collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year.

29.4 Political Force Majeure Events: For purposes of Clause 29.1, Political Event shall mean one or more of the following acts or events by or on account GOI, NHAI, GOK or any other Governmental Agency:

- (i) Change in Law, only when provisions of Article XXXVI cannot be applied;
- (ii) expropriation or compulsory acquisition by any Governmental Agency of any Project Assets or rights of the Concessionaire or of the Contractors; or
- (iii) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause any consent or approval required by the Concessionaire or any of the Contractors to perform their respective obligations under the Project Agreements (other than a consent the obtaining of which is Condition Precedent) provided that such delay,



modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such consents or permits.

29.5 Effect of Force Majeure Event before Financial Close: Upon the occurrence of any Force Majeure Event prior to Financial Close as set forth in Article XXII, the following shall apply:

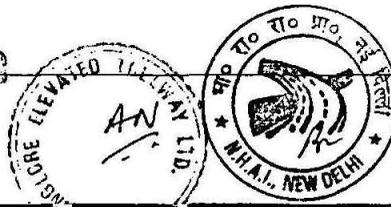
- (a) There shall be no Termination except as provided in Clause 29.8;
- (b) The date for achieving Financial Close shall be extended by the period for which such Force Majeure event shall subsist; and
- (c) The Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs arising out of such Force Majeure Event.

29.6 Effect of Force Majeure Event after Financial Close: Upon occurrence of any Force Majeure Event after Financial Close, the following shall apply:

- (a) There shall be no Termination of this Agreement except as provided in Clause 29.8;
- (b) Where the Force Majeure Event occurs before COD, the dates set forth in the Project Completion Schedule, and the Concession Period shall be extended by the period for which such Force Majeure Event shall subsist;
- (c) Where a Force Majeure Event occurs after COD, the Concessionaire shall continue to make all reasonable efforts to collect Fees, but if he is unable to collect Fees during the subsistence of such Force Majeure Event, the Concession Period shall be extended by the period for which collection of Fees remains suspended on account thereof; and
- (d) Costs arising out of or concerning such Force Majeure Event shall be borne in accordance with the provisions of Clause 29.7.

29.7 Allocation of costs during subsistence of Force Majeure: Subject to the provisions of clause 29.6, upon occurrence of a Force Majeure Event after Financial Close, the costs arising out of such event shall be allocated as follows:

- (a) When the Force Majeure Event is a Non Political Event, the Parties shall bear their respective costs and neither Party shall be required to pay to the



other Party any costs arising out of any such Force Majeure Event;

- (b) Where the Force Majeure Event is an Indirect Political Event, the costs attributable to such Force Majeure Event and directly relating to the Project (the "Force Majeure Costs") shall be borne by the Concessionaire to the extent of the Insurance Claims, and to the extent such Force Majeure Costs exceed the Insurance Claims, one half of the same to the extent actually incurred and duly certified by the statutory Auditors of Concessionaire shall be reimbursed by NHAI to the Concessionaire in one lump sum or paid in three equal annual installments with interest @ SBI PLR plus two percent; and
- (c) Where the Force Majeure Event is a Political Event, the Force Majeure Costs to the extent actually incurred and certified by the Statutory Auditors of Concessionaire shall be reimbursed by NHAI to the Concessionaire in one lump sum or paid in three equal annual installments with interest @ SBI PLR plus two percent, provided that no Force Majeure Costs shall be payable by NHAI if the Concession Period is increased under Clause 29.6.

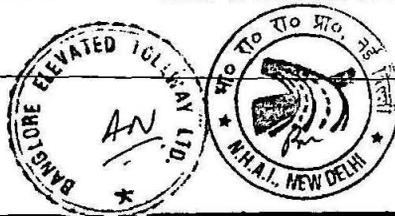
For avoidance of doubt, Force Majeure Costs shall not include loss of Fee revenues or any debt repayment obligations but shall include interest payments on such debt, O&M Expenses and all other costs directly attributable to the Force Majeure Event.

- 29.8 Termination Notice: If a Force Majeure Event subsists for a period of 180 (one hundred eighty) days or more within a continuous period of 365 (three hundred sixty five) days, either Party may in its sole discretion terminate this Agreement by giving 30 (thirty) days Termination Notice in writing to the other Party without being liable in any manner whatsoever, save as provided in Clause 29.9.
- 29.9 Termination Payment for Force Majeure Events: Upon Termination of this Agreement pursuant to Clause 29.8, Termination Payment to the Concessionaire shall be made in accordance with the following:
- (a) If the Termination is on account of a Non Political Event, the Concessionaire shall be entitled to receive from NHAI by way of Termination Payment an amount equal to 90% of the Debt Due and the entire Subordinated Debt less due insurance claims, if any. Provided that in the event some insurance claims are not admitted, then 90% of such claims shall qualify for being included in the computation of Debt Due.



- (b) If the Termination is on account of an Indirect Political Event, the Concessionaire shall be entitled to receive from NHAI by way of Termination Payment an amount equal to:
- (i) the total Debt Due, less due insurance claims, if any. Provided, however, that if all or any of the insurance claims are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall qualify for being included in the computation of Debt Due, plus
  - (ii) the outstanding Subordinated Debt, plus
  - (iii) 110% (one hundred ten per cent) of the Equity (subscribed in cash and actually spent on the Project but excluding the amount of Equity Support referred to in Article XXIII) if such Termination occurs at any time during three years commencing from the Appointed Date and for each successive years thereafter, such amount shall be adjusted every year to fully reflect the changes in WPI during such year, and the adjusted amount so arrived at shall be reduced every year by 7.5% (seven and half per cent) per annum.
- (c) If the Termination of this Agreement is on account of a Political Event, the Concessionaire shall be entitled to receive from NHAI by way of Termination Payment an amount equal to:
- (i) the total Debt Due, plus 120% (one hundred twenty per cent) of the Subordinated Debt plus
  - (ii) 150% (one hundred fifty per cent) of the Equity (subscribed in cash and actually spent on the project but excluding the amount of Equity Support referred to in Article XXIII) the if such Termination occurs at any time during three years commencing from the Appointed Date and for each successive year thereafter, such amount shall be adjusted every year to fully reflect the changes in WPI during such year, and the adjusted amount so arrived at shall be reduced every year by 7.5% (seven and half per cent) per annum.

29.10 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 however 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.

29.11 Liability for other losses, damages etc: Save and except as expressly provided in this Article XXIX, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, 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 to this Article XXIX.

29.12 Duty to Report: The Affected Party shall discharge the following obligations in relation to reporting the occurrence of a Force Majeure Event to the other Party:

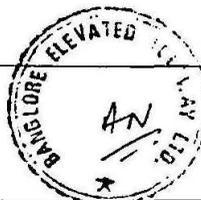
- (a) The Affected Party shall not claim any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party in writing of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event within 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.
- (b) Any notice pursuant to this Clause 29.12 shall include full particulars of:
  - (i) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article XXIX with evidence in support thereof;
  - (ii) 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;
  - (iii) the measures which the Affected Party is taking or proposes to take, to alleviate the impact of such Force Majeure Event; and
  - (iv) any other information relevant to the Affected Party's claim.
- (c) For so long as the Affected Party continues to claim to be affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) written reports containing information as required by this Clause 29.12, and such other information as the other Party may reasonably request the Affected Party to provide.

29.13 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 it is unable to perform on account of such Force Majeure Event provided that:

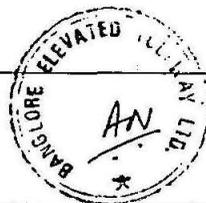
- (a) The suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (b) The Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or 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 written notice to that effect and shall promptly resume performance of its obligations hereunder.



## CHAPTER - VII SUSPENSION AND TERMINATION

### XXX. MATERIAL BREACH AND SUSPENSION

- ✓ 30.1 If the Concessionaire shall be in Material Breach of this Agreement NHAI, shall be entitled in its sole discretion and without prejudice to its other rights and remedies under this Agreement including its right of Termination hereunder, to (i) suspend all or any of the rights of the Concessionaire under this Agreement including the Concessionaire's right to collect and appropriate all Fees and other revenues from the Project Highway, and (ii) exercise the rights of the Concessionaire under this Agreement itself or authorise any other person to exercise the same during such suspension. Such suspension by NHAI shall be by a communication in writing to the Concessionaire and shall be effective forthwith upon the issue thereof to the Concessionaire. Any Fees or revenues collected by or on behalf of NHAI during such suspension shall be deposited in the Escrow Account to the exclusion of the Concessionaire. Provided, however, that the period of such suspension under this Article XXX shall not exceed 120 (one hundred twenty) days.
- 30.2 Subject to clause 30.1, NHAI shall have the right to utilise the proceeds of Fees and other revenues for meeting the costs incurred by NHAI to remedy and rectify the cause of such suspension and for defraying the O&M Expenses during such suspension period. Provided, however, that if the Concessionaire is making diligent efforts to remedy and rectify such cause, then NHAI shall allow the Concessionaire reasonable time and opportunity for such remedy or rectification.
- 30.3 The suspension of the rights of the Concessionaire by NHAI pursuant to Clause 30.1 above shall be revoked by NHAI forthwith upon the Concessionaire having remedied the Material Breach during such suspension period to the satisfaction of NHAI unless in the meantime this Agreement has been terminated by NHAI in accordance with Article XXXII.
- 30.4 At any time during the period of suspension under this Article XXX, the Concessionaire may in writing notify to NHAI that it does not intend to cure the breach or default that had caused such suspension. Within 7 (seven) days of receipt of such notice, NHAI shall terminate this Agreement as if a Material Breach of this Agreement had occurred on account of a Concessionaire Event of Default.



**XXXI. COMPENSATION FOR BREACH OF AGREEMENT**

- 31.1 In the event of Concessionaire being in material default of this Agreement and such default is cured before Termination, the Concessionaire shall pay to NHAI as compensation, all direct additional costs suffered or incurred by NHAI arising out of such material default by the Concessionaire, in one lumpsum within 30 (thirty) days of receiving the demand or at the Concessionaire's option in 3 (three) equal semi-annual installments with interest @ SBI PLR plus 2% (two per cent).
- 31.2 In the event of NHAI being in material default of this Agreement and such default is cured before Termination, NHAI shall pay to the Concessionaire as compensation, all direct additional costs suffered or incurred by the Concessionaire arising out of such material default by NHAI, in one lumpsum within 30 (thirty) days of receiving the demand or at NHAI's option in 3 (three) equal semi-annual installments with interest @ SBI PLR plus 2% (two per cent).

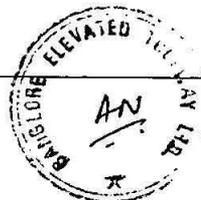
**XXXII. TERMINATION**

- 32.1 Termination for the Concessionaire Event of Default.

32.1.1 Concessionaire Event of Default

The following events shall constitute an event of default by the Concessionaire (a "Concessionaire Event of Default") unless such Concessionaire Event of Default has occurred as a result of NHAI Event of Default or a Force Majeure Event;

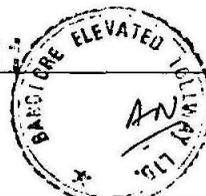
- (1) The Concessionaire fails to achieve Financial Close in accordance with the provisions of Article XXII;
- (2) The Concessionaire fails to achieve any Project milestone other than Scheduled Project Completion Date within the period set forth in Schedule 'H' and fails to cure such default within a period of 180 (one hundred and eighty) days from the date of its occurrence.
- (3) The Concessionaire fails to issue vehicle passes to NHAI in accordance with Clause 6.6.
- (4) The Concessionaire fails to repay the NHAI Subordinated Debt in accordance with Clause 23.5.



- (5) The Concessionaire is in Material Breach of this Agreement;
- (6) The Concessionaire commits default in complying with any of the terms and conditions of this Agreement, save and except those defaults in respect of which Cure Period has been expressly provided in this Agreement and fails to remedy or rectify the same within the period provided in a notice in this behalf from NHAI which shall:
- (i) require the Concessionaire to remedy the breach or breaches referred to in such notice within 1 (one) month (or such longer period as may be agreed by the NHAI at its absolute discretion); or
  - (ii) permit the Concessionaire to put forward within 15 days of such notice a reasonable programme for the remedying of the breach or breaches, such programme to specify in reasonable detail the manner in which such breach or breaches is or are proposed to be remedied and the latest date by which it is proposed that such breach or all such breaches shall be remedied.
- (7) The Concessionaire creates any Encumbrance, charges or lien in favour of any person save and except as otherwise expressly permitted under Clause 35.2;
- (8) The shareholding of the Consortium Members falls below the minimum prescribed under Clause 11.1 (xii) and the Concessionaire does not suo moto cure such default within 90 (ninety) days of its occurrence;
- (9) The transfer, pursuant to law of either (a) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or (b) all or material part of the assets or undertaking of the Concessionaire except where such transfer in the reasonable opinion of NHAI does not affect the ability of the Concessionaire to perform, and the Concessionaire has the financial and technical capability to perform, its material obligations under the Project Agreements;
- (10) A resolution is passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire;
- (11) The Concessionaire is adjudged bankrupt or insolvent or if a trustee or receiver is appointed for the Concessionaire or for any of its property that has a material bearing on the Project;



- (12) Any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction or the Concessionaire 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 property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements, and provided that:
- (i) the amalgamated or reconstructed entity has the technical capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
  - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Financial Close; and
  - (iii) each of the Project Agreements remains in full force and effect;
- (13) The Concessionaire is in Material Breach of any of the Project Agreements;
- (14) An event of default of the Concessionaire under any of the Financing Documents has occurred or any of the Senior Lenders has recalled its loan under any of the Financing Documents;
- (15) The Concessionaire abandons the operations of the Project Highway for more than 15 (fifteen) consecutive days without the prior consent of NHAI, provided that the Concessionaire shall be deemed not to have abandoned such operation if such abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations by NHAI.
- (16) The Concessionaire repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement;

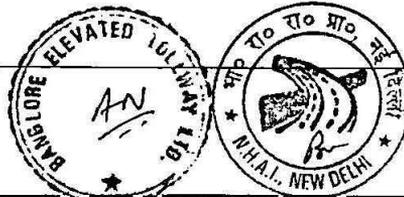


- (17) The Concessionaire suffers an execution being levied on any of its assets/ equipment causing a Material Adverse Effect on the Project and allows it to be continued for a period of 15 (fifteen) days;
- (18) The Concessionaire has delayed any payment that has fallen due under this Agreement if such delay exceeds 90 (ninety) days; or
- (19) The Concessionaire is in breach of its obligation to repay the Revenue Shortfall Loans in accordance this Agreement.

32.1.2 Save and except as otherwise provided in Clause 32.2, and without prejudice to any other right or remedy which NHAI may have in respect thereof under this Agreement, upon the occurrence of any breach or default by the Concessionaire under this Agreement including any Concessionaire Event of Default, NHAI shall be entitled to terminate this Agreement by a communication in writing (the "Termination Notice") to the Concessionaire if the Concessionaire has failed to cure such breach or default within the period provided for the same in this Agreement provided that before issuing the Termination Notice, NHAI shall by a notice in writing inform the Concessionaire of its intention to issue the Termination Notice (the "Preliminary Notice") and grant 15 (fifteen) days time to the Concessionaire to make its representation, if any, against such intended Termination Notice and shall after the expiry of said 15 (fifteen) day period whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

32.1.3 Subject to Clause 32.2, the following shall apply in respect of cure of any of the defaults and/or breaches of this Agreement.

- (i) The Cure Period shall commence from the date on which a notice in writing is delivered by NHAI to the Concessionaire asking the latter to cure the breach or default specified in such notice.
- (ii) The Cure Period provided in this Agreement shall not relieve the Concessionaire from liability for Damages caused by its breach or default;
- (iii) The Cure Period shall not in any way be extended by any period of suspension under this Agreement;
- (iv) If the cure of any breach by the Concessionaire requires any reasonable action by Concessionaire that must be approved by NHAI or the



Independent Consultant hereunder the applicable Cure Period (and any liability of the Concessionaire for damages incurred) shall be extended by the period taken by NHAI or the Independent Consultant to accord their required approval.

- 32.2 Notwithstanding anything to the contrary contained in this Agreement, in the event of the Concessionaire being in default under any of the provisions hereof expressly providing for Termination under or in accordance with this Clause 32.2, NHAI shall be entitled to terminate this Agreement forthwith by issuing a Termination Notice to the Concessionaire and upon issue of such Termination Notice by NHAI this Agreement shall stand terminated forthwith.

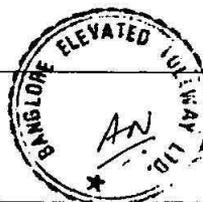
Provided, however, that prior to such Termination, NHAI shall by notice grant to the Concessionaire a Cure Period of one month for curing the relevant breach or default of the provisions of this Agreement.

- 32.3 Upon Termination by NHAI on account of occurrence of Concessionaire Event of Default during the Operations Period, the NHAI shall pay to the Concessionaire by way of Termination Payment an amount equal to 90% (ninety per cent) of the Debt Due less insurance claims, if any, provided, however, that if all or any of the insurance claims are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall qualify for being included in the computation of Debt Due.

- 32.4 Termination for NHAI Event of Default.

- 32.4.1 The Concessionaire may after giving 90 (ninety) days notice in writing to NHAI terminate this Agreement upon the occurrence and continuation of any of the following events (each a "NHAI Event of Default"), unless any such NHAI Event of Default has occurred as a result of Concessionaire Event of Default or due to a Force Majeure Event.

- (1) ~~NHAI has failed to allow the Concessionaire to levy and collect Tolls for the Hosur Section;~~
- (2) NHAI is in breach of this Agreement and such breach has a Material Adverse Effect on the Concessionaire and NHAI has failed to cure such breach or take effective steps for curing such breach within 90 (ninety) days of receipt of notice in this behalf from the Concessionaire;
- (3) NHAI repudiates this Agreement or otherwise evidences an irrevocable intention not to be bound by this Agreement;



- (4) GOI or GOK or any Governmental Agency have by an act of commission or omission created circumstances that have a Material Adverse Effect on the performance of its obligations by the Concessionaire and have failed to cure the same within 90 (ninety) days of receipt of notice by NHAI in this behalf from the Concessionaire;
- (5) NHAI has delayed any payment that has fallen due under this Agreement if such delay exceeds 90 (ninety) days.

32.4.2 Upon Termination by the Concessionaire on account of an NHAI Event of Default, the Concessionaire shall be entitled to receive from NHAI by way of Termination Payment a sum equal to:

- (i) the total Debt Due, plus
- (ii) 120% (one hundred twenty percent) the total Subordinated Debt, plus
- (iii) 150% (one hundred fifty per cent) of the Equity (subscribed in cash and actually spent on the Project but excluding the amount of Equity Support referred to in Article XXIII) if such Termination occurs at any time during three years commencing from the Appointed Date and for each successive year thereafter, such amount shall be adjusted every year to fully reflect the changes in WPI during such year and the adjusted amount so arrived at shall be reduced every year by 7.5% (seven and a half per cent) per annum.

32.5 Upon Termination of this Agreement for any reason whatsoever, NHAI shall:

- (i) take possession and control of Project Highway forthwith;
- (xxxiii) take possession and control forthwith of any materials, construction plant, implements, stores etc. on or about the Site;
- (iv) restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Site or any part of the Project Highway; and/or
- (v) succeed upon election by NHAI without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreement as NHAI may in its discretion deem appropriate and shall upon such election be required to compensate such contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date



NHAI elects to succeed to the interests of the Concessionaire as aforesaid. All sums claimed by such Contractors as being due and owing for work and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors and NHAI shall in no way or manner be liable or responsible for such sums.

- 32.6 Termination Payments: The Termination Payment pursuant to this Agreement shall become due and payable to the Concessionaire by NHAI within thirty days of a demand being made by the Concessionaire with the necessary particulars duly certified by the Statutory Auditors. If NHAI fails to disburse the full Termination Payment within 30 (thirty) days, the amount remaining unpaid shall be disbursed along with interest @ SBI PLR plus two per cent for the period of delay on such amount.
- 32.7 Mode of Payment: Payment of compensation of costs by NHAI pursuant to this Article XXXII shall be made by way of credit to the Escrow Account and such payment shall constitute valid discharge of NHAI's obligations for Termination Payment hereunder.
- 32.8 Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. All rights and obligations of either Party under this Agreement, including without limitation Termination Payments and Divestment procedures, shall survive the Termination of this Agreement to the extent such survival is necessary for giving effect to such rights and obligations.



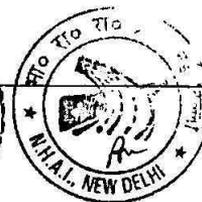
**XXXIII. DIVESTMENT OF RIGHTS AND INTERESTS**

33.1 Upon Termination of this Agreement, the Concessionaire shall comply with the following:

- (a) notify to NHAI forthwith the location and particulars of all Project Assets;
- (b) deliver forthwith actual or constructive possession of the Project Highway free and clear of all Encumbrances and execute such deeds, writings and documents as may be required by the NHAI for fully and effectively divesting the Concessionaire of all of the rights, title and interest of the Concessionaire in the Project Highway and conveying the Project Highway;
- (c) comply with the Divestment Requirements set out in Clause 33.2 except in case if Termination of this Agreement is due to NHAI Event of Default, Indirect Political Event or Political Event. In case of Termination due to NHAI Event of Default, Indirect Political Event or Political Event, the Concessionaire shall have implemented the maintenance schedule as well as any repairs pointed out by the Independent Consultant in its O&M Inspection Report prior to date of Termination Notice. In case of Termination due to Non-Political Force Majeure Event, the Divestment Requirements shall be agreed between NHAI and the Concessionaire; and
- (d) pay all transfer costs and stamp duty applicable on handback of project facilities except in case the Project is being transferred due to NHAI Event of Default, Indirect Political Event, Political Event or expiry of Concession period, where NHAI shall be responsible for transfer costs and stamp duty, if any. For clarification of doubt, transfer costs in this Clause relate to taxes and duties applicable at transfer of Project Highway, if any.

33.2 Subject to Clause 33.1, upon Termination of this Agreement, the Concessionaire shall comply and conform to the following Divestment Requirements in respect of the Project Highway:

- (i) all Project Assets including the road, pavement, structure and equipment shall have been renewed and cured of all defects and deficiencies as necessary so that the Project Highway is compliant with the Specifications and Standards set forth in this Agreement;



- (ii) all sections of each traffic lane (the "Carriageway") of the Project Highway shall have a roughness index of not more than 2500 mm per km and shall be free from defects in accordance with O&M requirements;
- (iii) all lamps shall be in working condition;
- (iv) the Concessionaire delivers relevant records and reports pertaining to the Project Highway and its design, engineering, construction, operation, and maintenance including all operation and maintenance records and programmes and manuals pertaining thereto and complete as built Drawings on the Divestment Date;
- (v) the Concessionaire executes such deeds of conveyance, documents and other writings as the NHAI may reasonably require to convey, divest and assign all the rights, title and interest of the Concessionaire in the Project Highway free from all Encumbrances absolutely and free of any charge or tax unto the NHAI or its Nominee; and
- (vi) the Concessionaire complies with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all the rights, title and interest of the Concessionaire in the Project Highway free from all Encumbrances absolutely and free of any charge or tax to NHAI or its nominee.

33.3 Not earlier than 3 (three) months before the expiry of the Concession Period but not later than 30 (thirty) days before such expiry, or in the event of earlier Termination of this Agreement, immediately upon but not later than 15 (fifteen) days from the date of issue of Termination Notice, the Independent Consultant shall verify, in the presence of a representative of the Concessionaire, compliance by the Concessionaire with the Divestment Requirements set forth in Clause 33.2 in relation to the Project Highway and, if required, cause appropriate tests to be carried out at the Concessionaire's cost for determining the compliance therewith. If any shortcomings in the Divestment Requirements are found by either Party, it shall notify the other of the same and the Concessionaire shall rectify the same at its cost. The provisions of Article XXXIV shall apply mutatis mutandis in relation to repair or curing of defects under this Article XXXIII.

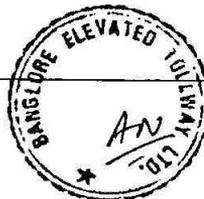
33.4 Upon the Concessionaire conforming to all Divestment Requirements and handing over actual or constructive possession of the Project Highway to NHAI or a person nominated by NHAI in this regard, NHAI shall issue a certificate substantially in



the form set forth in Schedule 'V' (the "Vesting Certificate") which will have the effect of constituting evidence of divestment of all rights, title and lien in the Project Highway by the Concessionaire and their vesting in NHAI pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by NHAI. The divestment of all rights, title and lien in the Project Highway shall be deemed to be complete on the date when all the Divestment Requirements have been fulfilled or the Vesting Certificate has been issued, whichever is earlier, it being expressly agreed that any defect or deficiency in any Divestment Requirement shall not in any manner be construed or interpreted as restricting the exercise of any rights by NHAI or its nominee on or in respect of the Project Highway on the footing as if all Divestment Requirements have been complied with by the Concessionaire.

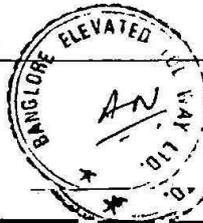
Notwithstanding anything to the contrary contained in this Agreement, any Termination Payments made by NHAI into the Escrow Account shall not be withdrawn therefrom for any purpose whatsoever until the Vesting Certificate has been issued by NHAI under this Article. Provided, however, that the aforesaid restriction shall not apply to withdrawals from the Escrow Account in favour of the Senior Lenders to the extent of Debt Due.

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**CHAPTER – VIII  
MISCELLANEOUS****XXXIV. DEFECTS LIABILITY**

- 34.1 Not less than 30 months nor more than 36 months prior to the expiry of the Concession Period, the Concessionaire and the Independent Consultant shall conduct a joint inspection (the "Initial Inspection") of the Project Highway and all Project Facilities.
- 34.2 Within 90 days after the completion of the Initial Inspection, the Concessionaire shall provide to the Independent Consultant a report on the condition of the Project Highway and the Project Facilities and a notice setting out the Concessionaire's proposals as to the renewal works required to comply with the Divestment Requirements.
- 34.3 The Independent Consultant may, within 90 days after receipt of the notice from the Concessionaire in accordance with Clause 34.2, by notice to the Concessionaire object to the proposals giving details of the grounds for such objection and shall give the Independent Consultant's proposals in respect of the renewal works.
- 34.4 If no agreement is reached between the Concessionaire and the Independent Consultant within 30 days of receipt of such notice, then either the Concessionaire or the Independent Consultant may refer the matter to the Disputes Resolution Procedure.
- 34.5 Upon agreement or determination in accordance with the Disputes Resolution Procedure, the Concessionaire shall carry out the renewal works at its own cost.
- 34.6 Not less than 9 months nor more than 12 months prior to the expiry of the Concession Period, the Concessionaire and the Independent Consultant shall conduct a joint inspection (the "Second Inspection") of all elements of the Project Highway and Project Facilities (whether or not the Renewal Works have been carried out).
- 34.7 Within 30 days after the completion of the Second Inspection, the Concessionaire shall provide to the Independent Consultant a report on the condition of the Project Highway and Project Facilities and a notice setting out any revisions or additions to the renewal works required in order to ensure compliance with the Divestment Requirements.



rights and benefits under this Agreement or any Project Agreements to which Concessionaire is a party except with prior consent in writing of NHAI, which consent NHAI shall be entitled to decline without assigning any reason whatsoever.

35.2.1 Restraint set forth in Clauses 35.1 and 35.2 shall not apply to:

- (i) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project Highway;
- (ii) mortgages/pledges/hypothecation of goods/assets other than Project Assets excluding rights of the Concessionaire under Project Agreements and , Applicable Permits and those covered by the Substitution Agreement and their related documents of title arising or created in the ordinary course of business of the Project Highway and as security only for indebtedness to the Senior Lenders under the Financing Documents and/or for working capital arrangements for the Project Highway;
- (iii) assignment of rights, title and interest to or in favour of the Lenders pursuant to and in accordance with the Substitution Agreement in respect of financing by the Senior Lenders under the Financing Documents for the Project; and
- (iv) liens or encumbrances required by any Applicable Law.

35.3 Senior Lenders may exercise the rights of step-in or substitution as provided in the Substitution Agreement to be entered into among the Concessionaire, NHAI and Senior Lenders in the form set forth in Schedule 'U' provided that the person substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations under this Agreement as if it were the Concessionaire. Provided, however, that in the event of such step-in or substitution, an additional Cure Period of 90 (ninety) days shall be provided by NHAI to enable the Concessionaire to cure any breach or default subsisting on the day of such step-in or substitution. Provided further that if the Senior Lenders step in to operate and manage the Concession for a period not exceeding 90 (ninety) days, their liabilities shall be restricted to the obligations relating to and arising during such 90 (ninety) days period.

35.5 Notwithstanding anything to the contrary contained in this Agreement NHAI may assign any of its rights and benefits and/or obligations under this Agreement pursuant to any direction of GOI or by operation of law or in the course of its own business.



**XXXVI. CHANGE IN LAW**

36.1 If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after tax return or other financial burden, the aggregate financial effect of which exceeds Rs.10 million (Rupees ten million) in any Accounting Year, the Concessionaire may notify NHAI and propose amendments to this Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden as aforesaid. Upon notification by the Concessionaire as aforesaid, the Parties shall meet as soon as reasonably practicable but no later than 30 (thirty) days and either agree on amendments to this Agreement or on alternative arrangements to implement the foregoing.

Provided that if no agreement is reached as aforesaid by the Parties within 90 (ninety) days of the meeting pursuant to this Clause 36.1, the Concessionaire may by notice in writing require NHAI to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been so such Change in Law resulting in such cost increase, reduction in return or other financial burden as aforesaid. Such notice shall be accompanied by necessary particulars duly certified by the Statutory Auditors of the Concessionaire. NHAI shall make payment of such compensation within 15 (fifteen) days of receiving such notice or with interest @ SBI PLR if the payment thereof is delayed beyond such 15 (fifteen) days. If NHAI shall dispute the quantum of such compensation claim of the Concessionaire, the same shall be finally settled in accordance with the Dispute Resolution Procedure.

36.2 If as a result of Change in Law, the Concessionaire enjoys a reduction in costs or increase in net after tax return or other financial benefit, the aggregate financial effect of which exceeds Rs.10 million (Rupees ten million) in any Accounting Year, NHAI may so notify the Concessionaire and propose amendments to this Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been so such Change in Law resulting in such decreased cost, increase in return or other financial benefit as aforesaid. Upon notification by the NHAI as aforesaid, the Parties shall meet as soon as reasonably practicable but no later than 30 (thirty) days and either agree on such amendments to this Agreement or on alternative arrangements to implement the foregoing.

Provided that if no agreement is reached as aforesaid by the Parties within 90 (ninety) days of the meeting pursuant to this Clause 36.2, NHAI may by notice in



writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such decreased cost, increase in return or other financial benefit as aforesaid. Such notice shall be accompanied by necessary particulars duly certified by the NHAI Representative. The Concessionaire shall make such payment within 15 (fifteen) days of receiving such notice or with interest @ SBI PLR if the payment is delayed beyond such 15 (fifteen) days. If the Concessionaire shall dispute such claim of NHAI, the same shall be finally settled in accordance with the Dispute Resolution Procedure.

36.3. Notwithstanding anything to the contrary contained in this Agreement, NHAI shall not be liable to reimburse to the Concessionaire any sums on account of any Change in Taxes if the same are recoverable from the users of the Project Highway or if the aggregate financial effect of such changes in any Accounting Year is less than or equal to Rs. 10 million (Rupees ten million).

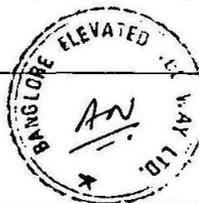
### XXXVII. LIABILITY AND INDEMNITY

#### 37.1 General Indemnity

- (i) The Concessionaire will indemnify, defend and hold NHAI harmless against any and all proceedings, actions and, third party claims (other than a claim by NHAI or GOI for loss, damage and expense of whatever kind and nature arising out of the design, engineering, construction, procurement, Operation and Maintenance of the Project Highway or arising out of a breach by Concessionaire of any of its obligations under this Agreement except to the extent that any such claim has arisen due to NHAI Event of Default).
- (ii) NHAI will, indemnify, defend and hold harmless the Concessionaire against any and all proceedings, actions, third party claims for loss, damage and expense of whatever kind and nature arising out of defect in title and/or the rights of NHAI in the land comprised in the Site adversely affecting the performance of the Concessionaire's obligations under this Agreement and/or arising out of acts done in discharge of their lawful functions by NHAI, its Officers, servants, agents, subsidiaries and contractors ("NHAI Indemnified Persons") including NHAI Events of Default except to the extent that any such claim has arisen due to a negligent act or omission, breach of contract or breach of statutory duty on the part of the Concessionaire, its Subsidiaries, affiliates, contractors, servants or agents including due to Concessionaire Event of Default.



- 37.2 Without limiting the generality of Clause 37.1 the Concessionaire shall fully indemnify, save harmless and defend NHAI including its officers, servants, agents and subsidiaries from and against any and all loss and damages arising out of or with respect to (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits, (b) payments of taxes relating to the Concessionaire contractors, suppliers and representatives, income or other taxes required to be paid by the Concessionaire without reimbursement hereunder, or (c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its Contractors which are payable by the Concessionaire or any of its contractors.
- 37.3 Without limiting the generality of the provisions of this Article XXXVII, the Concessionaire shall fully indemnify, save harmless and defend the NHAI indemnified Person from and against any and all damages which the NHAI 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 Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit claim or proceedings, the Project, or any part, thereof or comprised therein is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for NHAI a licence, at no cost to NHAI, authoring continued use of the infringing work. If the Concessionaire is unable to secure such licence within a reasonable time, the Concessionaire 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 parts or process, or modify the same so that it becomes non-infringing.
- 37.4 In the event that either Party receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under this Article XXXVII (the 'Indemnified Party') it shall notify the other Party ("Indemnifying Party") within 14 (fourteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim it may conduct the proceedings in the name of the



Indemnified Party subject the Indemnified Party being secured against any costs involved to its reasonable satisfaction.

37.5 Defence of Claims

37.5.1 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 their reasonable costs and expenses shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the person indemnified in respect of loss to the full extent provided by this Article XXXVII, 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 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, 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.

37.5.2 If the Indemnifying Party has exercised its rights under Clause 37.4, the Indemnified 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).

37.5.3 If the Indemnifying Party exercises its rights under Clause 37.4 then 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 such Indemnified Party, when and as incurred, unless:

- (i) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or



- (ii) 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
- (iii) the Indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the Indemnified Party to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- (iv) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
- (a) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
  - (b) 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 clauses (ii), (iii) or (iv) shall be applicable, counsel for the Indemnified Party shall have the right to direct the defence of such claim, 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.

### XXXVIII. RIGHTS AND TITLE OVER THE SITE

- 38.1 The Concessionaire shall have exclusive rights to the use of the Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the Project Highway by third parties.
- 38.2 The Concessionaire shall allow access to, and use of the Site for telegraph lines, electric lines or such other public purposes as NHAI may specify. Where such access or use causes any damage to the Project Highway and consequent financial loss to the Concessionaire, it may seek compensation or damages from such user of the Site as per Applicable Laws.
- 38.3 The Concessionaire shall not be liable to pay any property taxes for the Site.
- 38.4 For the purposes of claiming tax depreciation, the property representing the capital investment made by the Concessionaire shall be deemed to be acquired and owned by the Concessionaire.



38.5 The Concessionaire shall not sublet the whole or any part of the Site save and except as may be expressly set forth in this Agreement provided however that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project Highway including Project Facilities.

### XXXIX. DISPUTE RESOLUTION

#### 39.1 Amicable Resolution

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including incompleteness of the Project Highway between the Parties and so notified in writing by either Party to the other (the "Dispute") in the first instance shall be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Sub-clause (b) below.
- (b) In the event of any Dispute between the Parties, either Party may call upon the Independent Consultant to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Consultant or without the intervention of the Independent Consultant, either Party may require such Dispute to be referred to the DG(RD) & SS of NHA and the Chairman of the Board or Directors of the Concessionaire, for the time being for amicable settlement. Upon such reference, the said two Authorities shall meet not later than 7 (seven) days of the date of such request to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the said period or the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the said two Authorities, either Party may refer the dispute to arbitration in accordance with the provisions of Clause 39.2.
- (c) If the Dispute is not resolved as evidenced by the signing of the written terms of settlement within 30 (thirty) working days of the aforesaid notice in writing or such longer period as may be mutually agreed by the Parties then the provisions of Clause 42.2 shall apply.



## 39.2 Arbitration

39.2.1 Any Dispute, which is not resolved amicably as provided in Clause 39.1 shall be finally decided by reference to arbitration by a Board of Arbitrators, appointed pursuant to Clause 39.2.2 sub clause (b) below. Such arbitration shall be held in accordance with the Rules of Arbitration of the Indian Council of Arbitration and shall be subject to the provisions of the Arbitration Act.

39.2.2 There shall be a Board of three arbitrators of whom each party shall select one and the third arbitrator shall be appointed in accordance with the Rules of Arbitration of the Indian Council of Arbitration.

39.2.3 The arbitrators shall issue a reasoned Award.

39.2.4 The venue of such arbitration shall be New Delhi, India.

## 39.3 Arbitration Awards to be Binding

39.3.1 The Concessionaire and NHAI undertake to carry out any decision or award of the arbitrators (the "Award") without delay. Awards relating to any Dispute shall be final and binding on the Parties as from the date they are made.

39.3.2 The Concessionaire and NHAI agree that an Award may be enforced against the Concessionaire and/or NHAI, as the case may be and their respective assets wherever situated.

39.3.3 This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding hereunder.

## **XL. DISCLOSURE**

40.1 The Concessionaire shall make available for inspection by members of public free of charge during normal business hours on all working days copies of this Concession Agreement, the O&M Contract, the Tolling Contract and the State Support Agreement (hereinafter collectively referred to as "Public Documents") at the Concessionaire's Site office during the subsistence of this Agreement. The Concessionaire shall prominently display at the Toll Plazas public notices about the availability of the Public Documents for inspection and shall make available upon request and payment in advance of copying charges on no profit no loss basis to members of public copies of the said Public Documents.



**XLI. REDRESSAL OF PUBLIC GRIEVANCES**

- 41.1 The Concessionaire shall maintain a public relations office adjacent to each Toll Plaza and keep it open to public access at all times. At each such office, the Concessionaire shall open and maintain a register (the "Complaints Register") for recording of complaints by any person (the Complainant) at any time of the day. The availability of and access to such office and the Complaints Register shall be prominently displayed by the concessionaire at each Toll Plaza so as to bring it to the attention of all persons who are entering and exiting the Project Highway.
- 41.2 The Complaints Register shall be securely bound and kept in proper custody at the public relations office. Each page of the Register shall be duly numbered and each complaint recorded therein shall also be duly numbered. Soon after a complaint is registered the Complainant shall be given a receipt by such office stating the date and complaint number, which the Complainant may refer to in any subsequent correspondence or claim. The Complaints Register shall have appropriate columns including but not limited to the complaint number and date, name and address of the Complainant, the complaint and the action taken by the Concessionaire thereon.
- 41.3 The Concessionaire shall inspect the Complaints Register at reasonable intervals and take prompt steps for redressal of the grievances stated in each complaint. The action so taken by the Concessionaire shall be briefly noted in the 'Action taken' column of the Complaints Register and a suitable reply shall also be sent to the Complainant by post under a certificate of posting.
- 41.4 Within one week following the close of each calendar month, the Concessionaire shall send to NHAI a true photocopy of such pages of the Complaints Register on which any entries have been recorded of any Complaint on the Concessionaire during the course of such month. NHAI may in its discretion direct the concessionaire to take such further reasonable action as NHAI may deem appropriate for a fair and just redressal of any grievance. Where NHAI is of the opinion that the Complainant is entitled to any further redressal or compensation beyond what the Concessionaire is willing to provide, NHAI may refer the matter to the Consumer Redressal Forum having jurisdiction for its disposal in accordance with the provisions of the Consumer Protection Act, 1986.

**XLII. ADVERTISING ON THE SITE**

- 42.1 The Concessionaire shall not undertake or permit any form of Commercial advertising, display or hoarding at any place on Site except on electric poles (size



to be decided by NHAI) if such advertising, display or hoarding shall be visible to a user of the Project Highway while driving on such Highway.

#### XLIII. GOVERNING LAW AND JURISDICTION

43.1 This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and the Courts at New Delhi, India shall have jurisdiction over all matters arising out of or relating to this Agreement.

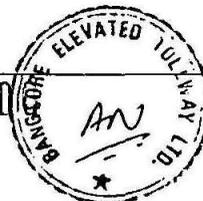
#### XLIV. MISCELANEOUS

##### 44.1 Video Recording

During the Construction Period, the Concessionaire shall provide a video recording to NHAI every calendar quarter which will be compiled into a 3 (three) hour cassette, covering the construction of the Project Highway in that quarter. Such video recording shall be provided no later than fifteen days after the close of each quarter.

##### 44.2 Waiver

- (a) Waiver by either Party of any default by other Party in the observance and performance of any provision of or obligations of or under this Agreement.
- (i) shall not operate or be construed as a waiver of any other or subsequent default 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 authorised representative of the Party; and
  - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (b) 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 thereunder 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.



## 44.3 Survival

Termination of this Agreement (a) shall not relieve the Concessionaire or NHAI of any obligations hereunder which expressly or by implication survives Termination hereof, and (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall 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.

All obligations surviving the cancellation, expiration or Termination of this Agreement shall only survive for a period of 5 (five) years following the date of such Termination or expiry of this Agreement.

## 44.4 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 expressly previously approved in writing by NHAI and executed by the person expressly authorised by a resolution of NHAI in this behalf.

## 44.5 Notices

Any notice or other communication to be given by Party to the other Party under, or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Concessionaire, be given by letter delivered by hand to the address given and marked for the attention of the person set out opposite the corresponding signature below or to such other address marked for such other attention as the Concessionaire may from time to time designate by notice to NHAI, provided that notices or other communications to be given to an address outside New Delhi may (if they are subsequently confirmed by sending a copy thereof by first class registered airmail or by courier) be sent by facsimile to the number as the Concessionaire may from time to time designate by notice to NHAI; and
- (b) in the case of NHAI, be given by letter delivered by hand and be addressed to the Chairman, NHAI

10



Copies of all notices shall also be sent by facsimile and by registered acknowledgement due pre-paid post or courier.

Copies of all notices shall also be sent to the NHAI Representative.

44.6 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 instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing 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 dispute resolution under this Agreement or otherwise.

44.7 No Partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

44.8 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.

44.9 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.

44.10 Counterparts

This Agreement may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

102



45.1 IN WITNESS WHEREOF THE, PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED SEALED AND DELIVERED

For and on behalf of NATIONAL HIGHWAYS AUTHORITY OF INDIA

By B.K. Bansal (Signature)

B.K. Bansal  
General Manager (MC-III)

SIGNED, SEALED AND DELIVERED

For and on behalf of the contractor named BANGALORE ELEVATED TOLLWAY LIMITED

By Ankur Aganti (Signature)

Ankur Aganti  
Authorised Signatory



In the presence of:

1) Signature: A.V. Sinha  
Name: A.V. Sinha

Designation: CGM

2) Signature: B.S.  
Name: B.N. SINGH,

Designation: CGM IN CHARGE

In the presence of:

1) Signature: Ramaganti  
Name: RAJENDRA PRASAD AGANTI

Designation: CMD. IEMA.

2) Signature: A.S. Nagpal  
Name: A.S. NAGPAL

Designation: VICE PRESIDENT  
NCCL



**BANGALORE ELEVATED TOLLWAY LTD**

41, Nagarjuna Hills, Punjagutta, Hyderabad – 500 082

Ph.No.040-23351753, Fax NO.040-23350214

No.BETL/2006/001

19<sup>th</sup> January, 2006

To

General Manager (MC III)  
National Highways Authority of India,  
G-5&6, Sector-10, Dwarka,  
New Delhi - 110 075

*pl. put up*  
*for Board*  
19/01/06

*mg (mc III) RDB*

**Sub : Construction of Elevated Highway on Bangalore-Hosur Section of NH7.**

Dear Sir,

We have please in submitting the following document for the above project.

1. Memorandum of Association and Articles of Association
2. Copy of Board resolution of the company to sign the Concession Agreement.
3. Power of attorney to sign the agreement.
4. Shedule 'H'

Further, as requested in various review meeting, formation of SPV for the project has taken sometime and on account of which we could not sign the Concession Agreement within four weeks of the issue of LOA. This unavoidable delays, for reasons beyond over control, may kindly be waived.

We hereby intend to sign the Concession Agreement today dated 19.01.2006.

Thanking you and assuring you of our best services at all times.

Yours sincerely,  
For **BANGAORE ELEVATED TOLLWAY LIMITED**

*ANNEEEDU MAGANTI*  
Authorized Signatory

Encls : as above

ANNEEEDU MAGANTI

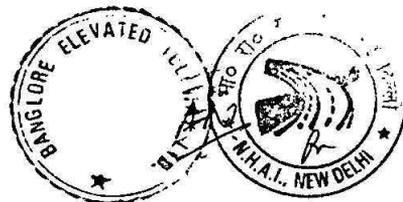
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Memorandum of Association  
and  
Articles of Association  
of  
**BANGALORE ELEVATED TOLLWAY LIMITED**

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प्रारूप आई आर

Form I

[See Regulation 16(1)]

निगमन का प्रमाण - पत्र

# CERTIFICATE OF INCORPORATION

ता 01:..... का सं .....  
48573 05 - 2006

No.01:..... of 20 .....

मै एतद्वारा प्रमाणित करता हूँ कि आज .....

कम्पनी अधिनियम, 1956 के आधीन निगमित की गई है यह कम्पनी परिसीमित है।

I hereby certify that **BANGALORE ELEVATED TOLLWAY LIMITED**

is this day incorporated under the Companies Act, 1956 \* (and that the Company is limited.)

मेरे हस्ताक्षर से आज ता ..... को दिया गया।

Given under my hand at **HYDERABAD** this **TWENTY SIXTH**

**DECEMBER** **FIVE**

day of ..... Two thousand and .....  
(FIFTH PAUSA, 1927 SAKA)

CIN - U45200AP2005PLC48573

Seal  
जे.एस.सी. - 1  
J.S.C - 1



\* TO BE OMITTED IN RESPECT OF UNLIMITED COMPANY

*P. Atchuta*  
(P. ATCHUTA RAMAIAH)  
कम्पनियों का रजिस्ट्रार  
Registrar of Companies  
Asst. - Andhra Pradesh  
Hyderabad.



Company No. 01-48573



**CERTIFICATE OF COMMENCEMENT OF BUSINESS**  
Pursuant of Section 149(3) of the Companies Act, 1956.

I hereby certify that the BANGALORE ELEVATED TOLLWAY LIMITED

which was incorporated under the Companies Act, 1956, on the TWENTY SIXTH  
day of DECEMBER 2005 and which has this day filed a duly verified  
declaration in this prescribed form that the conditions of Section 149(1) (a) to  
(d) / 149 (2) (a) to (c) of the said Act, have been complied with is entitled to  
commence business.

Given under my hand at Hyderabad this SEVENTEENTH  
day of JANUARY

Two Thousand and SIX.

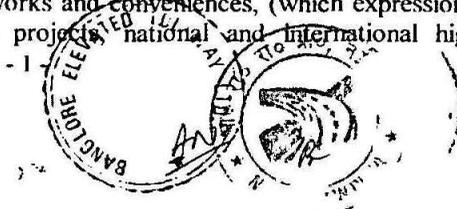


(N. S. PONNUNAMBI)  
REGISTRAR OF COMPANIES  
ANDHRA PRADESH, HYDERABAD



**INCORPORATED**  
**UNDER THE COMPANIES ACT, 1956**  
**(1 OF 1956)**  
**COMPANY LIMITED BY SHARES**  
**MEMORANDUM OF ASSOCIATION**  
**OF**  
**BANGALORE ELEVATED TOLLWAY LIMITED**

- I.** The name of the Company is **BANGALORE ELEVATED TOLLWAY LIMITED**.
- II.** The Registered Office of the Company will be situated in the State of Andhra Pradesh.
- III.** The objects for which the Company is established are:
- A. THE MAIN OBJECTS TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:**
1. To carry on and undertake the business of collection of tolls from constructed / leased highway and related projects either indirectly or through joint ventures.
  2. To design, engineer, build, construct, erect, upgrade, repair, improve, strengthen, widen, develop, operate and maintain, own or control or transfer, including on 'build, operate and transfer' basis, annuity basis or otherwise, in India or in any part of world, either alone or jointly with others, all kinds of road projects, infrastructure projects, building projects, civil construction works and conveniences, (which expression in this Memorandum includes roads, road projects, national and international highways,

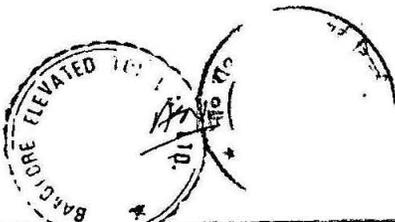


express ways, bridges, airports, railways, tramways, docks, harbours, piers, wharves, canals, reservoirs, embankments, irrigations, reclamations, sewage, drainage, sanitary, water, thereof, terminals and other related facilities for storage, handling, supply and distribution thereof and rural developments, waterways, bridges, factories, mills, ships and vessels of all kinds) and to negotiate for and obtain, from the government, concessions, franchises, subsidies, grants, toll collection rights, aid or other assistance in furtherance of all or any of the above objects.

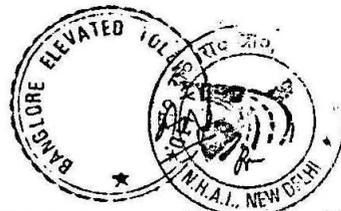
3. To construct, erect, commission, toll gates, toll collection points on road projects and highway projects and to own, operate, maintain, lease out and transfer the same.
4. To act as project managers, technical/management consultants, operation and maintenance contractors for infrastructure projects including power projects, highway and expressway projects.

**B. THE OBJECTS INCIDENTAL OR ANCILLARY TO THE ATTAINMENT OF THE MAIN OBJECTS:**

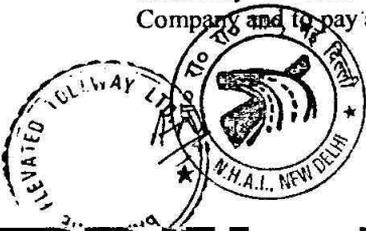
1. To purchase take on lease or in exchange for, hire or otherwise acquire any immovable or movable property, any rights or privileges licenses or easement which the Company may think necessary or convenient with reference to any of these objects and capable of being profitably dealt with in connection with any of the Company's property or rights for the time being and to pay for the same out of the funds of the Company.
2. To acquire, enter into agreement, enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint venture, reciprocal, concession or otherwise with any person or company carrying on or engage in any business or transaction capable of being conducted so as directly or indirectly to benefit the Company and to take or otherwise acquire shares and securities of any such companies and to sell, hold, with or without guarantee such shares or securities.
3. To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined, and in particular to invest money in lands, buildings, estates, plantations, mines, securities and other property, real and personal, movable and immovable, and generally to lend money on, or otherwise acquire mortgages, charges, bonds, obligations, loans, securities, and all other instruments upon such terms and conditions as may seem expedient.
4. To sell or dispose of the whole or any part of the undertaking and property or any or all of the assets, whether tangible or intangible, of the Company for cash or such other consideration as the Company may think fit and in particular for shares, debentures or securities of any other Company.
5. To lend money with or without security generally to such persons and upon such terms and conditions as may seem expedient, and in particular to persons having dealings with the Company or undertakings to build on or improve any property in which the Company is interested and to tenants, contractors, and others.



6. To receive money on deposit at interest, or otherwise and to make, draw, accept, endorse, discount, execute and issue, deposit receipts, promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable securities or instruments.
7. To borrow and raise money for the Company's business in such manner as the Company thinks fit and in particular by mortgage or charge of the undertaking and all or any of the assets, movable and immovable property and un-called capital for the time being of the Company.
8. To issue shares, debentures, debenture stock, bonds, obligations, and securities of all kinds, and to frame, constitute and secure the same as may seem expedient, with full power to make the same transferable by delivery or by instrument of transfer or otherwise, and either perpetual or terminable, and either redeemable or otherwise, and to charge or secure the same by trust deed or otherwise, on the undertaking of the Company on upon any specified property and rights, present and future, of the Company or otherwise howsoever.
9. From time to time to subscribe or contribute to any charitable, benevolent or other objects of a public character, and also to political parties or for political purposes subject to the Provisions of Section 293A and other applicable Provisions if any, of the Companies Act, 1956.
10. To establish agencies, appoint or employ representatives, collaborators, distributors, commission agents, either in India or foreign countries for the manufacture, sale, purchase, exchange, hire or distribution, supply or for carrying out of the aforesaid main objects of the company and to regulate and discontinue the same and to provide for the remuneration of such person for their services by payment in cash or by the issue of shares, debentures or other securities of the Company.
11. To acquire and carry on all or any part of the business or property and or undertake any liabilities of any person, firm association or Company possessed of property suitable for any of the purposes of this Company or carrying on any business which the Company is authorized to carry on, and upon any terms and for any consideration and in particular for cash or consideration of the issue of shares stocks or obligations of the Company.
12. To amalgamate with or enter into any arrangement for sharing profits, joint ventures reciprocal concessions or arrangements of a like nature with other persons or companies or partnership concerns of Government undertaking carrying on any similar or other business.
13. To undertake, promote, assist or engage in all kinds of research and development work and to set up laboratories, purchase and acquire any instruments required for the same and/or give endowments, scholarships or any other assistance either monetary or otherwise to whomsoever for the purpose in India or outside India.



14. To grant bonus, allowances gratuities, pensions and to provide any other amenities to the employees, ex-employees of the Company and/or other dependents and to support or subscribe to any charitable bodies and institution, societies or charitable or benevolent funds and to support and subscribe to any national or public object and any institutions which may be for the benefit of the Company or its employees or may be connected with any town or place where the Company carries business and contribute to provident and benefit funds for the benefit of any person employed.
15. To accumulate capital, reserves, or create any depreciation fund, reserve fund sinking fund or any special or other fund for any purposes of the Company, for repairing, improving, extending or maintaining any of the properties of the Company of for repayment of debentures of redeemable preference shares.
16. Subject to provisions of the Companies Act, 1956 and the rules framed there under and the directives issued by the RBI, as may applicable, to borrow or raise money or to receive money on deposit at interest or otherwise in such manner as the Company may think fit from members, Directors, Banks, Financial Institutions, and in particular by the issue of debenture perpetual or otherwise including debentures convertible into shares of this Company and in security of such money so borrowed, raised or received to mortgage, pledge or charge the whole or any part of the property assets or revenue of the Company, present or future, including uncalled capital by special assignment or otherwise or to transfer or convey the same absolutely or in trust and to give the lenders power of sale and other powers as may seem expedient and to purchase redeem or pay off any such securities.
17. To pay out of the funds of the Company all costs charges and expenses preliminary and incidental to the promotion, establishment and registration of the Company.
18. To sell and dispose of property, assets or undertaking of the Company for any consideration including shares, debentures or securities of any other Company having objects altogether, or in part similar to those of the Company or otherwise.
19. To undertake and execute any Trusts which may seem beneficial to the Company and to vest its property in such trust(s) which may seem to the Company desirable either gratuitously or otherwise.
20. To apply for purchase or otherwise acquire any patents, patent rights, brevets d' invention, copy rights, trade marks formula, licenses, concessions and the like subject to or royalty or otherwise, conferring any exclusive or non-exclusive or limited rights to use any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company or the acquisition of which may seem directly or indirectly to benefit the Company and to use, exercise and develop or grant license in respect of or otherwise turn to account the property, rights or information so acquired.
21. To train or pay training in India or abroad of the Company's employees, Directors or others in the interest of the Company's business.
22. To send out to foreign countries Directors, employees or any other persons for investigating possibilities of any business, trade or procuring and buying any machinery or establishing trade connections or in promoting the interest of the Company and to pay all expenses incurred in this connection.



23. To open accounts with any individual firm, company or bank and to pay into and to withdraw money from such accounts.
24. To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

**C. OTHER OBJECTS:**

1. To engage in the business of constructing, developing, owning, maintaining the telephone, telecommunications and all other forms of communications and network thereof, subject to the policy of Government of India in that behalf.
2. To carry on the business of builders, contractors, real estate developers, decorators, merchants, and dealers in stone, sand, lime, cement, bricks, timber, hardware, and other buildings requisites, brick and tile and terra cotta makers, job masters, carriers, licensed victuallers, and house agents, and to develop and turn to account any land acquired by or in which the Company is interested, and in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, furnishing, fitting up and improving buildings, and by planting, paving, draining, farming, cultivating, letting on buildings lease or building agreement, and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others.
3. To carry on the business of manufacturers of, makers of, dealers in, distributors, hirers and repairers of articles or goods of any description relating to or made or prepared with concrete and all or any materials and things used for or in connection with the manufacture, making, dealing in distributing, hiring and repair of such concrete articles or goods.
4. To carry on the business of hotels, motels, guest houses, eating places, recreation facilities and petrol filling stations on the highways and other roads.

**IV. The Liability of the members of the Company is limited.**

- V. The Authorised Share Capital of the Company is Rs.25,00,000/- (Rupees Twenty Five Lakhs) only divided into 2,50,000 (Two Lakhs Fifty Thousand Only) Equity Shares of Rs.10/- (Rupees Ten Only) each to be increased or reduced in accordance with the Companies Act, 1956 and the Memorandum as and when thought fit by the Board of Directors.

110

-110-



We the several persons whose names and addresses are subscribed hereto, are desirous of being formed into a Company in pursuance of this Memorandum of Association and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:

SL No.	Name, Addresses, Description and Occupation of subscribers with their signatures	Number of Equity Shares taken by each subscriber	Signature, Name, Address, Description and Occupation of Witness
1.	SD/- NAGARJUNA CONSTRUCTION COMPANY LIMITED. Rep. by: A Ranga Raju S/o.A V S Raju 41, Nagarjuna Hills, HYDERABAD - 500 082.  Occ: LIMITED COMPANY	80,000 (Eight Thousand only)	SD/- C SRINIVAS S/o. C S Raju, 353-SRT, S R Nagar HYDERABAD - 500 038.  OCC : SERVICE
2.	SD/- MAYTAS INFRA PRIVATE LIMITED Rep. by: B Teja Raju S/o.B.Rama Linga Raju 6-3-1186/5/A, 3 <sup>rd</sup> Floor, Amogh Plaza, Begumpet, HYDERABAD - 500 016.  Occ: PRIVATE LIMITED COMPANY	80,000 (Eight Thousand only)	
3.	SD/- SOMA ENTERPRISE LIMITED Rep. by: M ANKINEEDU S/o. M Rajendra Prasad 14, Avenue - 4, Banjara Hills, HYDERABAD - 500 034.  Occ: LIMITED COMPANY	80,000 (Eight Thousand only)	
4.	SD/- A RANGA RAJU S/o.A V S Raju Plot No.168-A, Road No.10, Jubilee Hills, HYDERABAD - 500 033.  Occ: BUSINESS.	200 (Two Hundred only)	

Date: 05-12-2005

Place: Hyderabad



Sl. No.	Name, Addresses, Description and Occupation of subscribers with their signatures	Number of Equity Shares taken by each subscriber	Signature, Name, Address, Description and Occupation of Witness
5.	SD/- ANKINEEDU MAGANTI S/o. M Rajendra Prasad Plot No.1054, Road No.46, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	200 (Two Hundred only)	
6.	SD/- B TEJA RAJU S/o. B Ramalinga Raju Plot No.1242, Road No.62, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	200 (Two Hundred only)	SD/- C SRINIVAS S/o. C S Raju, 353-SRT, S R Nagar <b>HYDERABAD - 500 038.</b>  <b>OCC : SERVICE</b>
7.	SD/- A GOPALA KRISHNAM RAJU S/o. A V S Raju Plot No.168-A, Road No.10, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	200 (Two Hundred only)	
Total No. of Equity Shares taken :2,40,800 (Two lakhs forty thousand eight hundred only)			

Date: 05-12-2005

Place: Hyderabad

- 7 -

111

- 111 -



**INCORPORATED**  
**UNDER THE COMPANIES ACT, 1956**  
**(1 OF 1956)**  
**COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**BANGALORE ELEVATED TOLLWAY LIMITED**

**1. Constitution**

The Regulations contained in Table 'A' of the First Schedule to the Companies Act, 1956, shall not apply to the Company except in so far as they are embodied in the following articles which shall be the regulations for the management of the Company.

**2. Definitions**

In these presents, the following words and expressions shall have the following meanings, unless excluded by the subject or context:

- (a) 'The Act' means 'The Companies Act, 1956' and any amendment thereto or re-enactment thereof.
- (b) 'The Company' or 'This Company' means Bangalore Elevated Tollway Limited.
- (c) 'Directors' means the Directors for the time being of the Company or as the case may be the Directors assembled at a Board Meeting.
- (d) 'In writing' includes printing, lithography, typewriting and any other usual substitutes for writing.
- (e) 'Members' shall mean Members of the Company holding a share or shares of any class and registered in the Share Register of the Company.



- (f) 'Month' shall mean the Calendar Month.
- (g) 'The Office' means the Registered Office of the Company.
- (h) 'Paid Up' shall include "Credited as fully paid up".
- (i) 'Persons' shall include any Corporation as well as individuals.
- (j) 'Proxy' includes attorney duly constituted under a Power of Attorney.
- (k) 'These Presents' or 'Regulations' means these Articles of Association as originally framed or altered from time to time and in force for the time being and include the Memorandum of Association where the context so requires.
- (l) 'The Register' shall mean the Register of Members to be kept as required under the provisions of the Act.
- (m) 'The Seal' means the Common Seal for the time being of the Company.
- (n) 'Special Resolution' shall have the meaning assigned thereto by Section 189 of the Act.
- (o) Words importing the singular shall include the plural, and words importing the plural shall include the singular.
- (p) 'Section' means Section of the Companies Act, 1956.
- (q) 'Year' means year of account of the company.

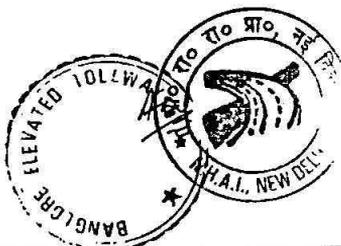
### 3. CAPITAL

The Authorised Share Capital of the Company is Rs.25,00,000 (Rupees Twenty Five Lakhs only) divided into 2,50,000 (Fifty Thousand) Equity Shares of Rs.10/- (Rupees Ten) each.

### 4. Alteration and consolidation of Capital

The Company may from time to time but subject to the provisions of the Act, alter the conditions of its Memorandum as follows:

- (a) Increase its share capital by such amount as it thinks expedient by issuing new shares.
- (b) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares.
- (c) Subdivide its shares, or any of them, into shares of smaller amount than is fixed by the Memorandum, so however, that in the sub-division the proportion between the amount, if



any unpaid on each reduced share shall be the same as it was in the case of other share from which the reduced share is derived.

- (d) Cancel any shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.
- (e) The resolutions whereby any share is subdivided may determine that, as between the holders of the shares resulting from such sub-division one or more of such shares shall have some preference or special advantage as regards dividend, capital, voting or otherwise over or as compared with the others.

#### **5. Reduction of capital etc. by Company**

The Company may, by Special Resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law:

- (a) its share capital
- (b) any capital redemption reserve account; or
- (c) any share premium account

#### **6. Boards' right to issue shares**

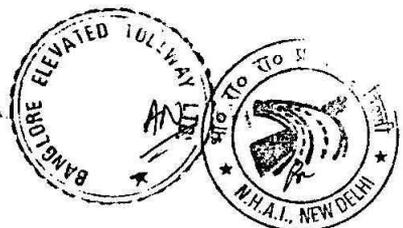
The Board may, at its discretion, may issue any part or parts of the unissued shares upon such terms and conditions and with such privileges annexed thereto as the Board at its discretion and subject to the provisions of the Act, thinks fit, and in particular may issue such shares with such preferential or qualified right to dividends and in the distribution of the assets of the Company as the Board may subject to the aforesaid section determine. The Board shall have the right to issue shares/securities/ other financial instruments on preferential basis subject to the compliance of applicable rules, regulations and statutory provisions prescribed in this regard from time to time

#### **7. Power of General Meeting to offer shares to such persons as the Company may resolve.**

In addition to and without derogating from the powers for that purpose conferred on the Board under these Articles the Company in General Meeting, subject to the provisions of the Act and the Regulations framed by the Securities and Exchange Board of India (SEBI) and/or any other Statutory Authority may determine that any shares (whether forming part of the original capital or of any increased capital of the Company) shall be offered to such persons (whether members holders of debentures of the Company or not) in such proportions and on such terms and conditions and either at a premium or at par, or at a discount, such option being exercisable at

3113

-113



such times and for such consideration as may be directed by such General Meeting or the Company in General Meeting may make any other provisions whatsoever for the issue, allotment or disposal of any shares.

#### **8. Variation of rights**

The rights attached to each class of shares (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of the Act be varied with the consent in writing of the holders of three-fourths of the issued shares of that class or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class. To every such separate meeting, the provisions of these Articles relating to General Meetings shall mutatis mutandis apply, except that the necessary quorum shall be five persons at least holding or representing by proxy one-tenth of the issued shares of that shares.

#### **9. Issue of further shares pari passu shall not affect the right of shares already issued.**

The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided for by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.

#### **10. No issue with disproportionate rights.**

The Company shall not issue any shares, not being Preference Shares, which carry voting rights or right in the Company as to dividend, capital or otherwise which the disproportionate to the rights attached to the holders of other shares not being preference shares.

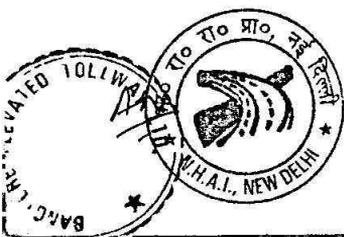
#### **11. Commission for placing shares, debentures etc.**

(a) Subject to the Provisions of the Act the Company may at any time pay a commission to any person for subscribing or agreeing to subscribe (whether absolutely or conditionally) for any shares or debentures, of the Company or procuring or agreeing to procure subscriptions (whether absolute or conditional) for shares or debentures for the Company.

(b) The Company may also in any issue, pay such brokerage as may be lawful.

#### **12. Issue other than for cash**

The Directors may subject to the provisions contained in the Act, or any other applicable Statutory Regulations allot and issue shares in the Capital of the company as payment or part payment for any property sold or transferred, goods or machinery and appliances supplied, or for services rendered to the Company in or about the formation or promotion of the company or the acquisition and or conduct of its business; or for the services rendered by the Promoters/Directors by way of Sweat Equity as permitted under the Act, or to the Employees under the Stock Option Scheme



framed in pursuance of the Employees Stock Option Regulations framed by SEBI or any other Statutory Authority and any shares which may be so allotted, may be issued as fully paid up or partly paid up shares.

### 13. Joint Holders of Shares

Where two or more persons are registered as joint holders of any share they shall be deemed to hold the same as joint tenants with benefit of survivorship subject to the following provisions.

- (a) The person whose name stands first on the register in respect of such shares shall alone be entitled to delivery of certificate thereof;
- (b) Any one of such persons may give effectual receipts for any dividend, bonus or return of capital payable in respect of such share, and such joint holders shall be severally, as well as jointly liable for payment of all installments and calls due in respect of such share/shares.
- (c) Any one of such persons may vote at any meeting either personally or by proxy in respect of such shares, as if he were solely entitled thereto, and if more than one of such joint holders be present at any meeting personally or by proxy, that one of the said persons so present whose name stands first on the register in respect of such shares, shall alone be entitled to vote in respect thereof. Several executors or administrators, of a deceased member in whose names any share stands shall for the purpose of this article, be deemed joint holders, thereof.
- (d) In case of death of any one or more of such joint holders, the survivors shall be the only persons recognised by the company as having any title to or interest in such share, but the Directors may require such evidence of death, as they may deem fit; and nothing herein contained shall be taken to release the estate of deceased joint holder from any liability on shares held by him jointly with any other person.
- (e) all notices directed to be given to the members shall be given to whichever such persons is named first in the register, and notice so given shall be sufficient notice to all the holders of such shares.

### SHARE CERTIFICATES

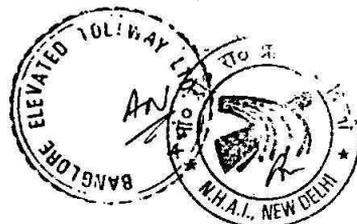
#### 14. Issue of Share Certificates

Every Certificate of title to shares shall be issued under the seal of the company. Every share certificate and every document of title to the shares whether in renewal of an existing share certificate or other document of title or issued for the first time shall issue, under the authority of the Board of Directors and in accordance with provisions of the Company (Issue of Share Certificates) Rules, 1960 or any modification thereof and in accordance with the provisions of

114

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114-



Law or other rule having the force of law applicable thereto.

#### 15. Company's lien on shares

The Company shall have a first and paramount lien upon all the shares (other than fully paid-up shares) registered in the name of each member (whether solely or jointly with others) and upon the proceeds of sale thereof for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such shares and no equitable interest in any shares shall be created except upon the footing and the condition that this Article will have full effect. And such lien shall extend to all dividends and bonuses from time to time declared in respect of such shares.

#### 16. Buy Back of shares and other securities

Notwithstanding the restrictions contained in these Articles the Company may subject to the provisions of Section 77A, 77AA and 77B and other provisions of the Act or any amendment thereto buy back its shares or other securities up to such limit and on such terms as stipulated in the said Sections 77A, 77AA and 77B or any amendment thereto.

### CALLS ON SHARES

#### 17. Calls

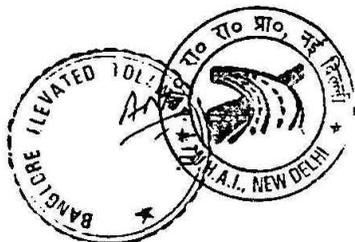
Subject to the provisions of Section 91 of the Act, the Board of Directors may from time to time make such calls as they think fit upon the members in respect of all moneys unpaid on the shares held by them respectively and not by the conditions of allotment thereof made payable at fixed times, and each member shall pay the amount of every call so made on him to the persons and at the date, time and place or at the dates times and places appointed by the Board of Directors.

#### 18. Calls when deemed to be made

The Board of Directors, may when making a call by resolution, determine the date on which such call shall be deemed to have been made not being earlier than the date of resolution making such call, and thereupon the call shall be deemed to have been made on the date so determined and if no such date is fixed the call shall be deemed to have been made on the date on which the resolution of the board making the call was passed.

#### 19. Notice for call

Not less than 'fourteen days' notice of any call shall be given specifying the date, time and place of payment provided that before the time for payment of such call, the Directors may, by notice in writing to the members, extend the time for payment thereof.



## 20. Sums payable at fixed date to be treated as calls

If by the terms of issue of any share or otherwise any amount is made payable at any fixed date or by instalments at fixed dates whether on account of the share or by way of premium, every such amount or instalment shall be payable as if it were a call duly made by the directors and of which due notice had been given, and all the provisions herein contained in respect of calls shall relate to such amount or instalment accordingly.

## 21. Calls to carry interest

- (a) If a sum called in respect of the shares is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at such rate fixed by the Board of Directors from the day appointed for the payment thereof to the time of the actual payment, but the Board of directors shall be at liberty to waive payment of that interest wholly or in part.
- (b) The provisions of this Article as to payment of interest shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes payable at a fixed date, whether on account of the amount of the share or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

## 22. Payment on calls in advance

The Board of Directors may, if they think fit, receive from any member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any share held by him, and upon all or any part of the moneys so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate as permitted under law from time to time and as may be agreed upon between the member paying the sum in advance and the Board of Directors but shall not in respect of such advances confer a right to the dividend or to participate in profits or to any such voting rights.

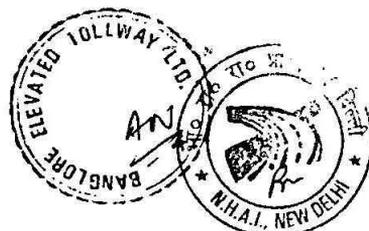
## FORFEITURE OF SHARES FOR NON PAYMENT OF CALLS

### 23. If call or instalment not paid notice may be given

If a member fails to pay any call or instalment of a call on the day appointed for the payment thereof, the Board of Directors may at any time thereafter during such time as any part of such a call or instalment remains unpaid serve a notice on him requiring payment of so much of the call or instalment as unpaid, together with any interest, which may have accrued.

### 24. Form of notice of forfeiture

The notice shall name a further day (not earlier than the expiration of fourteen days from the date of service of the notice), on or before which the payment required by the notice is to be made, and



shall state that, in the event of non-payment on or before the day named, the shares, in respect of which the call was made will be liable to be forfeited.

#### **25. Board's right to forfeit if requirements of notice are not complied with**

If the requirements of any such notice as aforementioned are not complied with, any share in respect of which the notice has been given may at any time thereafter before the payment required by the notice has been made; be forfeited by a Resolution of the Board of Directors to that effect, such forfeiture shall include all dividends declared in respect of the forfeited shares, and not actually paid before the forfeiture.

#### **26. Sale of forfeited shares**

A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board of Directors may think fit, and at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the Board of Directors may think fit.

#### **27. Liability after forfeiture**

A person whose shares have been forfeited shall cease to be member in respect of the forfeited shares but shall notwithstanding the forfeiture remain liable to pay and shall forthwith pay the company all monies which at the date of forfeiture were presently payable by him to the Company in respect of the shares, but his liability shall cease if and when the Company received payment in full of the nominal amount of shares whether legal proceeding for the recovery of the same had been barred by limitation or not.

#### **28. Declaration of forfeiture**

A duly verified declaration in writing that the declarant is a Director/Secretary of the Company and that a share in the company has been duly forfeited on a date stated in the declaration shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the shares and that declaration and receipt of the company for the consideration, if any given for the shares on the sale or disposition thereof, disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the shares be affected by way of irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the shares.

#### **29. Non-payment of sums payable at fixed times**

The provisions of these Regulations as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share, become payable at a fixed time, whether on account of the amount of the share or by way of premium or otherwise as if the same had been payable by virtue of a call duly made and notified.



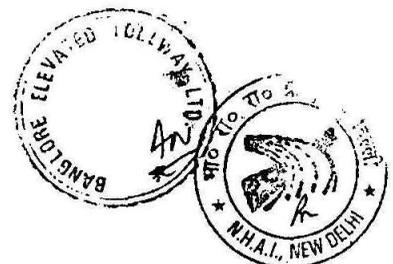
## TRANSFER & TRANSMISSION OF SHARES

### 30. Procedure as to transfer of Shares

- (a) The instrument of transfer of any shares in the Company shall be executed both by the transferor and the transferee and the transferor shall be deemed to remain holder of the shares until the name of the transferee is entered in the register of members in respect thereof. The instrument of transfer shall be in respect of only one class of shares and should be in the form prescribed under the Act.
- (b) The Board of Directors shall not register any transfer of shares unless a proper instrument of transfer duly stamped and executed by the transferor and the transferee has been delivered to the Company along with the certificate relating to the shares and such other evidence as the company may require to prove the title to the transferor or his right to transfer the shares. Provided that where it is provided to the satisfaction of the Board of Directors that an instrument of transfer signed by the transferor and transferee has been lost, the company may, if the Board of Directors, think fit, on an application in writing made by the transferee and bearing the stamp required on an instrument of transfer, register the transfer on such terms as to indemnity, as the Board of Directors may think fit.
- (c) An application for the registration of the transfer of any share or shares may be made either by the transferor or by the transferee, provided that where such application is made by the transferor no registration shall in the case of partly paid shares be effected unless the Company gives notice of the application to the transferee and the Company shall, unless objection is made by the transferee within two weeks from the date of receipt of the notice, enter in the register the name of the transferee in the same manner and subject to the same conditions as if the application for registration was made by the transferee.
- (d) For the purpose of sub clause (3) Notice to the transferee shall be deemed to have been duly given if despatched by prepaid registered post to the transferee at the address given in the instrument of transfer and shall be deemed to have been delivered in the ordinary course of post.
- (e) Nothing in clause (4) shall prejudice any power of the Board to register as a shareholder any person to whom the right to any share has been transmitted by operation of law.
- (f) Nothing in this Article shall prejudice the power of the Board of Directors to refuse to register the transfer of any shares to a transferee, whether a member or not.

### 31. Board's right to refuse to register

- (a) Subject to the provisions of Section 111 of the Act, and Section 22A of the Securities Contracts (Regulations) Act, the Board may at any time in their absolute discretion and without assigning any reasons decline to register any transfer of or transmission by



operation of law of the right to a share whether paid fully or not and whether the transferee is a member of the Company or not and may also decline to register any transfer of shares on which the Company has a lien.

Provided further that the registration of transfer shall not be refused on the ground of the transferor being alone or either jointly with any other person or persons indebted to the Company on any account except a lien on the shares.

- (b) If the Board refuses to register any transfer or transmission of right, they shall within one month from the date on which the instrument of transfer or the intimation of such transmission was delivered to the Company send notice of the refusal to the transferee and transferor or to the person giving intimation of such transmission, as the case may be.

### **32. Register of Members**

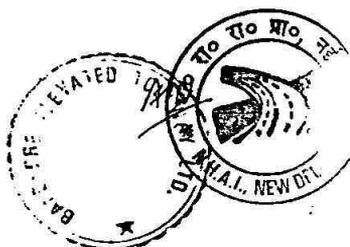
The Company shall keep a book to be called the "Register of Members" and therein shall be entered the particulars of every transfer or transmission of any shares and all other particulars of shares required by the Act to be entered in such Register.

### **33. Transmission of Registered Shares**

- (a) The Executors or administrators of a deceased member (not being one of several joint holders) shall be the only persons recognised by the company, as having any title to the Shares registered in the name of such member and in the case of death of any one or more the joint holders of any registered shares, the survivors shall be only persons recognised by the Company as having any title to or interest in such shares.
- (b) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any shares which are jointly held by him with other persons.

### **34. Rights and liabilities of legal representatives**

- (a) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time be required by the Board and subject as hereinafter provided, elect either:
- i) to be registered himself as holder of the shares; or
  - ii) to make such transfer of the share as the deceased or insolvent member could have made.
- (b) The Board shall, in either case, have the same right to decline or suspend registration as they would had had, if the deceased or insolvent member had transferred the shares before his death or insolvency.



## DEMATERIALISATION OF SECURITIES

### 35. Definitions

For the purpose of Articles 35 to 43 the following words and expressions shall have the following meanings:

'Beneficial Owner' means a person(s) whose name is recorded as such with a depository;

'SEBI' means the Securities & Exchange Board of India;

'Depository' means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration to act as a depository under the Securities & Exchange Board of India Act, 1992; and

'Security' means such security as may be specified by SEBI from time to time.

### 36. Dematerialisation of Securities

Notwithstanding anything contained in these Articles, the Company shall be entitled to dematerialise its securities and to offer securities in a dematerialised form pursuant to the Depositories Act, 1996.

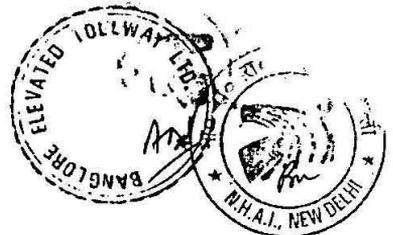
### 37. Option for Investors

Every person subscribing to securities offered by the Company shall have the option to receive security certificates or to hold the securities with a depository. Such a person who is the beneficial owner of the securities can at any time opt out of a depository, if permitted by the law, in respect of any security in the manner provided by the Depositories Act, and the company shall, in the manner and within the time prescribed, issue to the beneficial owner the required certificates of securities.

If a person opts to hold his security with a depository, the Company shall intimate such depository the details of allotment of the security, and on receipt of the information, the depository shall enter in its record the name of the allottee as the beneficial owner of the security.

### 38. Securities in Depositories to be in fungible form

All securities held by a depository shall be dematerialised and be in fungible form. Nothing contained in Sections 153, 153A, 153B, 187B, 187C and 372A of the Act shall apply to a depository in respect of the securities held by it on behalf of the beneficial owners.



### **39. Rights of Depositories and Beneficial Owners**

- (a) Notwithstanding anything to the contrary contained in the Act or these Articles, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of the beneficial owner.
- (b) Save as otherwise provided in (1) above, the depository as the registered owner of the securities shall not have any voting rights or any other rights in respect of the securities held by it.
- (c) Every person holding securities of the Company and whose name is entered as the beneficial owner in the records of the depository shall be deemed to be a member of the Company. The beneficial owner of securities shall be entitled to all the rights and benefits and be subject to all the liabilities in respect of his securities which are held by a depository.

### **40. Service of Documents**

Notwithstanding anything in the Act or these Articles to the contrary, where securities are held in a depository, the records of the beneficial ownership may be served by such depository on the Company by means of electronic mode or by delivery of floppies or discs.

### **41. Transfer of Securities**

Nothing contained in Section 108 of the Act or these Articles shall apply to a transfer of securities effected by a transferor and transferee both of whom are entered as beneficial owners in the records of a depository.

### **42. Allotment of Securities dealt with in a Depository**

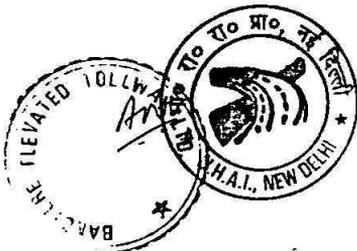
Notwithstanding anything in the Act or these Articles, where securities are dealt with by a depository, the Company shall intimate the details thereof to the depository immediately on allotment of such securities.

### **43. Distinctive numbers of Securities held in a Depository**

Nothing contained in the Act or these Articles regarding the necessity of having distinctive numbers for securities issued by the Company shall apply to securities held with a depository.

### **44. Register of Index of Beneficial Owners**

The Register and Index of beneficial owners maintained by a depository under the Depositories Act, 1996, shall be deemed to be the Register and Index of Members and Security-holders for the purposes of these Articles.



## DIRECTORS

### 45. Board of Directors

- a) The number of Directors of the Company shall not be less than three and not more than twelve.
- b) The following persons shall be the first Directors of the Company.

- (1) Mr. ALLURI RANGA RAJU
- (2) Mr. B TEJA RAJU
- (3) Mr. MAGANTI ANKINEEDU

### 46. Share qualification not necessary

Any person whether a member of the Company or not may be appointed as Director and no qualification by way of holding shares shall be required of any Director.

### 47. Directors' power to fill up casual vacancy

Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, and the person so appointed shall hold office up to the date up to which the Director in whose place he is appointed would have held office if he had not been vacated as aforesaid.

### 48. Additional Directors

The Board of Directors shall have power at any time, and from time to time to appoint one or more persons as Additional Directors. An Additional Director so appointed shall hold office up to the date of the next annual general meeting, but he shall be eligible for election by the Company at that Meeting.

### 49. Alternate Directors

The Board of Directors may appoint an Alternate Director to act for a Director (hereinafter called the original Director) during the absence of the original Director for a period of not less than three months from the State in which the meetings of the Board are ordinarily held. An Alternate Director so appointed shall vacate office if and when the original Director returns to the State in which meetings of the board are ordinarily held. If the term of office of the original Director is determined before he so returns to the State aforesaid, any provision for the automatic reappointment of retiring Director in default of another appointment shall apply to the original, and not to the Alternate Director.

118

13

- 118 -



## 50. Remuneration of Directors

Every Director other than the Managing Director and the Whole-time Director shall be paid a sitting fee not exceeding such sum as may be prescribed by the Act or the Central Government from time to time for each meeting of the Board of Directors or any Committee thereof attended by him and shall be paid in addition thereto all travelling, hotel and other expenses properly incurred by him in attending and returning from the meetings of the Board of Directors or any Committee thereof or General Meetings of the company or in connection with the business of the Company to any from any place.

## 51. Remuneration for extra services

If any Director being willing, shall be called upon to perform extra services or to make any special exertions in going or residing away from the town in which the Registered Office of the Company may be situated for any purposes of the Company or in giving special attention to the business of the Company or as a member of the Board, then subject to the provisions of the Act the Board may remunerate the Director so doing either by a fixed sum or by a percentage of profits or otherwise and such remuneration may be either in addition to or in substitution for any other remuneration to which he may be entitled.

## 52. Continuing Directors may act

The continuing Directors may act notwithstanding any vacancy in the Board but if and so long as their number is reduced below three, the continuing Directors or Director may act for the purpose of increasing the number of Directors to three or for summoning a General Meeting of the company but for no other purpose.

## 53. Vacation of office of Director

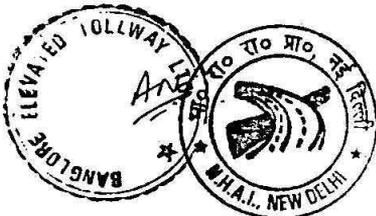
The Office of a Director shall be deemed to have been vacated under the circumstances enumerated under Section 283 of the Act.

## 54. Equal power to Directors

Except as otherwise provided in these Articles all the Directors of the company shall have in all matters equal rights and privileges and be subject to equal obligations and duties in respect of the affairs of the Company.

## ROTATION OF DIRECTORS

55. (a) Not less than one-third of the total number of the Directors of the Company for the time being holding office shall be directors whose period of office is liable to be determined by retirement by rotation and who shall be appointed by the Company in General Meeting.



- (b) At the first Annual General Meeting of the Company the whole of the Board of Directors excepting the Managing Director and Whole Time Director shall retire from office and at the Annual General Meeting in every subsequent year, one third of such of the Directors as are liable to retire by rotation for the time being or if their number is not three or multiple of three, the number nearest to one-third shall retire from office.

**56. Retiring Directors eligible for re-election**

A retiring Director shall be eligible for re-election and the Company, at the Annual General Meeting at which a Director retires in the manner aforesaid may fill up the vacated office by electing a person thereto.

**57. Which Director to retire**

The Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day, those to retire shall unless they otherwise agree among themselves be determined by lots.

**58. Retiring Director to remain in office till successors appointed**

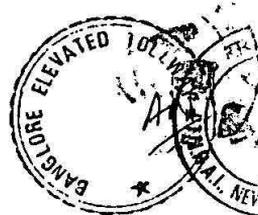
Subject to the provisions of the Act, if at any meeting at which an election of Directors ought to take place, the place of the vacating Director(s) is not filled up and the meeting has not expressly resolved not to fill up the vacancy, the Meeting shall stand adjourned till the same day in the next week at the same time and place or if that day is a public holiday till the next succeeding day which is not a public holiday at the same time and place, and if at the adjourned meeting the place of the retiring Director(s) is not filled up and the Meeting has also not expressly resolved not to fill up the vacancy then the retiring director(s) or such of them as have not had their places filled up shall be deemed to have been re-appointed at the adjourned meeting.

**59. Power to remove Directors by ordinary resolution**

Subject to the provisions of the Act, the Company may by an ordinary resolution in General meeting remove any Director before the expiration of his period of office, and may by an ordinary resolution appoint another person instead; the person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected as Director.

**60. Right of persons other than retiring Directors to stand for Directorship**

A person not being a retiring Director shall be eligible for appointment to the office of a Director at any General Meeting if he or some other member intending to propose him as a Director not less than 14 days before the meeting has left at the office of the Company a notice in writing under the hand signifying his candidature for the office of the Director or the intention of



such member to propose him as a candidate for that office as the case may be, along with the prescribed deposit amount which shall be refunded to such person or as the case may be, to such member if the person succeeds in getting elected as Director.

## PROCEEDINGS OF THE MEETINGS OF THE BOARD

### 61. Meetings of the Board

- (a) The Board of Directors shall meet at least once in every three calendar months for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit provided that at least four such meetings shall be held in every year.
- (b) The Managing Director may at any time summon a meeting of the Board and the Managing Director or a Secretary on the requisition of a Director shall at any time summon a meeting of the Board. Notice in writing of every meeting of the Board shall be given to every Director for the time being in India, and at his usual address in India to every other Director.

### 62. Quorum

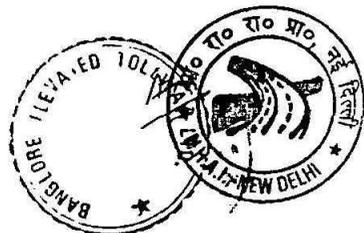
The quorum for a meeting of the Board shall be one-third of the total strength (any fraction contained in that one-third being rounded off as one) or two Directors whichever is higher provided that where at any time the number of interested Directors is equal to or exceeds two-third of total strength, the number of remaining Directors, that is to say the number of Directors who are not interested present at the meeting being not less than two, shall be the quorum during such time. The total strength of the Board shall mean the number of Directors actually holding office as Directors on the date of the resolution or meeting, that is to say, the total strength of Board after deducting therefrom the number of Directors, if any, whose places are vacant at the time.

### 63. Right of continuing Directors when there is no quorum

The continuing Directors may act notwithstanding any vacancy in the Board but if and so long as their number is reduced below three, the continuing Directors or Director may act for the purpose of increasing the number of Directors to three or of summoning a General Meeting of the company but for no other purpose.

### 64. Chairman of Board

- (a) The Board may elect a Chairman of its meeting and determine the period for which he is to hold office.



(b) If no such Chairman is elected, or at any meeting the chairman is not present within five minutes after the time appointed for holding the meeting, the Directors present may choose one among themselves to be the Chairman of the Meeting.

(c) In case of any equality of votes the Chairman shall have a second or casting vote in addition to his vote as a Director.

#### 65. Resolution by Circulation

Save as otherwise expressly provided in the Act, a resolution in writing circulated in draft together with the necessary papers, if any, to all the Directors or to all the members of the Committee then in India, not being less in number than the quorum fixed for the meeting of the Board of the Committee, as the case may be, and to all other Directors or members at their usual addresses in India and approved by such of the Directors as are then in India or by a majority of such of them as are entitled to vote on the resolution shall be valid and effectual as if it had been a resolution duly passed at a meeting of the Board or Committee duly convened and held.

### POWERS & DUTIES OF DIRECTORS

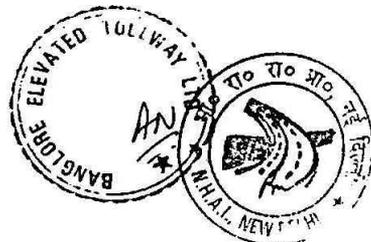
#### 66. General powers of Company vested in Directors

The business of the Company shall be managed by the Board of Directors, who may exercise all such powers of the Company as are not by the Act or any statutory modification thereof for the time being in force, or by these presents, required to be exercised by the Company in General Meeting, subject nevertheless to any regulation of these presents, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the Company in General Meeting; but no regulation may by Company in General Meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

#### 67. Further powers of Directors

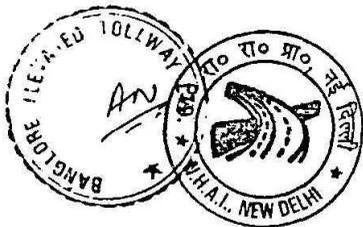
Without prejudice to the generality of the foregoing, it is hereby expressly declared that the Directors shall have the following powers, that is to say, power:

- (a) To carry on and transact the several kinds of business specified in the Memorandum of Association of the Company.
- (b) To draw, accept endorse, discount, negotiate and discharge on behalf of the Company all bills of exchange, promissory notes, cheques, hundies, drafts, railway receipts, dock warrants, delivery orders, Government promissory notes, other Government instruments, bonds, debentures or debenture stocks of Corporation, Local bodies, Port Trusts, Improvements Trusts of Corporate Bodies and to execute transfer deeds for transferring stocks, share or stock certificates of the Government and other local or corporate bodies in



connection with any business or any subject of the Company.

- (c) At their discretion, to pay for any property rights or privileges acquired by or services rendered to the Company, either wholly or partially in cash or in shares, bonds, debentures or other securities of the Company, and any such shares may be issued either as fully paid up or with such amount credited as paid up thereon as may be agreed upon; and any such bonds debentures, or other securities may be either specifically charged upon all or any of the property of the company or not so charged.
- (d) To engage and in their discretion to remove, suspend, dismiss and remunerate bankers, legal advisers, accountants, cashiers, agents, commission agents, dealers, brokers, foremen, servants, employees of every description and to employ such professional or technical or skilled assistants as from time to time may in their option be necessary or advisable in the interest of the company and upon such terms as to duration of employment, remuneration or otherwise and may be required security in such instances and to such amounts as the Directors think fit.
- (e) To secure the fulfillment of any contracts or agreements entered into by the Company, by mortgage or charge of all or any of the property of the Company or in such other manner as they may think fit.
- (f) To institute, conduct, defend, compound or abandon any actions, suits and legal proceedings by or against the Company or its officers or otherwise concerning the affairs of the Company and also to compound or compromise or subject to arbitration the same actions, suits and legal proceedings.
- (g) To make and give receipts, releases and other discharges for money payable to the Company and for the claims and demands of the Company.
- (h) To determine who shall be entitled to sign on the Company's behalf bills of exchange, promotes, dividend warrants, cheques and other negotiable instruments, receipts acceptance endorsements, releases, contracts, deeds and documents.
- (i) From time to time to regulate the affairs of the company in such manner as they think fit in particular to appoint any person to be the attorney(s) or agent(s) of the Company either abroad or in India with such powers including power to sub-delegate and upon such terms as may be thought fit.
- (j) To invest and deal with any money(s) of the company not immediately required for the purposes thereof upon such securities as they think fit.
- (k) To execute in the name and on behalf of the Company in favour of any Director or other person who may incur or be about to incur any property personal liability for the benefit of the Company such mortgages of the company's property (present and future) as they



think fit and any such mortgage may contain a power of sale and such other powers, covenants and provisions as shall be agreed upon.

- (l) To give to any person employed by the Company a commission on the profits, or any particular business or transactions, or a share in the general profits of the company, and such commission or share of profits, shall be treated as part of the working expenses of the Company.
- (m) From time to time to make, vary and repeal bye laws for the regulations of the business of the Company, its officers and servants.
- (n) To enter into all such negotiations and contracts and rescind and vary all such contracts, and execute and do all such acts, deeds and things in the name and on behalf of the Company as they may consider expedient for or in relation to any of the matters aforesaid or otherwise for the purpose of the Company.
- (o) To pay gratuities, bonus, rewards, presents and gifts to employees or dependents of any deceased employees to charitable institutions or purposes, to subscribe for provident funds and other associations for the benefit of the employees.
- (p) To donate/contribute amounts to any Political party or for political purposes subject to the limits prescribed under the Act.

#### **68. Powers to delegate to Committee**

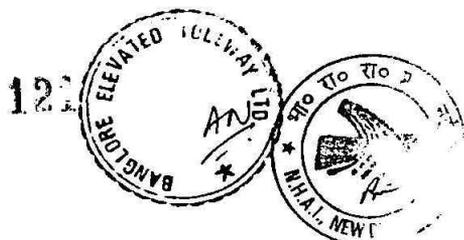
Subject to the provisions of Section 292 of the Act, and other provisions of the Act, the Board may delegate from time to time and at any time to a Committee formed out of the Directors or to any of the Director or Officials(s) of the Company all or any of the powers, authorities, and discretions for the time being vested in the Board and any such delegations may be made on such terms and subject to such conditions as the Board may think fit.

#### **69. Attorney of the Company**

The Board may appoint, at any time and from time to time by a power of attorney under the company's seal any person to be the attorney of the company for such purposes and with such powers, authorities and discretions not exceeding those vested in or exercisable by the Board under these Articles and for such period and subject to such terms and conditions as the Board may from time to time think fit.

#### **70. Power to authorise sub-delegation**

The Board may authorise any such delegate or attorney as aforesaid to sub-delegate all or any of the powers, authorities and discretions for the time being vested in it.



## 71. Secretary

The Board shall have power to appoint as the Secretary a person possessing the prescribed qualifications and fit in their opinion for the said office, for such period and on such terms and conditions as regards remuneration and otherwise as they may determine. The Secretary shall have such powers and duties as may, from time to time, be delegated or entrusted to him by the Board and/or the Managing Director and/or Whole Time Director.

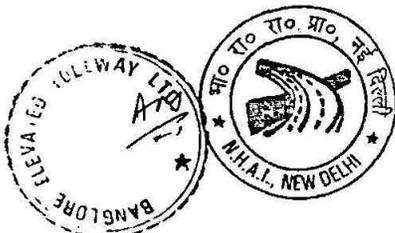
## BORROWING

### 72. Borrowing

- (a) The Board of Directors may from time to time but with such consent of the company in General Meeting as may be required under the Act raise any moneys or sums of money for the purpose of the Company provided that the moneys to be borrowed by the Company apart from temporary loans obtained from the company's bankers in the ordinary course of business shall not without the sanction of the Company at a General Meeting exceed the aggregate of the paid up Capital of the company and its free reserves that is to say reserves not set apart for any specific purpose and in particular, but subject to the provisions of Section 292 of the Act, the Board may from time to time at their discretion raise or borrow or secure the payment of any such sum of money for the purpose of the company, by the issue of debentures perpetual or otherwise including debentures convertible into shares of this or any other Company or perpetual annuities and in security of any such money so borrowed, raised or received mortgage, pledge or charge, the whole or any part of the property, assets or revenue of the company present or future, including its uncalled capital by special assignment or otherwise or to transfer or convey the same absolutely or in trust and to give the lenders powers of sale and other powers as may be expedient and to purchase redeem or pay off any such securities.

Provided that every resolution passed by the Company in General Meeting in relation to the exercise of the power to borrow as stated above shall specify the total amount up to which moneys may be borrowed by the Board of Directors.

- (b) The Directors may by a resolution at a meeting of the Board delegate the above power to borrow money otherwise than on debentures to a Committee of Directors or the Managing Director, if any, within the limits prescribed.
- (c) Subject to the provisions of the above sub-clause, the Directors may, from time to time, at their discretion, raise or borrow or secure the repayment of any sum or sums of money for the purpose of the company, at such time and in such manner and upon such terms and conditions in all respects as they may think fit, and in particular, by promissory notes or by opening current accounts or by receiving deposits and advances with or without security or by the issue of bonds, perpetual or redeemable debentures (both present and future) including its uncalled capital for the time being or by mortgaging or charging or



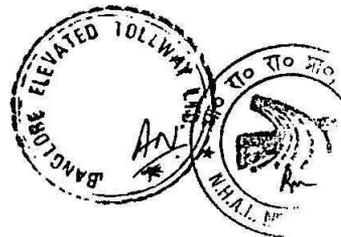
pledging any lands, buildings, goods or other property and securities of the company, or by such other means as they may seem expedient.

### 73. Nominee Directors

- (a) So long as any moneys remain owing by the Company to the Industrial Development Bank of India (IDBI), Infrastructure Development Finance Company Ltd (IDFC), Life Insurance Corporation of India (LIC), Unit Trust of India (UTI), The Oriental Insurance Company Limited (OICI), The New India Assurance Company Limited (NIA), United India Insurance Company Limited (UI), or any Scheduled Bank belonging to Public Sector or Private Sector or a State Financial Corporation or any financial institution owned or controlled by the Central Government or a State Government or the Reserve Bank of India or by two or more of them or by Central Government or State Government by themselves (each of the above is hereinafter in this Article referred to as "the Corporation") out of any loans/debentures assistance granted by them to the Company or so long as the Corporation holds or continues to hold Debentures/shares in the Company as a result of underwriting or by direct subscription or private placement, or so long as any liability of the company arising out of any guarantee furnished by the Corporation on behalf of the Company remains outstanding, the Corporation shall have a right to appoint from time to time, any person or persons as a Director or Directors, whole time or non whole time, (which Director or Directors is/are hereinafter referred to as "Nominee Director/s") on the Board of the Company and to remove from such office any person or persons so appointed and to appoint any person or persons in his or their place(s).
- (b) The Board of Directors of the company shall have no power to remove from office the Nominee Director(s). At the option of the Corporation such Nominee Director(s) shall not be liable to retirement by rotation of Directors. Subject as aforesaid, the Nominee Director(s) shall be entitled to the same rights and privileges and be subject to the same obligations as any other Director of the Company.

### MANAGING DIRECTOR(S)/WHOLETIME DIRECTOR(S)

74. (a) The Board may from time to time with such sanction of the Central Government as may be required by law, appoint one or more of their body to the office of the Managing Director or Managing Directors or Whole time Director(s).
- (b) In the event of any vacancy arising in the office of a Managing Director or Whole time Director or if the Directors resolve to increase the number of Managing Directors or Whole time Directors, the vacancy shall be filled by the Board of Directors and the Managing Director or Whole time Director so appointed shall hold the office for such period as the Board of Directors may fix.



(c) If the Managing Director or Whole time Director ceases to hold office as director, he shall ipso facto and immediately cease to be a Managing Director/ Whole time Director.

(d) The Managing Director or Whole Time Director shall not be liable to retirement by rotation as long as he holds office as Managing Director or Whole Time Director.

#### **75. Powers and duties of Managing Director or Whole Time Director**

Managing Director / Whole Time Director shall subject to the supervision, control and direction of the Board and subject to the provisions of the Act, exercise such powers as are exercisable under these presents by the Board of Directors as they may think fit and confer such powers for such time and to be exercised for such objects, purposes and upon such terms and conditions and with such restrictions as they may think expedient and they may confer such power either collaterally with or to the exclusion of any such substitution for all or any of the powers of the Board of Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers. The Managing Directors/ Whole time Directors may exercise all the powers entrusted to them by the Board of Directors in accordance with the Board's discretion.

#### **76. Remuneration of Managing Director / Whole time Directors**

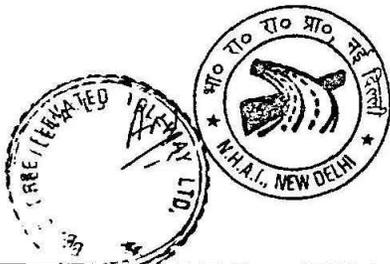
Subject to the provisions of the Act and subject to such sanction of the Central Government as may be required for the purpose, the Managing Director / Whole Time Directors shall receive such remuneration (whether by way of salary, commission or participation in profits or partly in one way and partly in another) as the Company in General Meeting may from time to time determine.

#### **77. Reimbursement of expenses**

The Managing Director / Whole time Director shall be entitled to charge and be paid for all actual expenses, if any, which they may incur for or in connection with the business of the Company. They shall be entitled to appoint part time employees in connection with the management of the affairs of the Company and shall be entitled to be paid by the Company any remuneration that they may pay to such part time employees.

#### **78. Business to be carried on by Managing Director / Whole time Director.**

(a) The Managing Director / Whole time Director shall have subject to the supervision control and discretion of the Board, the management of the whole of the business of the company and of all its affairs and shall exercise all powers and perform all duties in relation to the Management of the affairs and transactions of Company, except such powers and such duties as are required by law or by these presents to be exercised or done by the Company in General Meeting or by the Board of Directors and also subject to such conditions or restriction imposed by the Act or by these presents.



- (b) Without prejudice to the generality of the foregoing and subject to the supervision and control of the Board of Directors, the business of the Company shall be carried on by the Managing Director / Whole time Director and he shall have and exercise all the powers, except those which are by law or by these presents or by any resolution of the Board required to be done by the Company in General Meeting or by the Board.
- (c) The Board may, from time to time, delegate to the Managing Director or Whole time Director such of their powers and duties and subject to such limitations and conditions as they may deem fit. The Board may from time to time revoke, withdraw, alter or vary all or any of the powers conferred on the Managing Director or Whole time Director by the Board or by these presents.

## GENERAL MEETINGS

### 79. Annual General Meeting

The Company shall in addition to other meetings hold a general meeting which shall be styled as its Annual General Meeting at intervals and in accordance with the provisions of the Act.

### 80. Extra-ordinary General Meeting

The Board of Directors may whenever they think fit, convene an Extra-ordinary General Meeting at such time and at such place as they deem fit, subject to such directions if any, given by the Board, the Managing Director or the Secretary may convene an Extra-ordinary General Meeting.

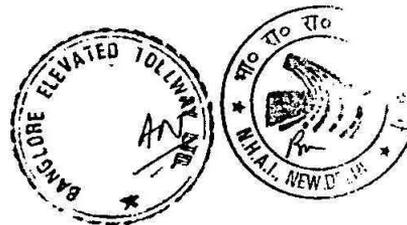
### 81. Extra-ordinary General Meeting by requisition

The Board of Directors shall on the requisition of such number of members of the Company as is prescribed under the Act proceed to call an Extra-ordinary General Meeting of the Company and comply with the provisions of the Act in relation to meetings on requisition.

### 82. Length of notice for calling meeting.

General Meeting of the Company may be called by giving not less than 21 days notice in writing, provided that a General Meeting may be called after giving shorter notice if consent thereto is accorded in the case of the Annual General Meeting by all the members entitled to vote there at and in the case of any other meeting, by members of the company holding not less than 95% of that part of the paid-up share capital which gives the right to vote on the matters to be considered at the meeting, provided that where any members of the company are entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for purpose of this Article in respect of the former resolution or resolutions and not in respect of the latter.

123



### **83. Accidental omission to give notice not to invalidate meeting.**

The accidental omission to give notice of any meeting to or the non-receipt of any such notice by any of the members shall not invalidate the proceedings of, or any resolution passed at such meeting.

## **PROCEEDINGS AT GENERAL MEETINGS**

### **84. Quorum**

Five members personally present shall be a quorum for a general meeting and no business shall be transacted at any general meeting unless the requisite quorum is present at the commencement of the business.

### **85. If quorum not present when meeting to be dissolved and when to be adjourned.**

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon by the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place or such other day and at such other time and place as the Board may determine and if at the adjourned meeting, a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

### **86. Chairman of General Meeting**

The Chairman, if any, of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

### **87. When Chairman absent, choice of another to take the chair**

If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairman, the Directors present shall choose another Director as Chairman, and if no Directors be present or if all the Directors decline to take the chair, then the members present shall choose someone from amongst themselves to be the Chairman.

### **88. Adjournment of Meeting**

The Chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn that meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as nearly as may be in the case of original meeting. Save as aforesaid, it shall not be necessary to give any notice of any adjournment or of the business to be transacted at an adjourned meeting.



### 89. Questions at General Meeting how decided

At any General Meeting resolution put to the vote at the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of the Act. Unless a poll is so demanded, a declaration by the Chairman, that a resolution, on a show of hands, has been carried unanimously or by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of, or against that resolution.

No member shall be entitled to vote in any General Meeting unless all calls or other sums presently payable by him in respect of each shares in the company have been paid.

### 90. Taking of Poll

If a poll is duly demanded in accordance with the provisions of the act, it shall be taken in such a manner as the Chairman in accordance with the provisions of the Act direct and the results of the poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken.

### 91. Chairman to have casting vote

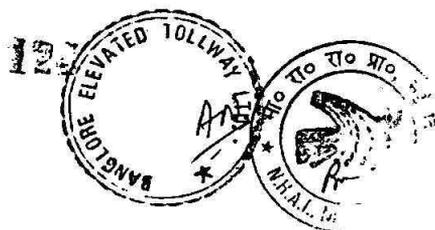
In the case of an equality of votes, the Chairman shall, both on a show of hands and on a poll, have casting vote in addition to the vote or votes to which he may be entitled to as a member.

### 92. In what case poll taken without adjournment

A poll demanded on the election of Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time not being later than 48 hours from the time when demand was made, as the Chairman may direct.

### 93. Proxies

- (a) Any member entitled to attend and vote a meeting of the Company shall be entitled to appoint any person whether a member or not as his proxy to attend and vote instead of himself, but the proxy so appointed shall not unless he be a member have any right to speak at the meeting and shall not be entitled to vote except on a poll.
- (b) The instrument appointing a proxy and the power of attorney or other authority if any, under which it is signed or a notarially certified copy of that power of authority, shall be deposited at the Registered Office of the Company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of poll: and in default, the instrument of proxy shall not be treated as valid.



#### 94. Instrument of proxy

The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or if the appointer is a Corporation either under the common seal or under the hand of an officer or attorney so authorised. Any person may act as proxy whether he is a member or not.

The instrument appointing a proxy and the power of attorney or other authority if any, under which it is signed or a notarially certified copy of that power of authority, shall be deposited at the Registered Office of the Company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of poll: and in default, the instrument of proxy shall not be treated as valid.

#### 95. Voting by Postal Ballot

Notwithstanding anything contained herein above and as provided/permitted under the Act if the Central Government by a notification directs that in the case of resolution(s) relating to such business(s) (as may be specified in the notification) should be transacted only by postal ballot then such business shall be transacted by the Company by a postal ballot conducted in such manner and on such terms as may be stipulated under the regulations framed by the Central Government.

### ACCOUNTS

#### 96. Books of Account to be kept

- (a) The Board of Directors shall cause true accounts to be kept of all sums of money received and expended by the Company and matters in respect of which such receipts and expenditure takes place, of all sales and purchases of goods by the Company, and of the assets, credits and liabilities of the Company.
- (b) If the Company shall have a Branch Office, whether in or outside India, proper books of account relating to the transactions effected at that office shall be kept at that office, and proper summarised returns made up to date at intervals of not more than three months, shall be sent by the Branch Office to the Company at its registered office or to such other place in India, as the Board thinks fit, where the main books of the company are kept.
- (c) All the aforesaid books shall give a fair and true view of the affairs of the Company or of its Branch Office, as the case may be, with respect to the matters aforesaid, and explain its transactions.



### 97. Where Books of Accounts to be kept

The Books of Account shall be kept at the Registered Office or at such other place in India as the Directors think fit.

### 98. Inspection by Members

The Board of Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books and documents of the Company or any of them shall be open to the inspection of the members, and no member (not being a Director) shall have any right of inspecting any account or books or documents of the Company except as conferred by statute or authorised by the Directors or by a resolution of the Company in General Meeting.

## DIVIDEND

### 99. Right to dividend

- (a) The profits of the Company, subject to any special rights, relating thereto created or authorised to be created by these presents and subject to the provisions of these presents as to the Reserve Fund, shall be divisible among the members in proportion to the amount of capital paid up on the shares held by them respectively on the last day of the year of account in respect of which such dividend is declared and in the case of interim dividends on the close of the last day of the period in respect of which such interim dividend is paid.
- (b) Where capital is paid upon any shares in advance of calls, such capital shall not, confer a right to participate in profits.

### 100. Declaration of Dividends

The Company in General Meeting may declare dividends but no dividend shall exceed the amount recommended by the Board.

### 101. Interim Dividends

The Board may from time to time pay to the members such interim dividends as appear to them to be justified by the profits of the Company.

### 102. Deduction for arrears

The Board may deduct from any dividend payable to any members all sums of money, if any, presently payable by him to the Company on account of calls or otherwise in relation to the shares of the company.



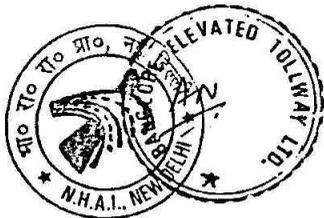
## CAPITALISATION OF PROFITS

### 103. Capitalisation of profits

- (a) The Company in General Meeting, may on recommendation of the Board, resolve:
- i) That it is desirable to capitalize any part of the amount for the time being standing to the credit of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution; and
- (b) The sum aforesaid shall not be paid in cash but shall be applied, either in or towards:
- i) Paying up any amounts for the time being unpaid on shares held by such members respectively;
  - ii) Paying up in full, un-issued shares of the Company to be allotted and distributed, credited as fully paid up, to and amongst such members in the proportions aforesaid; or
  - iii) Partly in the way specified in sub-clause (i) and partly in that specified in sub-clause (ii).
- (c) The Board shall give effect to the resolutions passed by the Company in pursuance of this regulation.

### 104. Power of Directors for declaration of bonus.

- (a) Whenever such a resolution as aforesaid shall have been passed the Board shall:
- i) make all appropriations and applications of the undivided profits resolved to be capitalized thereby and all allotments and issues of fully paid shares, if any; and
  - ii) generally do all acts and things required to give effect thereto.
- (b) The Board shall have full power:
- i) to make such provision, by the issue of fractional certificates or by payments in cash or otherwise as it thinks fit, in the case of shares or debentures becoming distributable in fraction; and also
  - ii) to authorise any person to enter on behalf of all the members entitled thereto into an agreement with the Company providing for the allotment to them respectively



credited as fully paid up of any further shares or debentures to which they may be entitled upon such capitalization or (as the case may require) for the payment of by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalized of the amounts or any part of the amounts remaining unpaid on the shares.

- (c) Any agreement made under such authority shall be effective and binding on all such members.

### COMMON SEAL

#### 105. COMMON SEAL

- (a) The Board of Directors shall provide for a Common Seal and also for the safe custody of the same.
- (b) The Seal shall not be affixed to any instrument except by authority of a resolution of the Board or of a committee and unless the Board otherwise determines every deed or other instruments to which the seal is required to be affixed shall, unless the same is executed by a duly constituted attorney for the company, be signed by one of the directors atleast in whose presence, the seal shall have been affixed and countersigned by the secretary or such other person as may from time to time be authorised by the Board, provided nevertheless that any instrument bearing the seal of the Company and issued for valuable consideration shall be binding on the company notwithstanding any irregularity touching the authority to issue the same.

### AUTHENTICATION OF DOCUMENTS

#### 106. Authentication of documents and proceedings

Save as otherwise expressly provided in the Act or these Articles, a document or proceeding requiring authentication by the Company may be signed by a Director, the Managing Director, the Manager, the Secretary or an authorised officer of the Company and need not be under its seal.

### INDEMNITY AND RESPONSIBILITY

#### 107. Director's and others right to indemnity

- (a) Subject to the provisions of the Act, the Managing Director and every Director, Manager, Secretary and other Officer or Employee of the Company shall be indemnified by the Company against any liability, and it shall be the duty of Directors out of the funds of the



company to pay, all costs and losses and expenses (including travelling expenses) which any such Director Officer or Employee may incur or become liable to by reason of any contract entered into or act or deed done by him as such Managing Director, Directors, Officers or Employee or in any way in the discharge of his duties.

- (b) Subject as aforesaid the Managing Director and every Director, Manager, Secretary or other Officer or Employee of the Company shall be indemnified against any liability incurred by them or him in defending any proceedings whether civil or criminal in which judgement is given in their or his favour or in which he is acquitted or discharged or in connection with any application under Section 633 of the Act in which relief is given to him by the Court.

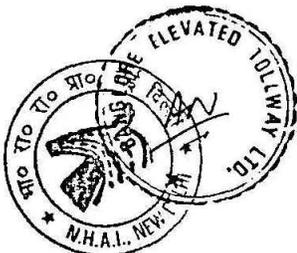
#### 108. Not responsible for acts of others

- (a) Subject to the provisions of Section 201 of the Act no Director or other Officer of the Company shall be liable for the acts, receipts, neglects or defaults of any other Director or Officer, or for joining in any receipt or other act for conformity or for any loss or expenses happening to the Company through insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the company, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the company shall be invested, or for any loss or damage arising from the bankruptcy, insolvency, or tortious act of any person, Company or Corporation, with whom any moneys, securities or effects shall be entrusted or deposited or for any loss occasioned by any error of judgement or oversight on his part or for any other loss or damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto, unless the same happen through his own willful act or default.
- (b) Without prejudice to the generality of foregoing it is hereby expressly declared that any filing fee payable or any document required to be filed with the Registrar of Companies in respect of any act done or required to be done by any Director or other officer by reason of his holding the said office, shall be paid and borne by the Company.

#### SECURITY CLAUSE

#### 109. Secrecy

No member shall be entitled to inspect the Company's works without the permission of the Director or Managing Director or to require any information relating to any detail of the Company's trading or any matter which is or may be in the nature of a trade secret, process which may relate to the conduct of the business of the Company and which in the opinion of the Directors that it will be inexpedient in the interests of the members of the Company to communicate to the public.



**110. Duties of Officers to observe secrecy**

Every Director, Managing Director, Manager, Secretary, Auditor, Trustee, Members of a Committee, Officer, Servant, Agent, Accountant or other person employed in the business of the Company, shall if so required by the Board of Directors before entering upon his duties, or at any time during his term of office, sign a declaration pledging himself to observe strict secrecy in respect of all transactions of the company and the state of Accounts and in matters relating thereto and shall by such declaration pledge himself not to reveal to any of the person(s) any information which may come to his knowledge in the discharge of his duties except when required so to do by the Board of Directors or by a Court of Law or by the person to whom such matters relate and except so far as may be necessary in order to comply with any of the provisions of these Articles or Law.

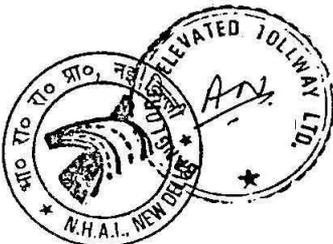
4



Sl. No.	Name, Addresses, Description and Occupation of subscribers with their signatures	Signature, Name, Address, Description and Occupation of Witness
1.	<p>SD/-  <b>NAGARJUNA CONSTRUCTION COMPANY LIMITED.</b>  Rep. by: A Ranga Raju  S/o.A V S Raju  41, Nagarjuna Hills,  <b>HYDERABAD – 500 082.</b>  <b>Occ: LIMITED COMPANY</b></p>	<p>SD/-  <b>C SRINIVAS</b>  S/o. C S Raju,  353-SRT, S R Nagar  <b>HYDERABAD – 500 038.</b>  <b>OCC : SERVICE</b></p>
2.	<p>SD/-  <b>MAYTAS INFRA PRIVATE LIMITED</b>  Rep. by: B Teja Raju  S/o.B.Rama Linga Raju  6-3-1186/5/A, 3<sup>rd</sup> Floor,  Amogh Plaza, Begumpet,  <b>HYDERABAD – 500 016.</b>  <b>Occ: PRIVATE LIMITED COMPANY</b></p>	
3.	<p>SD/-  <b>SOMA ENTERPRISE LIMITED</b>  Rep. by: M ANKINEEDU  S/o. M Rajendra Prasad  14, Avenue – 4, Banjara Hills,  <b>HYDERABAD – 500 034.</b>  <b>Occ: LIMITED COMPANY</b></p>	
4.	<p>SD/-  <b>A RANGA RAJU</b>  S/o.A V S Raju  Plot No.168-A, Road No.10,  Jubilee Hills,  <b>HYDERABAD – 500 033.</b>  <b>Occ: BUSINESS.</b></p>	

Date: 05-12-2005

Place: Hyderabad

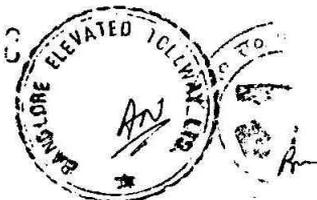


Sl. No.	Name, Addresses, Description and Occupation of subscribers with their signatures	Signature, Name, Address, Description and Occupation of Witness
5.	SD/- ANKINEEDU MAGANTI S/o. M Rajendra Prasad Plot No.1054, Road No.46, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	
6.	SD/- B TEJA RAJU S/o. B Ramalinga Raju Plot No.1242, Road No.62, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	SD/- C SRINIVAS S/o. C S Raju, 353-SRT, S R Nagar HYDERABAD - 500 038.  <b>OCC: SERVICE</b>
7.	SD/- A GOPALA KRISHNAM RAJU S/o.A V S Raju Plot No.168-A, Road No.10, Jubilee Hills, <b>HYDERABAD - 500 033.</b>  <b>Occ: BUSINESS</b>	

Date: 05-12-2005

Place: Hyderabad

123



**BANGALORE ELEVATED TOLLWAY LTD**

41, Nagarjuna Hills, Punjagutta, Hyderabad – 500 082.

Ph No:040-23351753, Fax No.: 040 - 23350214

**CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE BOARD MEETING OF THE COMPANY HELD ON 16<sup>TH</sup> JANUARY, 2006.**

**Authorization to sign on the Concession Agreement with National Highways Authority of India for execution of the Project.**

**RESOLVED THAT** the draft of the Concession Agreement to be entered into by and between the Company and National Highways Authority of India for execution of the "Construction of Elevated Highway Project of Bangalore – Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis Project awarded by National Highways Authority of India, placed before the meeting be and is hereby approved.

**RESOLVED FURTHER THAT** the Concession Agreement be executed on behalf of the Company by Sri Ankineedu Maganti, Director of the Company with such changes / modifications as he may deem necessary in the interest of the Company.

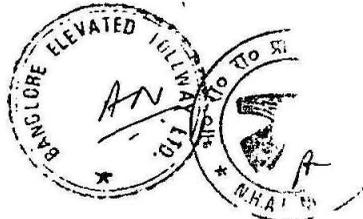
**RESOLVED FURTHER THAT** the draft of the Power of Attorney to be executed in favour of Sri Ankineedu Maganti authorizing him to sign on the Concession Agreement on behalf of the Company be and is hereby approved and the said General Power of Attorney be signed and issued on behalf of the Company by Sri A Ranga Raju, Director.

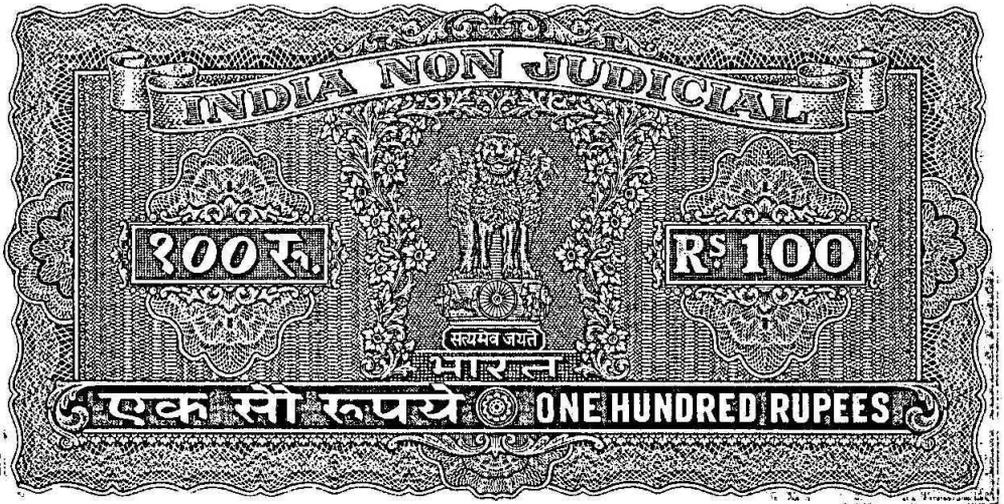
**RESOLVED FURTHER THAT** a Certified Copy of the aforesaid resolution be furnished to National Highways Authority of India for their perusal and record.

**// CERTIFIED TRUE COPY //**

**for BANGALORE ELEVATED TOLLWAY LIMITED**

*A R R*  
**A RANGA RAJU**  
**DIRECTOR**





ఆంధ్ర ప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

09AA 497274

S. No. 9819 Dt. 18/1/2006 Ps. ....

K.R. Chandravathi

Sold To..... P. V. P. Raju  
S/o. N. V. N. D. D. P. H. Raju N. W. H. S.  
To Whom..... Bangalore Elevated Tollway Ltd

**K. RAMA CHANDRAVATHI**  
STAMP VENDOR (L.No: 27799 R.L.No. 20/2005)  
6-3-387, Beside Banjara Durbar Hotel, Panjagutta,  
HYDERABAD - 500 082 Phone. No: 23351799



**GENERAL POWER OF ATTORNEY**

KNOW ALL MEN By These presents that we, Bangalore Elevated Tollway Limited, a Company registered under the Companies Act, 1956 and having its registered office at 41, Nagarjuna Hills, Hyderabad - 500 082 (hereinafter called 'the Company') represented herein by Sri A Ranga Raju, Director.

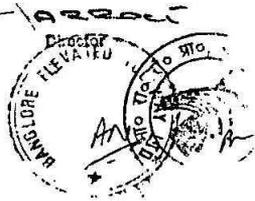
WHEREAS we are engaged in the business of construction of Elevated Corridors, Highways, Roads, Bridges etc.

WHEREAS, M/s.Soma-NCC-Maytas Consortium having its office at 14, Avenue-4, Banjara Hills, Hyderabad - 500 034 has been awarded the "Construction of Elevated Highway Project of Bangalore - Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis (hereinafter referred to as "Project") by the National Highways Authority of India vide Letter of Intent bearing No.NHA1/GM(MC III) Elevated Highway / 440, dated.16.11.2005.

WHEREAS, it is one of the requirements of the award of the aforesaid contract that the said project shall be executed through a Special Purpose Vehicle to be formed in this connection.

For BANGALORE ELEVATED TOLLWAY LIMITED

Contd.....2...



// 2 //

WHEREAS, pursuant to the aforesaid stipulation M/s.Soma-NCC-Maytas Consortium have formed a Special Purpose Vehicle viz., Bangalore Elevated Tollway Limited.

Now, therefore, know all men that we, Bangalore Elevated Tollway Limited, do hereby nominate, authorise, empower Sri.Ankineedu Maganti, S/o.Sri Rajendra Prasad, aged about 28 years, R/o. 1054, Road No.46, Jubilee Hills, Hyderabad – 500 033, and a Director of the Company, to be our lawful attorney and agent for the following purposes, namely:

In our name and on our behalf to sign the Concession Agreement for the project "Construction of Elevated Highway Project Bangalore – Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis Elevated Highway Project awarded by the National Highways Authority of India.

AND we the above named Bangalore Elevated Tollway Limited do hereby agree to ratify all such acts, deeds and things to be done by our attorney Mr.Ankineedu Maganti, Director, as if the same were done by us in person.

**IN WITNESS WHEREOF**, we, Bangalore Elevated Tollway Limited through Shri A Ranga Raju, Director have set our hands on this General Power of Attorney on this the 18<sup>th</sup> day of January, 2006.

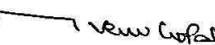
**WITNESS:**

for BANGALORE ELEVATED TOLLWAY LTD.

1.   
(M.V. SRINIVASA MURTHY)

  
A RANGA RAJU  
DIRECTOR



2.   
(SRI VENU GOPAL)

ACCEPTED:   
(ANKINEEDU MAGANTI)  
DIRECTOR

**ATTESTED**

  
NOTARY  
P. RAGHAVA REDDY  
COCAFE HIGH COURT  
No 04, Ground Floor,  
11th Shikara Apartments,  
Near Geetanjali Womens College,  
Panjagutta, Hyderabad - 500 082.  
Ph. No.:23400925



## Schedule-H

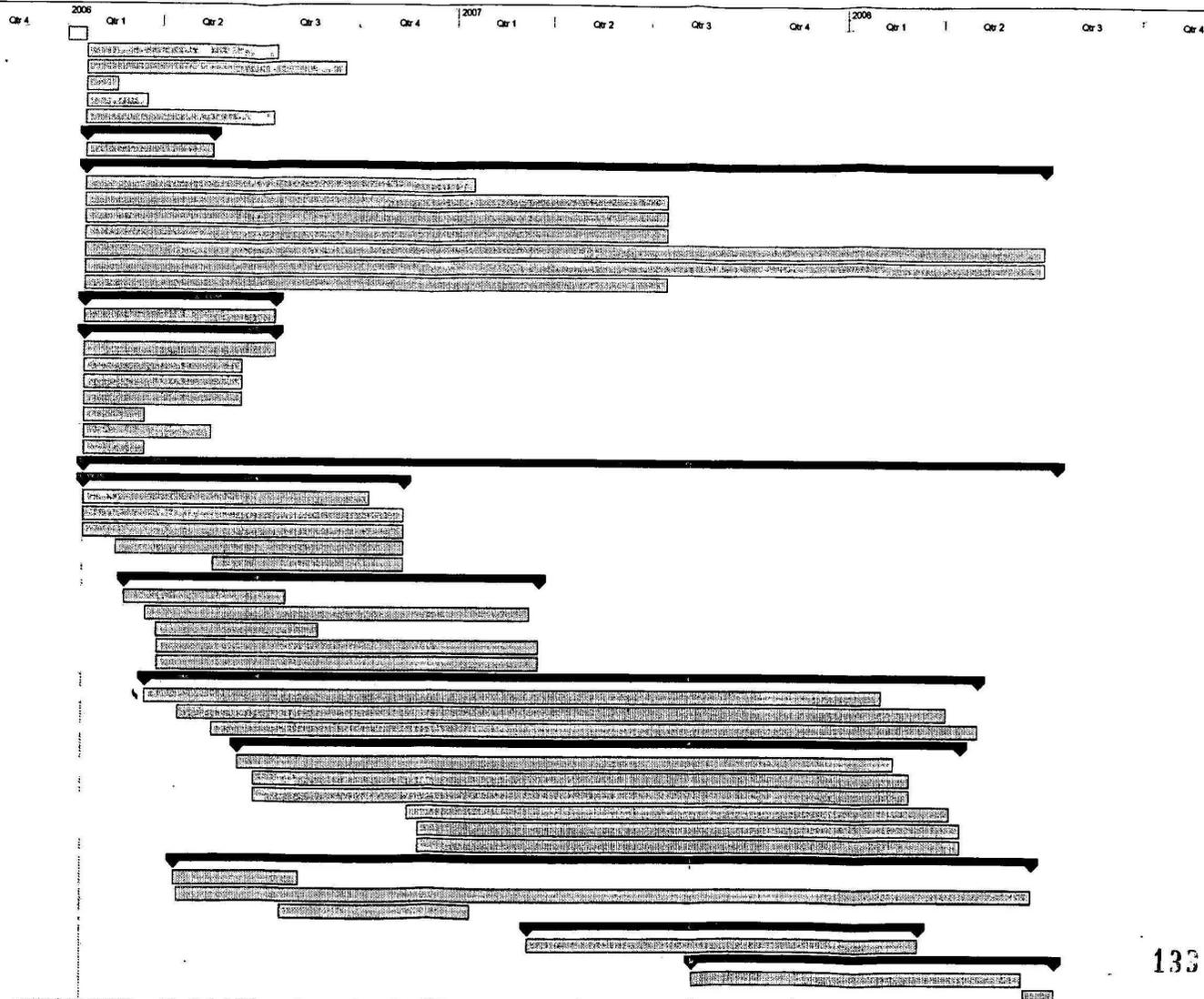
MILESTONES

MILSTONE	EVENT	PERIOD from appointed date(months)
1	<ul style="list-style-type: none"> <li>• Completion of missing service road length(about 10 km) + 12km long RC drain on both sides + completion of 6Km length of widening of carriageways(both sides) + widening of CD works in missing stretch of service road.</li> <li>• Manufacture &amp; testing of first precast segment from precasting yard</li> </ul>	06
2	<ul style="list-style-type: none"> <li>• Widening of balance Cross Drainage Structures</li> <li>• Commissioning of 1<sup>st</sup> Overhead Launching Girder &amp; Cross Gantry</li> <li>• Balance length of RC drain on both side + balance widening of carriageway</li> </ul>	12
3	<ul style="list-style-type: none"> <li>• Completion of all pile/pile caps/ peris in 50% length of elevated highway</li> <li>• Completion of 25% of total length of Precast segmental elevated deck</li> <li>• Completion of 50% of total length of Interchange superstructure + 50% length of Ramps.</li> </ul>	18
4	<ul style="list-style-type: none"> <li>• Completion of balance pile / pilecaps/piers</li> <li>• Completion of balance length of precast segmental elevated deck</li> <li>• Completion of balance length of Interchange superstructure + balance length of Ramps.</li> <li>• Completion of all balance work including commissioning of 5 nos. Toll plazas + finishing works.</li> <li>• Completion of 4 nos. of PUP's + 2 Nos. of VUP's</li> </ul>	24

*AN*



ID	Task Name	Duration	Start
1	SIGNING OF AGREEMENT	13 days	Mon 1/20/06
2	HANDLING OVER SITE WHEN	127 days	Fri 1/20/06
3	APPOINTMENT OF INDEPEND	172 days	Fri 1/20/06
4	APPOINTMENT OF PROOF CC	21 days	Fri 1/20/06
5	APPOINTMENT OF STATUTOF	41 days	Fri 1/20/06
6	Financial Close	127 days	Thu 1/19/06
7	Preliminary activities for Gro	85 days	Fri 1/20/06
8	MOBILISATION	85 days	Fri 1/20/06
9	Ground Level Improvement	641 days	Fri 1/20/06
10	CONSTRUCTION OF SER	260 days	Fri 1/20/06
11	CONSTRUCTION OF RCC	388 days	Fri 1/20/06
12	WIDENING OF CARRIAGE	388 days	Fri 1/20/06
13	WIDENING OF CD STRUK	388 days	Fri 1/20/06
14	PEDESTRIAN UNDERPA	641 days	Fri 1/20/06
15	VEHICULAR UNDERPAK	641 days	Fri 1/20/06
16	PROFILE CORRECTIONK	388 days	Fri 1/20/06
17	Preliminary Activities for Elea	127 days	Fri 1/20/06
18	PROOF CHECKING	127 days	Fri 1/20/06
19	Site Mobilization	127 days	Fri 1/20/06
20	Mobilization/Staffing	127 days	Fri 1/20/06
21	SOIL INVESTIGATION	106 days	Fri 1/20/06
22	CONSTRUCTION ENGINE	106 days	Fri 1/20/06
23	DETAILING SEGMENTS	106 days	Fri 1/20/06
24	DESIGN CASTING MOULI	41 days	Fri 1/20/06
25	DESIGN OF LAUNCHING	85 days	Fri 1/20/06
26	DESIGN OF GANTRY CRU	41 days	Fri 1/20/06
27	Construction of Elevated Roa	651 days	Fri 1/20/06
28	Engineering & Tests	213 days	Fri 1/20/06
29	SET-UP CASTING YA	213 days	Fri 1/20/06
30	SET-UP CASTING YA	213 days	Fri 1/20/06
31	Set-up Casting Yard-I	213 days	Fri 1/20/06
32	FABRICATION MOUL	192 days	Mon 2/20/06
33	TEST SEGMENTS	127 days	Mon 5/22/06
34	Design & Fabrication of I	278 days	Tue 2/28/06
35	FABRICATION GANT	109 days	Tue 3/28/06
36	FABRICATION LAUN	256 days	Mon 3/20/06
37	FABRICATION GANT	106 days	Thu 3/30/06
38	FABRICATION LAUN	256 days	Fri 3/31/06
39	FABRICATION LAUN	256 days	Fri 3/31/06
40	Foundation & Sub-struct	558 days	Mon 3/20/06
41	PILENGO HYDRAULK	493 days	Mon 3/20/06
42	PILE CAPS	513 days	Thu 4/20/06
43	PIERS & BEARINGS	513 days	Mon 5/22/06
44	Elevated Bridge Deck	493 days	Thu 6/15/06
45	CASTINGS SEGMEN	436 days	Thu 6/15/06
46	CASTING SEGMEN	436 days	Fri 6/30/06
47	CASTING SEGMEN	436 days	Fri 6/30/06
48	ERECTION OF -APP	365 days	Mon 11/20/06
49	ERECTION OF -APP	363 days	Thu 11/30/06
50	ERECTION OF -APP	363 days	Thu 11/30/06
51	Approaches	574 days	Mon 4/17/06
52	RAMP KM 9.000	85 days	Mon 4/17/06
53	INTERCHANGE(SUP	571 days	Thu 4/20/06
54	RAMPS NEAR ELEC	129 days	Tue 7/25/06
55	Toll Plaza	261 days	Thu 3/15/07
56	TOLL PLAZES (5 NO	261 days	Thu 3/15/07
57	Finishing	243 days	Wed 6/15/07
58	OS / WC / DRAINS / L	221 days	Wed 6/15/07
59	CONTINGENCY	21 days	Fri 6/20/06



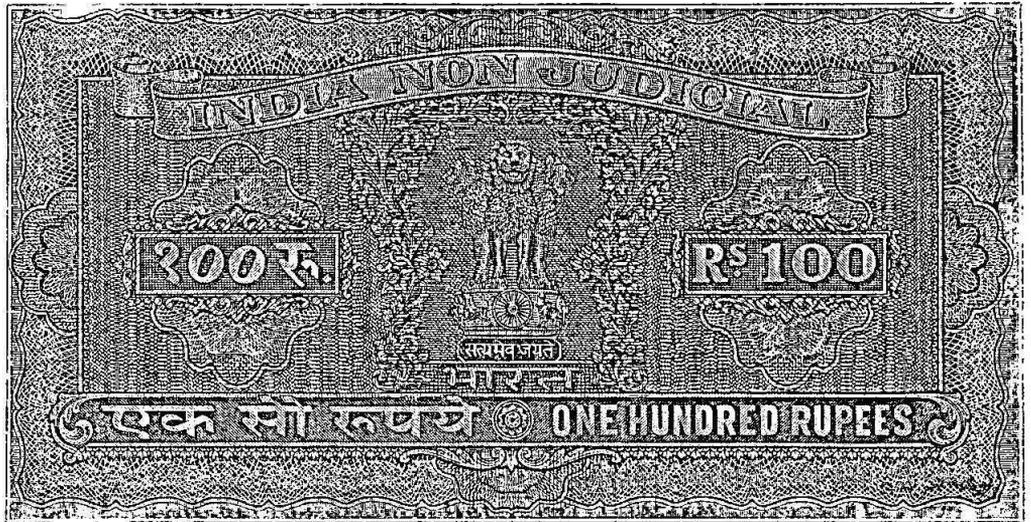
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Project Schedule-H Prog  
Date: Thu 1/19/06

Task	Progress	Summary	External Tasks	Deadline
Split	Milestone	Project Summary	External Milestone	



100Rs.



ఆంధ్ర ప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH 05AA 171729  
 26/45 Di. 2/13/2005 100/- K R Chandravathi  
 To: Ramu K. RAMA CHANDRAVATHI  
 Whom: Soma Enterprise Ltd. STAMP VENDOR (L.No: 27/09 P.L No. 20/2005)  
 6-3-387, Beside Banjara Durg Hill, Panjagutta,  
 HYDERABAD - 500 082 Phone. No: 23351799

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) MADE AND EXECUTED ON THIS 21ST DAY OF MARCH, 2005 BY AND BETWEEN:

SOMA ENTERPRISE LIMITED, a Limited Company incorporated under the laws of India with Corporate Office at 14, Avenue-4, Banjara Hills, Hyderabad – 500 034, Andhra Pradesh, India, represented by Mr. M. Rajendra Prasad, Managing Director (hereinafter referred to as "SOMA"), which expression shall, unless repugnant to the context or meaning thereof includes the successors and permitted assigns) of the "First Part".

AND

NAGARJUNA CONSTRUCTION CO. LTD., a Limited Company incorporated under the laws of India with Corporate Office at 41, Nagarjuna Hills, Panjagutta, Hyderabad – 500 082, Andhra Pradesh, India, represented by Mr. A.R Raju, Managing Director (hereinafter referred to as "NCC") which expression shall, unless repugnant to the context or meaning thereof includes the successors and permitted assigns) of the "Second Part".

*M. Rajendra Prasad*  
 SOMA ENTERPRISE LTD.  
 HYD

Contd...2..



*P. Raju*



AND

**MAYTAS INFRA PVT. LTD.**, a Limited Company incorporated under the laws of India with Corporate Office at No. 6-3-1186/5/a, IIIrd Floor, Amogh Plaza, Begumpet, Hyderabad - 500 016, Andhra Pradesh, India, represented by **Mr. B. Teja Raju, Managing Director** (hereinafter referred to as "**MAYTAS**"), which expression shall, unless repugnant to the context or meaning thereof includes the successors and permitted assigns) of the "Third Part".

WHEREAS NATIONAL HIGHWAYS AUTHORITY OF INDIA (Ministry of Shipping, Road Transport and Highways, Govt. of India) (hereinafter referred to as "**EMPLOYER**") have invited Global Invitation for Qualification for selection of a BOT Entrepreneur for **Development of Elevated Highway Project of Bangalore - Hosur section of NH-7 from Silk Board Junction to Electronic City on Build, Operate and Transfer (BOT) basis** (hereinafter referred to as "**PROJECT**").

AND WHEREAS the "**PARTIES**" herein have the wherewithal and know-how for execution of such Works and have formed a Consortium in the name and style **SOMA - NCC - MAYTAS CONSORTIUM**, which has been qualified, to submit joint request for proposal for the said Project, and if successful bidders and awarded the said project, to execute the Project.

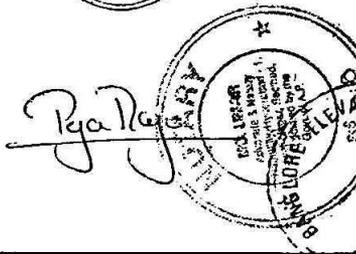
NOW THEREFORE THE PARTIES HEREBY AGREE THROUGH THIS INSTRUMENT AS FOLLOWS :

1. The Parties herein agree to submit joint Request for Proposal (RFP) for the said Project as **SOMA - NCC - MAYTAS CONSORTIUM**, and on being short listed to submit bid proposals and if successful bidders and on award of Work to execute the Work as per the terms and conditions of Contract Agreement to be entered into with the Employer.
2. The share of the Consortium members shall be :
 

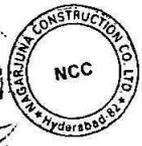
<b>SOMA</b>	: 33.5%
<b>NCC</b>	: 33.5%
<b>MAYTAS</b>	: 33%
3. **SOMA** shall be the Lead Technical Member, **NCC** shall be the Lead Financial Member and **MAYTAS** shall be the Member of the Consortium and **Mr. P. Venkatramaiah, Director, Soma Enterprise Ltd.** shall be given Power of Attorney as authorised signatory on behalf of Consortium.
4. The Parties herein agree that considering the nature of work, the work will be executed as an integrated entity by pooling the resources and making joint administrative arrangements for execution and management of the work.
5. The Parties hereto agree to incorporate a Joint Venture Company (JVC) under the provisions of the Companies Act, 1956 with equity holding in consonance with Cl. 1.3 (d) (ii) & (iii) of RFP document, which would enter into the Concession Agreement with NHA and subsequently carry out all the responsibilities as Concessionaire in terms of the Concession Agreement in case the Concession to undertake the Project is awarded to the Consortium.

Contd...3...

*Signature*



135



6. The Parties herein undertake that they are jointly and severally liable to the Employer for the execution of the said Project in accordance with the terms of the Concession Agreement with the Employer for the execution of the said Project.
7. The MOU shall be governed by the laws, rules and regulations of India and would be subject to jurisdiction of Indian Courts only.
8. The Parties herein undertake to co-operate in good faith to the best of their ability in the fulfillment of the object of this MOU.
9. This MOU shall remain valid for the whole duration required for the implementation of its terms and is bid specific to the said Project only. It will stand terminated when one of the following may occur :
  - i. On forming Joint Venture Company (JVC) for implementation of the Project, in the event the Consortium is successful bidder and awarded the said Concession .
  - ii. The Consortium is not the successful bidder / not awarded the Project.

IN WITNESS WHEREOF the Parties hereto have signed this Memorandum of Understanding at Hyderabad through their respective authorized representatives on the day, month and year first above written.

Signed for and on behalf of  
SOMA ENTERPRISE LTD.

*M. Rajendra Prasad*  
(M. RAJENDRA PRASAD)  
MANAGING DIRECTOR



Signed for and on behalf of  
NAGARJUNA CONSTRUCTION CO. LTD.

*A.R. Raju*  
(A.R. RAJU)  
MANAGING DIRECTOR



Signed for and on behalf of  
MAYTAS INFRA PVT. LTD.

*B. Teja Raju*  
(B. TEJA RAJU)  
MANAGING DIRECTOR



- Witness : 1. *R.K. Srinivas* (R.K. Srinivas) 46, Nagarjuna Hills, Hyd-82
2. *Ramakrishna* (Ramakrishna) 41, Nagarjuna Hills, Hyd-82
3. PUBA (P.V. Bhargava Reddy), 204, S.K. Towers, K.P.H.B. 6th PHU, Hyderabad-72



"ATTESTED"

MONAMMAD UMAR, B.A., B.L.  
Advocate & Notary  
Appointed by the Govt of A.P (India)  
for Nampally District Court, Hyderabad  
Beside J.J. Sankar Reddy, J.P. Gata,  
Jubilee Hills, A.P. Road, Hyderabad.

27 March 2005

as S. No.





## भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)

### National Highways Authority of India

(Ministry of Shipping, Road Transport & Highways)

G-5 & 6, Sector-10, Dwarka, New Delhi-110075

Phone : 91-11-25074100/25074200

Fax : 91-11-25093507/25093514

Extn. : 2223/2318/2468/2553

*o/c*

NHAI/GM (MC III)/Elevated Highway/119

Date: 17/03/2005

To

M/s. Soma-NCC-Maytas Consortium,  
14, Avenue-4, Banjara Hills,  
Hyderabad – 500 034  
Fax No.040- 5563 6666

**Sub: Construction of Elevated Highway Project on Bangalore-Hosur Section of NH-7 from Silk Board Junction of Electronic City Junction on Built, Operate and Transfer (BOT) basis – Reg.**

The pre-bid meeting of the aforesaid project was held on 10.03.2005 and some of the bidders raised queries in this meeting. The clarifications to the queries are enclosed herewith please.

*B.K. Bansal* 17/03/05  
(B.K. Bansal)  
General Manager (MC III)

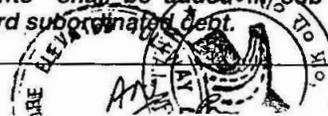
Encl.: As above (~~77~~ pages)





7	P.4 - Schedule of Bidding Process Vol.I	The proposal due date of 28.03.2005 may be extended by four weeks, as the time limit is very short.	Due date as specified in RFP.
8	Volume 1, Section 2.3.1	The clause says that, disbursement of project Support amount by NHAI in accordance with provisions of the Concession Agreement. We request you to provide the disbursement period in years of concession period, as provided in other similar BOT projects of NHAI.	<p><b>Clause 23.3 shall be substituted as follows:-</b></p> <p><b>The disbursement of project support pursuant to this clause shall be made by NHAI to the concessionaire in the following manner:</b></p> <p>(a) <b>Proportionately along with the balance loan fund to be disbursed by the senior lender under the financing documents for meeting the total project cost in respect of both the capital grant and NHAI subordinated debt.</b></p> <p>(b) <b>One lumpsum payment 15 days prior to achieving COD for issue of required number of passes in terms of Article 6.5</b></p> <p><b>NHAI shall disburse each tranche of the project support referred to in (a) above by credit to the ESCROW account within 15 (fifteen) days of the release of each loan installment by the senior lenders to the concessionaire provided the concessionaire has submitted to NHAI along with each disbursement, a request certificate from its statutory auditors certifying the above particulars and has given at least 7 (seven) days to NHAI for processing such request. The advance payment referred to in (b) above shall also be credited to the ESCROW account.</b></p> <p><b>Clause 23.1 shall be amended as follows:</b></p> <p><b>"Carrying an interest of the weighted average cost of lending by senior lenders rate plus 25 basis points" shall be added to sub clause (b) after the word subordinated debt.</b></p>

139

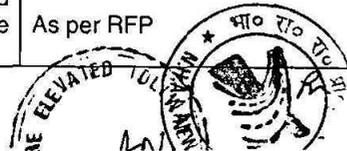


Clause 23.5 shall be substituted by the following:

The concessionaire shall repay to NHAI its subordinated debt in 5 equal installments each commencing from 15<sup>th</sup> Anniversary from the date of signing of the concession agreement. The first of such installment shall be paid by the concessionaire to NHAI on \_\_\_\_\_.

The annual installment payable shall be calculated such that the net present value of cash flows to NHAI discounted at a rate equal to 25 basis points above the cost of debt provided by the senior lenders is zero. For the purpose of calculation of NHAI subordinated debt would be assumed as negative cash flows disbursed equally for the first two years, and the annual installments paid to NHAI as positive cash flows commencing from 15<sup>th</sup> Anniversary from the date of concession agreement.

9	Volume 1, Appendix 1	Format for Acknowledgement of RFP and Notification of Intent to Submit Proposal. The said format is not carrying the correct language. NAHI to clarify and issue the revised format.	As per RFP
10	Clause 1.16.2, Page no. 14	The clause states that the proposal will need to be submitted with proof of purchase of bid document. Please advise whether a photocopy of the draft submitted for purchase of documents would be considered as proof of purchase of bid document.	Yes
11	Appendix 6B Vol 1	The table indicates Years 1, 2,3.....7 across Construction Period and Operations period. The concession tenure is 20 years. We interpret that the Termination date mentioned here implies year 20. Pls clarify.	Yes
<b>Volume-II</b>			
12	Page 7, Bank Vol.II	It is requested that any Scheduled bank incorporated in India be considered as a bank	As per RFP.
13	Debt Due Vol.II (i)	The definition should include all Principal and Interest / other charges due as on the termination date	As per RFP

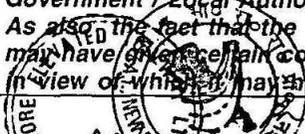


14	Project Agreement Vol.II	It is requested that the EPC, O&M and Tolling Contract be removed from the definition of the "Project Agreement"	As per RFP
15	Subsistence revenue level Vol.II	The annual ceiling for O&M may be increased to 3% for Total Project Cost.	<b>Annual ceiling of 1.5% (One and Half percent) of total project cost as specified in draft concession agreement stands modified to 2% (two percent) of the total project cost.</b>
16	4.1 (a) Vol.II	All applicable permits shall be obtained by the concessionaire as and when required since permits for quarrying, electricity, water, plants etc are need based and will be required at various times during the construction period and therefore should not be considered as CP to Financial close.	As per RFP
17	5.3 Vol.II	In case, the concessionaire is able to finish the project on or before SPCD any encashed or appropriated Performance security as per this clause should be released back to the concessionaire.	As per RFP
18	5.4 Vol.II	The concessionaire shall be granted at least 120 days as cure period.	As per RFP
19	6.1 Vol.II	Fees to be rounded off to the nearest five rupees – Is it to be rounded up or down, for ex. If for any category, the price on paper after adjustment is say Rs. 102/-, in this case is it rounded off to Rs. 100/- or Rs. 105/-	Fee to be rounded off to the nearest 5 rupees, however in case it is exactly midway it would be rounded off to lower side.
20	6.2 Vol.II	The time for the concessionaire to inform NHAI about the proposed date of COD may be reduced to 90 days before COD.	<b>The time specified for informing to NHAI about the proposed COD stands modified to 90 days. Also the time for publication for fee notification as per Schedule G stands modified to 30 days prior to COD.</b>
21	6.4 Vol.II	To clarify the context of the term. "make refunds" as mentioned in the clause. It is not possible for concessionaire to formulate a refund strategy.	Clause 6.4 of draft concession agreement stands deleted.
22	6.5	1. This arrangement is to facilitate the users traveling to the Electronic City (Phase 1 as of now). Would the Development of Electronic City Phase 2 need to be factored in the calculations of the 'Vehicle Pass Amount' "x" in the table in this clause? This would be	1. It is clarified that X' is an amount, which is the sum of the product of number of vehicle and their respective monthly rate. In other words $X = n \times r$ where n is number of vehicles of any category



143

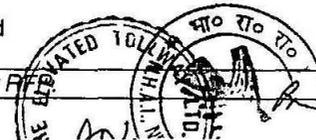
		<p>difficult as at present there is no established bases within Phase II that can help us arrive upon these numbers. - Please clarify?</p> <ol style="list-style-type: none"> <li>2. Kindly provide the number and category of vehicles which will have to be issued such passes.</li> <li>3. The year wise amount arrived thereby after due care under this clause - what would be the recovery scheme for these vehicles, should recovery be under the definition of 'Single Trip', 'Daily Trip' or 'Monthly Pass' under the items of Schedule G? Based on each mechanism this amount would greatly vary? Please clarify on this?</li> <li>4. Based on the recovery mechanisms fixed in sub point 2 above, what would be the payment mechanism if the yearly figure thus arrived?       <ol style="list-style-type: none"> <li>a) If the entire block is used up well before the year closes?</li> <li>b) Clarification is sought there will be no carry forward if quota for a particular year is not exhausted</li> </ol> </li> <li>5. What is the tolling scheme for these vehicles (who have been receiving passes till year 10) post 10<sup>th</sup> year till the end of the concession period?</li> <li>6. Kindly clarify whether the Advance Passes will be issued to ELCIA members</li> </ol>	<p><i>r</i> is the monthly rate for that category. Provided that the number of vehicle trips to be allowed in the monthly passes shall not exceed 60</p> <ol style="list-style-type: none"> <li>2. The schedule of amount of passes for 10 years is given in clause 6.5. The number and category of vehicles may vary.</li> <li>3. Yearwise amount is to be based on monthly pass which would be restricted to 60 (Sixty) trips per month. The schedule G also stands modified accordingly.</li> <li>4. Number of passes are to be provided as per clause 6.5 of concession agreement.</li> <li>5. After 10 (Ten) years these vehicles would be tolled as per schedule G.</li> <li>6. Advance passes may be primarily meant for ELCIA.</li> </ol>
23	8.1	<ol style="list-style-type: none"> <li>1. What shall be the exact location of this additional toll way and on which road it will toll the traffic.</li> <li>2. Please clarify in such situation whether the traffic emerging from 9.5 km Elevated Highway to Attibele will be tolled thrice (Elevated Highway, Additional Tollway, Attibele)</li> <li>3. What will be the status of Attibele Toll</li> </ol>	<p>NHAI / Government of India would not construct additional toll way within 8 years as per provision of the Clause 8.1 of the concession agreement. However, bidders are advised to take into account projects announced/taken up in this area by the State Government / Local Authorities / Private Developers. As also the fact that the Government of Karnataka may have given certain commitments to their bodies in view of which it may not be in a position to give</p>



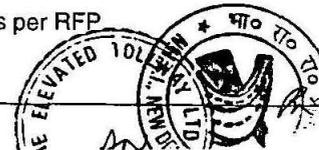
		<p>Plaza once the Additional Tollway becomes functional</p> <p>4. The proposed peripheral road as part of Bangalore-Mysore Expressway, plans to connect Electronic City at approx Km 17. In addition to this BDA has called for a tender of Hi- tech city Road from ORR to Hosur road joining at electronic city. This will take away a lot of tollable traffic as mentioned in Schedule A annexure A-1 page7 of volume3. Kindly clarify</p> <p>5. The SSA imposes additional condition that the additional tollway may be opened earlier if the PCU count is greater than 80,000. This condition is not stated in the CA. Clarification is sought whether the condition stated in the SSA will be imposed on the concessionaire</p>	<p><b>consent to Clause 3.2 of State Support Agreement. Further in clause 3.2 following stands deleted:</b>  <b>" or before achievement of a traffic level of 80,000 PCUs per day on the Project Highway, whichever is earlier."</b></p>
24	9.1(xxix), xxx, xxxi, xxxii,	NHAI to help in all of these conditions as concessionaire alone cannot complete all these jobs.	As per RFP.
25	9.4 (b)	The date of submission of As built drawing may be extended to the time of completion certificate issuance.	Agreed
26	9.5	The concessionaire may not be obligated to submit the draft EPC, O&M and the tolling contract. However, Concessionaire will submit all these documents to NHAI for their records.	As per RFP. However, NHAI would provide its comments and observations, if any in respect of the project agreements within 15 (Fifteen) days of receipt thereof by NHAI.
27	10.1(ii)	If NHAI completes the widening of the Hosur section a couple of months before COD is achieved, can the concessionaire partly toll the stretch from the TN border up to the EH structure or vice versa?	No, partial toll for Hosur Section will be charged prior to the COD. Toll would commence upon COD of "Electronic City" Section
28	13.7	It is requested that no damages be payable to NHAI if delay is due to hand over of land as per clause 13.5	As per RFP. However, delay in completion of part of project stretch due to express delay in handing over of land would not be included up to COD.



29	13.7	The Damages shown as INR one million per day is too high. It may be reduced to INR one million per month.	As per RFP
30	14.5c iii	The preservation cost in this case shall be shared by NHAI equally.	As per RFP
31	17.1	It is requested that no deletion should constitute a Change of scope, or a deletion should take effect only after the cost of any such deletion is above 1% of EPC cost indicated by the concessionaire.	As per RFP
32	17.2 (b)	It is requested that the O&M cost shall also be allowed to be added for the estimation of change of scope.	As per RFP
33	17.3	It is requested that following may be added in this clause:- 1. In case of dispute in settlement of rate, the concessionaire may be paid at the rate of atleast 90% of estimated cost settled by Independent consultant till the rates are finalized for the better fund flow of the concessionaire. 2. No change of scope should be issued after the concessionaire notifies for COD under clause 6.2 page 29 of vol 2. 3. The payment of change of scope items shall be paid on basis of monthly progressive bills.	<b>1. Agreed.</b>  <b>2. As per RFP. However, in case change in scope is ordered after notification of COD to NHAI, COD would not be held up on this account.</b>  <b>3. Agreed.</b>
34	18.2	It is requested that the concessionaire should be allowed to prepare the O&M manual not later than 75 days before the SPCD and to submit the same one month prior to COD.	Time limit of 180 (One Hundred and Eighty) days specified in clause 18.2 stands modified to 75 (Seventy Five) days.
35	18.7	The concessionaire shall be responsible for the maintenance of the approach road to underpass and overpasses -----Practice. The word and in second line may kindly be removed.	The word 'and' stands deleted.
36	18.10	It is requested that if within 5 days no permission is granted it should be deemed as accepted	Agreed
37	18.8.3	Five penalty points as envisaged in this clause	As per RFP



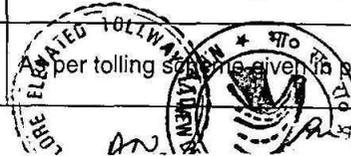
		is too harsh. It is requested that 5 penalty points may be increased suitably.	
38	22.1	Kindly clarify if we tie up the entire fund for the project cost without involving FI/ bank then will it be treated as financial closure.	<b>Yes, subject to submission of relevant documents.</b>
39	22.2	It is requested that the period for Financial Close be extended to 240 days (excluding Cure Period of 90 days) from signing of CA based on past experience for similar road projects	As per RFP.
40	23.1	For item 23.1(b) – Subordinated Loans, We presume that support in form of subordinated debt is interest free.	<b>Subordinated debt would carry an interest @ weighted average cost of lending by senior lenders + 25 basis points.</b>
41	23.2.2	Disbursement of support to be made only after 80% of equity is contributed. It is requested that this may be reduced to 51% or As per the conditions to be stipulated by the senior lender in the financing documents for drawal of debt.	<b>80% modified as 50%</b>
42	25.1	It is requested that the time limit for opening of Escrow Account be considered from financial closure because escrow accounts cannot be opened till financial closure has taken place	<b>Agreed</b>
43	25.2.3	There does not seem to be any need for NHAI to monitor disbursements from Escrow account since that will be done by the Senior Lenders	As per RFP
44	27.2	Developers taken a "Contractors All Risk" Policy for keeping the project insured during the construction period (up to the COD). The Insurance covers for the Operations period 4 months prior will result in replication of certain premium amounts. Hence request to make this 10 days before operations commence.	<b>Four months specified in clause 27.2 is modified to 10 (Ten) days.</b>
45	28.1	It is requested that the selection of Statutory auditors be left to the concessionaire	As per RFP
46	29.9(b)(iii) & 29.9 (c) (ii)	This clause is extensively debated in terms of practical implementation in every pre bid meet. The last sentence of the para nullifies any effect that is given by indexing the equity compensation on the basis of yearly WPI. If the adjustment on yearly WPI is less than 7.5%	As per RFP





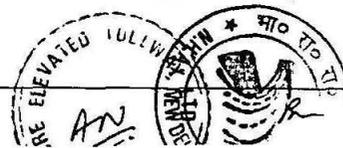
56	1	This table (also the enclosed milestone chart) refers that the SPCD from the appointed date would be 24 months whereas clause 15.3, page 48 of the Draft Concession Agreement refers to a completion period of not later than 30 months from the Appointed date.	Clause 15.3, page 48 is modified as under: "The concessionaire guarantees that the project completion shall be achieved in accordance with the provisions of this agreement on a date not later than 24 (Twenty Four) months from the appointed date.
57		Please clarify if a vehicle using elevated highway and crossing Attibele at km 32/700 Toll Plaza will be paying Toll at both Electronic City and Attibele Toll Plaza.	Yes
58		It is important for the service roads to be brought under the toll bracket. Facility users have a tendency of moving on service roads immaterial of the condition, as it is a free facility thereby avoiding toll.	<b>The tolling scheme for the project is as under:</b> <b>1. Vehicles using elevated highway would pay toll as per elevated section toll rates prescribed in schedule G.</b> <b>2. Vehicles crossing Attibele Toll Plaza would pay toll as per At-Grade Section toll rates prescribed in schedule G.</b> <b>3. Vehicles using At-Grade Section between Km. 8/765 and Attibele Toll Plaza would not be tolled.</b>
59		a) A notification needs to be issued that car and trucks moving from Bangalore towards electronic city must necessarily pass through the Elevated Highway. Since buses have stops below, they could continue below b) Or alternatively the area below the elevated highway also need to be tolled as they too enjoy benefits due to major traffic moving on the Elevated highway If there are clear choices of using the road below and not paying and using the Elevated Highway and paying, then the obvious choice would be the former rather than the latter	<b>No toll will be charged from any traffic on the At-Grade section if its origin and destination are both within the State of Karnataka.</b> <b>Tolling scheme is specified in clarification given above.</b>
60		If there are more gates proposed to the Electronic city, would there be toll booths set up there too?	As per tolling scheme given in para 58 and 59 above.
61		Vehicles moving from Attibele to Electronic City do not come under toll in the present scheme, this needs to be addressed.	As per tolling scheme given in para 58 and 59 above.

147

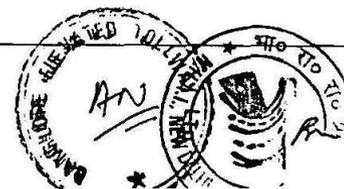


62		Electronic City Phase II has another road joining on the NH, tolling has to be allowed there too	As per tolling scheme given in para 58 and 59 above.
63		The Highway Lighting to be arranged by the developers during the operations period – it is important that the power for such lighting through out the project stretch may be charged at the rates which are applicable for street lights under various municipalities act. Any lighting or power requirement for the toll plazas could be charged at commercial rates	The arrangement for power supply for highway lighting is to be made by the concessionaire.
64		If The Government imposes any service tax, sales tax etc on Tolls then the concessionaire should be allowed to charge the same from the end users without prior consent of NHA1.	<b>Liabilities of collection of such levies imposed if any and its deposition to concerned government account shall be that of concessionaire. The quantum of such levies shall be in accordance with rules under notifications issued by State/Central Government.</b>
65		Whether alternate design shall be acceptable keeping the basic design parameters same. Bidders feel that the design can be made more economical, especially in the elevated section of work. In the event alternative design is not allowed, whether the substructure portion can be modified with the alternate pile configuration. It has been found that the side drain passes through slushy area needing to change the design. Clarification is sought whether the design of drain can be changed according to the site condition and whether the concessionaire can design its own drain as per requirements.	<b>Clause 2.1 of Schedule D (Structures) should be referred to. No change in design is permissible except where separately provided for in the Schedule 'D'.</b>  <b>No change in design is permissible.</b>
66	Volume II, Cl.2.1, Page.23	Schedule B specifies some construction in 'Hosur Section' also. This does not confirm to the Scope of work defined in this section, where only operation and maintenance is specified for 'Hosur Section'. Please clarify as to how NHA1 will compensate in case of delay in handing over. Kindly elaborate how the concessionaire will be compensated.	Scope of the project as defined in Schedule 'B' should be read in conjunction with the definition of Electronic City Section and Hosur Section given in Clauses '1'.

143



67	P.23 – Scope of Project	<p>We understand that NHAI is going to undertake widening the existing four lanes of Hosur Section to six lanes under a different contract. We request that this scope of work be awarded to us under a different contract which would facilitate us to undertake the maintenance also as we would be responsible for the quality of work while construction.</p> <p>The roughness index data for the Hosur may also be provided.</p>	<p>The bidding for Hosur Section would be under a separate package. However, specifications and service levels as per design traffic would be prescribed.</p>
68	Volume II, Cl.6.5, Page.29	<p>In case the project support is “zero”, how ‘x’ is calculated?</p> <p>In case of negative grant, how ‘x’ is calculated?</p> <p>In our opinion, provision of vehicle passes may be omitted.</p>	<p>There would be no provision of passes</p> <p>Do As per RFP</p>
69	Volume II, Cl.23.1,	<p>NHAI agrees to provide to the concessionaire financial support to the project to the extent of Rs.----- (“Project Support”) in the following manner</p> <p>(a) Rs---- in the form of capital grant (“Grant”) which shall be applied by the concessionaire for meeting the capital cost of the project</p> <p>(b) Rs.---- as NHAI subordinated Debt</p> <p>(c) Rs.---- as advance payment which will be adjusted against vehicle passes to be issued in accordance with Clause ----</p> <p>Please clarify how the 3 parts are decided and in case of Negative Grant how the system is to be worked out.</p>	<p><i>(a), (b) and (c) may be treated as 1/3<sup>rd</sup> each of Project Support.</i></p> <p><i>In case of negative grant project support does not arise.</i></p>



70	P.4	<p>The scope of project mentioned in Volume 2, Clause 2.1, includes performance and execution by the Concessionaire of all design, engineering, financing, procurement, construction, completion, operation and maintenance of the Electronic City during concession period.</p> <p>Whereas as per Clause 9.4 of Volume 2, the Concessionaire is required to proof check and adopt the designs and drawings made available by NHAJ.</p> <p>We request clarification on this difference in the conditions.</p>	<p>The Concessionaire is required to have the NHAJ design and drawings proof-checked and adopt the proof checked design. Schedule D may be referred to for details.</p>
71	Clause 9.4 of Volume 2	<p>As we have been instructed to adopt the design and drawings provided by NHAJ we shall be given the BOQ for Indicative purpose. However it would be our responsibility to ascertain the final quantities.</p>	<p><i>On specific request of all bidders, an indicative BOQ is being provided herewith at Annexure-II. However, it is clarified that the BOQ provided herein would not form a part of bid documents. Accordingly, it will not be a basis for claiming change of scope, variations in quantities etc. NHAJ does not claim any responsibility for its inaccuracy and incompleteness.</i></p>
72	P.36 – Obligations of the Concessionaire	<p>Under this clause, the Concessionaire should be also permitted to alter the following after getting the same duly checked by the proof consultant.</p> <p>The role of the Independent Consultant should be review of design and documents submitted by the concessionaire. There shall be no approval process and freedom for execution is to be given to the concessionaire.</p>	<p>In this regard clause 2.1 of schedule D (Structures) may be referred to.</p>
73	P.59 – Clause XX	<p>We suggest that due consideration should be given to the panel of Consultants proposed by us. We shall back our proposals with the credentials of the consulting firms</p>	<p>As per RFP</p>
74	P.92 – Clause XXXVI - Change in Law	<p>Clause 36.1 &amp; 36.2 provides for increase / reduction in cost or reduction / increase in net after tax return or other financial benefit, the aggregate financial effect of which exceeds Rs.10 million in any accounting year.</p>	<p>As per RFP</p>

As per RFP

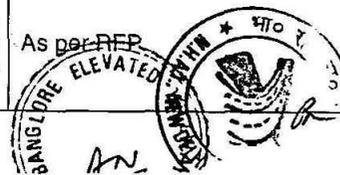
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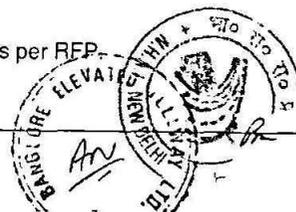
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75	Page 4 of Concession Agreement	In Volume 2 of the draft concession agreement, it is mentioned that 6 underpasses are to be constructed within the scope of Electronic City Section, whereas in Schedule B, there are only 4 underpasses provided in the Electronic City Section and 2 Vehicular underpasses in the Hosur Section. Please clarify.	The query itself clarifies the position that 6 underpasses are to be constructed. For details Schedule 'B', may be referred to.
76	Clause 4.1C - P.26	Clearance relating to environmental protection and the conservation should be NHAI's responsibility.	As per RFP
77	Clause 4.1C - P.26	Issuing of toll notification shall be a condition precedent activity instead of issuing just before COD.	As per RFP
78	Clause 6.3 - P. 29	NHAI should compensate, if the users are not paying the toll.	As per RFP
79	Clause No.13.5 - P.45	Encroachments to be cleared by NHAI along the entire project corridor.	As per RFP
80	Clause No.13.7 - P.45	Penalty for Intermediate milestones may be removed.	As per RFP
81	Clause No. 26.2 - P.67	This is contradictory to what is specified in obligations of NHAI. NHAI shall enter into State support agreement with Government of Karnataka (Refer 10.1 (viii) - P.38).	As per RFP
82	Cl. 10.1 (xviii) - P.39.	Please clarify whether NHAI will compensate the cost towards the vehicle passes to the vehicles listed by NHAI.	Concessionaire shall issue to NHAI vehicle passes on an annual period of 10 years from COD as per Cl.23.1 and 6.5 of concessionaire agreement.
83	Cl. 9.1 (xiii) - P.33	It is not clear how concessionaire will pay to NHAI towards sub debt. Please clarify when and how the sub debt will be paid.	As specified in clause 23.5
84	Cl. 9.1 (xxvii) - P.35	Concessionaire shall hand over the project facility to NHAI at zero cost or all costs are to be borne by NHAI. Please clarify.	As per RFP
85	Cl. 9.1 (xxix) - P35	The entire cost towards the physical removal of encroachment, including cost of Police etc., shall be taken by NHAI. Any delays towards this removal shall be suitably compensated to the concessionaire.	As per RFP



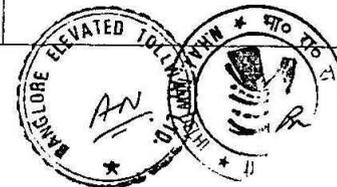
86	Cl. 9.3 (i) – P.36	Schedule H shall be changed as per the programme submitted by the Bidder and there shall not be any penalty for not achieving the intermediate milestones.	Actual programme for activities specified in Schedule H is to be submitted by the bidders and penalty would be with respect to these milestones.
87	Schedule B – Cl.3.5.4	As the technology for the electronic equipment keeps changing faster, we suggest to leave this to the concessionaire. ATM protocol specified shall also be left to the concessionaire.	As per RFP
88	Cl.3.5.4.6	Vehicle recording shall be limited to tollable vehicles and not for all classes of vehicles (especially two wheelers shall be excluded).	As per RFP
89	P7	The occurrence of any events as described in this definition after the date of this agreement shall be changed to the effect of Laws promulgated after the bid submission date since almost it takes 6 to 9 months for signing the concession agreement. The above provisions is made in Jetpur – Rajkot / Panipat Elevated tender of NHAI	In definition of "Change in Law" "after the date of this agreement" is modified to "after the date of submission of this bid".
90	P6	Utilities such as pipeline for oil, gas, water, telephone line, OFC cables power cables, posts etc which exists within the ROW shall be included as encumbrances	As per RFP.
91	P18	Total Project cost given as Rs. 4500 million. Pl. confirm whether the same includes interest during construction.	As per RFP.
92	P27, cl 4.2	This clause shall be deleted as it nullifies the clause 4.1 if applied by NHAI in its sole discretion. Provision of land free of all encumbrances, toll notification. Environmental clearance is to be made compulsory for financial closure.	As per RFP.
93	P35 . cl. 9.1 (xxix, xxx, xxxi)	The said clearances in this clause are of Statutory in nature and we request the above permits may please be obtained by NHAI as being followed for other BOT projects.	As per RFP.
94	P37, cl 10.1 (i)	Add the following in 10.1 (I) free from Encumbrances " and free of all utilities including power lines, Telephone line. OFC, Oil and gas pipe lines, service or water pipe line, underground cables, OH masts transmission towers etc. Also the vertical clearances	As per RFP.

152



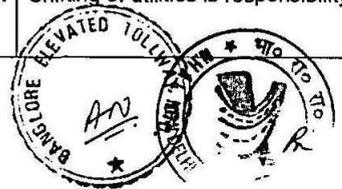
		required for the road as per IRC shall be taken into account for making any shifting.	
95	P 72 cl. 29.3 (iii)	Any Public agitation / Strikes by Organization which prevents collection of fees even partly for more than 3 days to be considered as Force-Majeure Clause	As per RFP.
96	P 74 cl. 29.7(b)	The loss due to indirect political event such as public agitation etc. should be compensated at 100% by NHAI / STG	As per RFP.
97	P 74 cl. 29.9 (a)	Termination payment shall be equal to 100 % of the debt due and 100 % of the subordinated debt less due insurance claim.	As per RFP.
98	P 83 cl. 32.3	100% Equity shall also be included in the termination payment payable to the concessionaire under this clause	As per RFP.
99	Volume 2, Article VII, Clause 7.1.	Concession Fee. We request you to delete/clarify this clause.	As per RFP
100	CI 13.7 Vol 2	The failure to achieve the project milestone has no upper limit. This is open ended clause and needs review. Further the amount of 1 million per day appears very high. We suggest that the amount be made to 1 lakh per day of delay and subject to a limit of 10 million.	As per RFP
101	CI 1.1 Vol 2	"Project support shall mean ..... As per clause ....." The reference to missing clause needs to be inserted.	Clause 23.1
102	Page 24, Vol 2	The draft concession agreement states the concession tenure as 20 years. In the RFQ, section on project profile stated the concession tenure as 15 years. We interpret that concession tenure of 20 years is correct. Pls confirm	Concession period is 20 years.
103	CI 9.1 (xxxii), Vol 2	Under obligations of the concessionaire, it is listed "liase with GOK for implementation of the rehabilitation & resettlement plan". Please provide specific details of the rehab and resettlement plans if any for the project.	There are no rehabilitation and resettlement plans for the project.

153



104	Cl C.iii, Vol 2	We understand that the expansion of km 18/750 to km 33/130 shall be awarded by NHAI as a separate contract. The O&M of this particular section (Hosur section) shall be under the scope of the present BOT contract. Pls clarify when would the O&M of this stretch commence from? Will the concessionaire have recourse to the contractor of that stretch during his Defect Liability Period? Pls clarify if the DLP of the Hosur section be 3 years post construction? How would NHAI ensure that the contractor of Hosur section complies with the rectification issues raised by the concessionaire pertaining to Repairs and Maintenance?	O&M of Hosur section would commence upon its handing over to concessionaire. During defect liability period contractor would be responsible as per contract conditions.
105	Cl 3.2 iv, Vol 2	Please clarify/detail out NHAI conditions regarding levy, collection and retaining advertising revenues	No advertisement will be permitted.
106	Additional	Please indicate the mode of payments for State Transport buses crossing the border e.g. 100 coupons, monthly passes, etc	To be tolled as per schedule (G).
107	Clause no. 8.3 Page no. 31	Please remove the words "per kilometer" from the phrase "which is 133% of the per kilometer fee levied..."	The words " per kilometer" stands deleted
108	Clause 13.5, page 45	Please add "per 1000 (one thousand) sq. meter" after Rs. 2000 (Rupees two thousand) in the 13 <sup>th</sup> line.	Agreed
109	Clause 13.7, page 45	Please add "due to political and indirect political force events majure events" after if the concessionaire fails to achieve any such project milestone other than project completion.....	As per RFP
110	Clause 29.2 (iii), 29.3, (i), (ii), (iii)	Please delete the phrase "in an accounting Year" from each of the referred clauses.	As per RFP
<b>Volume-III</b>			
111	10.2, Schedule B, Vol.3 - Page 25 - Schedules to Concession Agreement	The bidder understands that his scope of work shall be limited to submission of proposals and necessary coordination during execution of such works carried out by such agencies.	Shifting of utilities is responsibility of bidder.

154



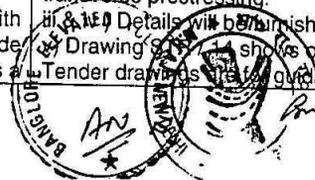
112	S. No. 3 and 4 of the Bank Guarantee format, Schedule F, Vol.3 - Page 210 - 'Schedules to Concession Agreement'	The bidder requested for modification of such conditions of the performance security whereby (i) The bidders is notified about NHA1 demand accruing due to default due to default of the concessionaire under the concession agreement prior to presenting the same to the guarantor. (ii) NHA1 shall prefer the guarantor of its demand for payment of the guaranteed sum upon setting off claim of the concessionaire on NHA1 under the concession agreement.	As per RFP
113	C-652/STR/01, Part IV Schedule I	It is not common to use HDPE duct for internal tendon unless corrugated HDPE is used (VSL PT plus of FREYSSINET PLY DUCT). Moreover, HDPE duct used in internal as the temperature increase during concrete casting can deform the duct. The usual maximum temperature allowed for HDPE duct is 60 degrees Celsius, the usual practice is to maintain a 3bars pressure with water inside the internal HDPE duct. Please confirm that HDPE duct shall be used for internal tendon instead of corrugated steel duct.	Corrugated HDPE ducts shall be used
114	C-652/STR/13	Typical slenderness ratio is L/19 to L/22 which leads to a 1.7m box girder. Here, the slenderness ratio is very unusual at L/15.	No change in overall depth requirement.
115	C-652/STR/13	It seems the middle web is required only for lifting, please confirm that it can be removed if the segment is not lifted at the middle.	No
116	C-652/STR/14	How to solve conflict between shear key and internal tendons, shall the shear key be removed or moved (adjustable shear key)?	Minor adjustments in location of shear keys can be made.
117	C-652/STR/14	How to connect PT duct at the segment joint?	Refer annex. D-11 in schedule D, which is only for guidance. However, it shall require experienced EPC contractor to carry out these works.

155



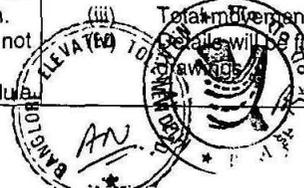
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118	C-652/STR/15 and 16	<ul style="list-style-type: none"> <li>Does the local code allow coupling all tendons at the same section? This detail is now forbidden by all international codes of practice</li> <li>There must be a block out in the pre-cast segments to allow coupling of male and female part of couplers. Please clarify.</li> </ul>	For Prestressing alone , the bidder can propose their own method ( refer cl: 2.1 of sch: D ) which will be evaluated. By using couplers , no block outs need to be provided
119	C-652/STR/18	Could we use elastomeric bearing on the pier located near the anchor pier, which do not take large displacement due to temperature/shrinkage?	Only POT / PTFE bearings shall be used.
120	C-652/STR/19	Is the thickness of concrete under bearing plinth compatible with bearing anchor and reinforcement?	Details will be furnished in construction drawings.
121	C-652/STR/27 to 28	If we have 3 working front, segments will necessarily come by at grade road for at least one front. In that case, is it necessary to bring the segments by the existing bridge?	Yes. However , the bidder can propose their own method, which will be evaluated Blocking of main carriageway at GL shall not be allowed as per RFP.
122	C-652/STR/27 to 28	Is it possible to use underslung truss on lateral pier brackets; that would reduce a lot the length of the erection truss and improve the safety (no hangers, no rotation)?	<b>Underslung truss for the precast segmental support shall not be allowed.</b>
123	C-652/STR/28	Due to large gap at expansion joint (not yet installed), temporary structure shall be installed to allow the trailer to access the working front. Has this been considered in the design.	Yes
124	C-652/STR/22 to 24	From our experience, the pile capacity expected for 1.5m diameter pile is 900MT	Capacity worked out as per IRC standards which cannot be violated.
125	C-652/STR/32	Due to long continuous spans, the temperature movement is very large Therefore, the pipe from the deck must accommodate large displacement relatively to the pier, it does not seem to have been considered in the design, please confirm?	It has been considered in the design.
126	Superstructure, Drg.No. SPAN/C-652/STR/14	<p>(i) Reinforcement details have been furnished for only one segment and diaphragms details are not furnished.</p> <p>(ii) Note gives the options to dispense with transverse pre-stressing and provide additional reinforcement which is perhaps</p>	<p>i)Diaphragms details are enclosed at Annexure-IV.</p> <p>ii)Reinforcement indicated are after considering effect of transverse prestressing.</p> <p>iii. &amp; iv) Details will be furnished in construction drawings.</p> <p>v) Drawing shows only intermediate segments. Tender drawings are for guidance. Details will be</p>



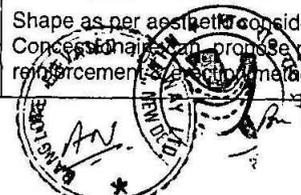
157

		<p>better solution. However, detailed drawings for additional reinforcement have not been furnished.</p> <p>(iii) Additional reinforcement at blister locations are not available. Please clarify whether additional reinforcements are required to be provided.</p> <p>(iv) Additional reinforcement at indirect supports as recommended by FIB has not been shown. Please clarify whether additional reinforcements are required to be provided.</p> <p>(v) Intermediate and end segments are shown with same transverse pre-stressing. Please confirm whether details given are correct.</p>	furnished in construction drawings.
127	Drg. No. SPAN/C-652/STR/15	Cap cables have been provided with blisters and joints have been provided in blister. It is not normal practice to provide joints in blister. Kindly confirm whether details given are correct.	This can be locally adjusted for avoiding joints in the blister. Suitable shop drawings to be furnished by the concessionaire after award of work for approval of IC.
128	Drg. No. SPAN/C-652/STR/31	Section BB to Section EE Openings in diaphragms have been shown directly above bearings. In the absence of detailed drawings of diaphragms and superstructure, we were not able to confirm the possibility of providing such openings.	This can be locally adjusted. These details will be issued in construction drawings.
129	Drg.No. SPAN/C-652/STR/26	Detailed dimensions, Reinforcement and cable layout drawings have not been furnished. In the absence of which, we were not able to assess the quantities involved.	Details will be furnished in construction drawings. Indicative quantities are enclosed at Annexure 'II'.
130	Drg.No. SPAN/C-652/STR/13	Web inclinations as shown in 42.57 Deg. Can it be marginally modified to the extent of say 50 Deg.?	No.
131	Drg.No. SPAN/C-652/STR/18	<p>(i) In the load data furnished, minimum loads, rotation, seismic load details wind load details are not available.</p> <p>(ii) Upper shear studs needs to be eliminate as it will not permit the easy construction.</p> <p>(iii) Movements for expansion joints are not specified.</p> <p>(iv) Bearings requirements for a typical module.</p>	<p>(i) Details will be furnished in construction drawings.</p> <p>(ii) Agreed subject to substantiating this by a calculation</p> <p>(iii) Total movement capacity 240mm Details will be furnished in construction drawings.</p>



		only has been specified, other structures like LayBye, Ramp, interchanges, etc. are not furnished.	
132	Drg.No. SPAN/C-652/STR/20	<p>Pier head appears to be under-designed. Longitudinal reinforcements are not adequately restrained with transverse reinforcement.</p> <p>Pier cap edge under bearing may have to be strengthened with additional depth / reinforcement.</p> <p>Top tension reinforcement is proposed to be bent with acute angle, which is not recommended practice (Ref. to ACI code)</p> <p>(i) Additional Reinforcement under bearing, jacking points are shown.</p> <p>(ii) Details of substructure for Lay Bye, ramps, interchanges, etc. are not furnished.</p>	<p>Design made as per IRC Stipulation.</p> <p>Details will be furnished in construction drawings.</p>
133	Drg.No. SPAN/C-652/STR/22, 23 & 24	<p>(i) Criteria for termination of piles not furnished. It is also requested that bentonite use may be allowed as stabilizing agent.</p> <p>(ii) Projections of piles into pile cap are shown as 150 mm. As per cl. 709.5.2 of IRC:78 only 50 mm embedment will be enough and bottom most layer of reinforcement in pile cap may not have to be provided</p> <p>(iii) We would prefer to avoid pedestal in pile cap which would reduce the speed of construction. Hence may be deleted.</p> <p>(iv) Shear capacity of pile cap appears to be inadequate.</p> <p>(v) Foundations details LayBye, Ramps, intersections, etc. not furnished.</p> <p>(vi) Abutment pier appears to be provided with single row of piles.</p>	<p>(i) Termination of piles shall be as per IRC / MORTH / IS-2911 to achieve the required load carrying capacity. Bentonite not allowed.</p> <p>(ii) Projection is as per MORTH specification Section 1100.</p> <p>(iii) to (v) These details will be issued in construction drawings.</p> <p>(vi) It is for guidance only, can be suitably modified if required (ref. cl. 2.1 of sch. D ).</p>
134	Drg.No. SPAN/C-652/STR/32	<p>(i) Crash barrier shape is not in conformity with IRC:5 recommendations.</p> <p>(ii) Reinforcement appear to be not meeting the requirement of cl. 209.7 of IRC:6.</p>	<p>Shape as per aesthetic consideration and mandatory. Concession may be proposed precasting alternative reinforcement details for Crash barriers.</p>

153



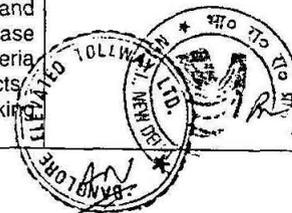
135	Drg.No. SPAN/C-652/RD/UP-01	(i) Earth Cushion shown in L.S. & C.S. are different. This may be clarified. (ii) Detailed reinforcement drawings not furnished.	Shall be 1.5 m Details will be furnished in construction drawings.
136	Drg.No. SPAN/C-652/STR/31	Detailed dimensions, reinforcement and cable layout, substructure and foundation details not furnished.	Details will be furnished in construction drawings.
137	Drg.No. SPAN/C-652/STR/30	Detailed dimensions, reinforcement and cable layout, substructure and foundation details not furnished.	Details will be furnished in construction drawings.
138		Details of superstructure, substructure and foundations are not furnished.	Layout for toll plaza have been given. The detailed design is to be evolved by bidders.
139		In view of the above, it is not possible to establish total quantities involved due to (a) Inadequate details available in drawings. (b) Design and drawings need to be approved by Proof Consultants and because of which quantities may undergo substantial changes.	Refer to note ( L ) of drawing no: STR / 01
140		To assess the quantities involved, detailed design may be provided for all the structures. Since it will take atleast 4-6 weeks for proper study of design it is requested that time for bidding may be extended by at least two more weeks.	Refer to note ( L ) of drawing no: STR / 01
141	1.2 of Schedule – A	It is to be clarified in view of this disclaimer as to what information in the remaining schedules are mandatory and what are informatory. A lack of definition in this respect leads to contractual disputes, as the bidders have no time to go through the voluminous documents and understand all their implications at once.	As per RFP
142	Volume III, Schedule A	In schedule A, project road from Km 8 to Km 18.75. No details of the existing road, structures, intersections and other existing assets are described for the project stretch Km 18.75 to Km 33.13. As per Schedule B, the concessionaire is to maintain & operate ' Hosur Section' (km18.75 – 33.13) also. Existing project site details of this section also may be provided. Since the concessionaire is to only	Basic details are provided in the RFP. The bidders shall carryout his own survey and investigation.

153



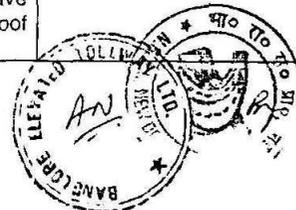
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		operate this section, the maintenance and rehabilitation requirements may be specified.	
143	Volume III, Schedule B, cl.2.0 Page 15	Is there a proof consultant in addition to the IC. ?	Yes
144	Volume III, Schedule B, cl.3.0, para 2, page 17	Typical cross section of the final formation shows a central median of 3.5 m to 4.5 m width. Please clarify, whether by this statement it is meant to widen the existing carriageway to the full 3 lane width including the drain, before taking up any work on the grade separator.	Scope of the work is defined in clause 3.0 of Schedule B. In this regard clause 3.1.4 and 3.1.5 of schedule S alongwith relevant drawings may also be referred.
145	1.0 of Schedule B	Please clarify that the improvements sought will not be individual's opinions but as required by the prevailing codes of practices only.	Broad scope of work is defined in Clause no.3 of Schedule 'B'
146	2.0 of Schedule B	The bidders are required to Proof Check the Drawings in this schedule, while the concession agreement requires us to design and construct. Please confirm that the drawings supplied are constructable or clarify whether the requirement of Concession agreement Project definition (Article II) supersedes this requirement. Please also clarify that if the designs are already provided and the concessionaire's scope is only to proof check them, then what is the necessity of proof checking the proof check.	Bidders are required to adopt design duly proof checked in consultation with design consultant.
147	3.1 of Schedule B & 4.1 of Schedule D	It is to be clarified that the current IRC standards for the Post tensioned design do not cover the requirements of segmental construction fully. The missing portions are to be taken from the remaining standards such as BIS, AASHTO & BS etc. as per Cl. 4.1 of Schedule D. There are fundamental conceptual differences between these and IRC codes and hence the applicability is always a debatable one, especially in the strength parameters and the codes are not interchangeable. Please clarify what has been the design criteria considered in these design for various effects which shall then form the basis of all checking and modifications to the designs if any	Design criteria ( 4 pages ) enclosed at Annexure 'III'.



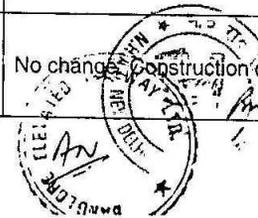
148	3.1 (i) & (ii) of Schedule B	Please clarify if the 1.5 m dia meter is mandatory. Please clarify as to whether NHAI guarantees the design of these foundations for all conditions of construction and service. If not then please clarify what are the mandatory and what are informatory requirement so that the concessionaire can make a reasonable proposal.	Dimension of piles are not mandatory. However, there are restrictions on overall dimension of the foundation (refer cl. 2.1 , pg- 95 of schedule D )
149	3.1 (iii) of Schedule B	Please clarify as to whether the designs provided are completely constructable and safe in all conditions of construction and service. If not then please clarify what are the mandatory and what are informatory requirement so that the concessionaire can make a reasonable proposal.	The designs provided are completely constructible and safe in all conditions of construction and service. However , refer cl: 2.1 of schedule D, the concessionaire after proof checking shall take full responsibility of the proof checked design.
150	5.6 of Schedule B Drg. SPAN/C-652/RD/TCS-01 to 05	Please clarify that the drain cross sections have been defined based one the discharge requirements and that the concessionaire need not check it from that point of view as it has been indicated that no alternative will be accepted.  In the referred drawings it is shown that the top of the pre-cast drain is part of the carriageway. It is not possible ot guarantee the ridership quality of pre-cast construction in this manner in this part of the road. If it is necessary to provide the drain at a lower level with normal pavement on top, please clarify the design criteria to make these changes in terms of catchment area, connectivity, binding invert levels etc..	Yes  The design and levels of drains shall be as per RFP.
151	4.1 of Schedule D	Please clarify as to what standards and load factors have been considered for the bending and shear designs of the proposed structure as these requirements are at quite a variance in all the codes indicated in this sections and have serious impact on the design as well as proof checking of the structure	As per IRC ( Factors only for Ult. Strength.Design )

162



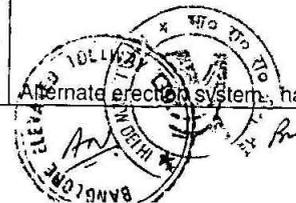
152	1.10.2.6 Specifications and standards in Schedule D	of and in	Please clarify if the form liner is mandatory for the superstructure outer surface.	Yes.
153	1.11.2 Specifications and standards in Schedule D	of and in	Please clarify if the testing for anchorage is mandatory or previous test certificates are adequate as the proposed anchorages are all standard PT items of work and this will save time.	Testing is mandatory. Copies of old test certificates are not acceptable.
154	1.11.3 Specifications and standards in Schedule D	of and in	This requirement is an anachronism in this era when the quality of workmanship and supervision has improved and will be necessary only in case of any distress, which will not occur within the next 30 years at lease. It is presumptuous to assume that the provision and means of strengthening today will be available then nor that there will not be any better method in future. This requirement poses unnecessary complications in detailing and may be dispensed with. Provision for emergency cables alone as per IRC 18 may be accepted.	No change.
155	1.14.1 Specifications and standards in Schedule D	of and in	This clause in para 5 accepts alternate methods of erection approved by IC. Please define the parameters that shall define the acceptable alternative erection method.	Pl. refer cl. 2.2 of schedule D ( str )
156	1.15.2 Specifications and standards in Schedule D	of and in	The IRC standards do not cover design of specialised erection devices, please clarify the criteria for the design of temporary construction and erection works as required in this clause.	BIS / General accepted methodology/ safety standards. The erection scheme its design will be entirely the responsibility of the concessionaire.
157	1.16.7 of Specifications and standards in Schedule D		In para 3 of this clause it is suggested that the segment be carried on top of the erected deck. Please confirm if it has already been checked that the erected deck will be safe for carrying a load of about 105 tons (96 t segment and transporter)	Yes
158	1.17 of Specifications and standards in Schedule D		This condition puts too much constraints on the construction as it requires a top down design and the construction is always bottom up. Please clarify that with these conditions it has	No change. Construction can be completed in 24 months

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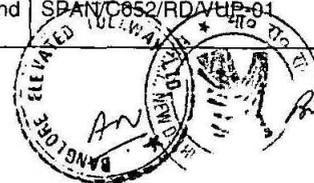


		been checked that the construction can be completed in 24 months as indicated in the concession agreement.	
159	1.19.2 of Specifications and standards in Schedule D Drg. SPAN/C-652/STR-22	The socketing in the rock indicated in the drawing is at variance to the requirements of IRC 78. Please clarify if this is a mandatory provision. If not then please clarify that the pile socketing can be designed as per requirements of IRC 78.	Pile socketing shall be as per IRC / MORTH standards.
160	1.19.3 to 5 of Specifications and standards in Schedule D	Please clarify about the use of Bentonite slurry in this and the following clauses, as there appears to be a mismatch in the requirements.	Bentonite slurry shall not be used.
161	1.26 of Specifications and standards in Schedule D  Drg. SPAN/C-652/STR-32	Th estimated weight of the Precast parapet appears to be in excess of 1.3 t/m. The minimum Precast length of parapets as per codes is 1.5 meters suggesting a handling weight of 2 t per piece. This weight cannot be erected to good alignment and finish and this in turn will spoil the whole look. The size of the pocket for grout is not shown and it is not clear if the grouted pocket will have sufficient strength to resist the IRC design loads for this important safety provision. Please clarify that alternate crash barrier arrangement is possible.	Concessionaire can also propose precasting , reinf & erection methods for Crash barriers without alteration of shape of Crash barrier.
162	2.1 of Specifications and standards in Schedule D	The responsibility for the structure and its performance lies with the concessionaire and restrictions on it based on proposed arrangement is only tenable if the design consultant / NHAI take both Technical and Financial responsibility for any delays on account of inadequately designed and detailed structure. This clause calls for the discussions with design consultants for any changes. The whole contract does not define the role of this "Design Consultant" anywhere. This role and its contractual implications may be clarified. This is established by the fact that there is no detail in the contract drawings as to how the closure of the spans will be achieved at the	Cl.2.1 of schedule D (structures) shall be followed. Design consultant will be available during the proof checking for consultation and carrying out the modification as agreed to between the design and proof consultant. Thereafter, he will have no role. Ultimate responsibility for the design will be that of the concessionaire.  Alternate erection systems, handling etc can be proposed

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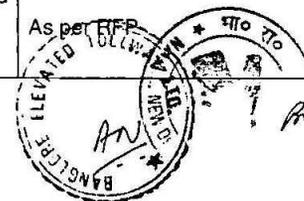


		<p>point where one launching sequence meets the already launched span by another launching girder / gantry.</p> <p>It is also not clear from any notes on the contract drawings that the superstructure has at least been checked for transport of the segments on top by any of the feasible methods while prescribing this as a binding requirements in various clauses.</p> <p>The Contract drawings / documents do not exactly define the basis of this design except in general terms. Without these details there will be no possibility of concurrence from concessionaire about the adequacy of the propose designs.</p>	<p>by contractor (refer Cl. 2.1 of schedule D )</p> <p>Super structure has been checked for dead load of precast segment movement on top.</p> <p>Design criteria enclosed at Annexure –III ( 4 pages )</p>
163	2.2 of Specifications and standards in Schedule D	<p>After defining the barricaded zone in point no. (v) of this clause, there is no point in defining the other restrictions as given in point no. (iii) in the same clause. If the concessionaire is bound by so many constraints then NHAI should take responsibility for adequate pre-engineering and certify that the proposed design can be built in 24 months. Please clarify if NHAI takes this responsibility.</p>	<p>All the restrictions imposed have to be strictly followed. NHAI shall take no responsibility for delay on account of these restrictions.</p>
164	Annexure D-11 of Specifications and standards in Schedule D	<p>Please confirm that this is for guidance only and not mandatory, as there are many practices possible to achieve the same goals in the precasting techniques.</p>	<p>For Guidance only (refer 1st para of Annexure D-11 in Schedules)</p>
165	Schedule B, cl. 4.1, page 19	<p>What is the scope of work in the approaches beyond the box structures. Since the box structures are provided below the existing road, retaining walls may be necessary. Length and type of construction may be specified.</p>	<p>Drawing No. SPAN/C652/RD/PUP-01 may be referred</p>
166	Schedule B, cl. 4.2, page 20	<p>What is the scope of work in the approaches beyond the box structures. Since the box structures are provided below the existing road, retaining walls may be necessary. Length and type of construction may be specified.</p>	<p>Clause No.4.2 may be read in conjunction with Drawing No. SPAN/C652/RD/JN08-09.V and SPAN/C652/RD/PUP-01</p>

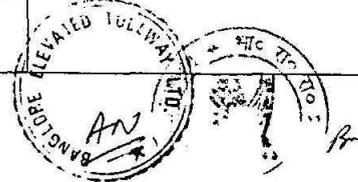


167	Schedule B, cl. 5.2, page 20	Design traffic loading for the pavement is not specified. NHAI may specify the design traffic loading for uniformity of assumption from all the bidders.  Overlay requirement for the "Hosur Section" is not specified. Please clarify whether overlays are required for the "Hosur Section" during the construction period.	As per RFP  Improvement in Hosur section would be carried by NHAI under separate contract. No overlay is required during construction. O&M for the section shall be in accordance with Schedule L.
168	Schedule B, cl. 5.4, page 21	The FRL given in the drawings are based on the survey carried out by NHAI's consultant. The bidder is unable to check the correctness of these levels. Please clarify, whether the concessionaire can change the levels, in case any errors or discrepancy are observed at the time of proof checking. (in any case, NHAI is disclaiming the accuracy of the data supplied in this document)	Proof checking in consultation with Design Consultant as per Clause 2.1 of Schedule D (Str)
169	Schedule C, cl. 3.1, page 32	Please clarify whether sufficient land is available for the construction of Toll Plazas. In case the number of lanes for the toll plazas are to be augmented in future years, additional land will be required. Please clarify whether sufficient land will be made available by NHAI	Land as indicated in relevant drawings/schedules would be provided
170	Schedule C, cl. 3.7, page 35	This project stretch is only 20 Kms long and is just at the outskirts of Bangalore city. Such sophisticated management system may not be necessary, since the concessionaire can carry out the surveillance through patrolling. The provision of HTMS may be deleted	As per RFP
171	Schedule C, cl. 3.10, page 37	Please clarify, at what location the litter bins are to be fixed on the elevated highway. This provision may be omitted.	As per RFP
172	P.26 - Clause No. 15.1 - Elevated High Way Drawings	Request you to provide all the related information and drawings.	As per RFP

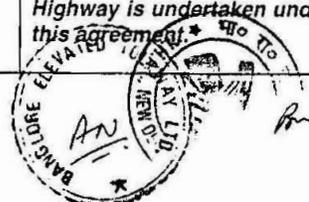
165



173	P.148 - Schedule D - Clause No. K1 - General	The Concessionaire should be allowed to procure the material from reputed sources and not restricted to these two agencies, upon approval of the independent consultant.	Accepted
174	Specialised items like bearings, expansion joints, pretensioning, specialized agencies etc.	The Concessionaire should be allowed to design and use specialized materials and engaged specialized agencies available in the Indian market conditions and should not be restricted to a few only.	Accepted
175	Staff and P&M Schedule D - Table A, B, C & D - Minimum Plant and Machineries and Key Personnel for Roads and Bridges is indicated.	Since the Concessionaire is responsible for the project, he should be free to engage the required plant and equipment and manpower without any minimum requirements and qualifications.	Accepted. Requisition of plan, equipment and man power is indicative for guidance of bidders.
176	General	Any Material obtained out of the project during execution should be permitted to be reuse in the project and no further free of cost.	Agreed. However, existing electric poles shall be handed over to concerned Dept.
177	General	Reconstruction of Coursed stone masonry storm drain on Electronic City Phase II loop road, relocation/reconstruction of drains adjoining ROW and connecting to the nearest CD works.  There are no detail drawings for storm water drain to be provided in Electronic city section. More over it is not clear as to who will maintain the same, and hence we request that this we kept out of the scope of the project.	The details of storm water drain near Electronic city Phase - II is provided in Drawing No. SPAN/C-652/RD/TCS-04. It is to be maintained by Concessionaire.
178	Technical Drawing No. SPAN/C-652/RD/TCS-01 to 04	The responsibility of the design of the pavement crust should be in the scope of NHA1 as we are adopting the data provided.	As per RFP

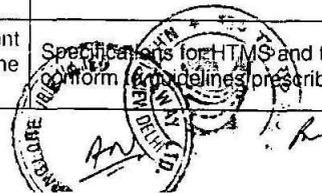


179	Technical Drawing No. SPAN/C-652/RD/TP- 01 to 06	The land for the base camp should be provided free of cost by NHAI.	This will be the responsibility of the concessionaire.
180	Technical Drawing No. SPAN/C-652/RD/TP- 01 to 06	Toll system (Open or closed or partially closed) is to be is left to the option of the concessionaire to take care of his own operation and maintenance schedule.	As per RFP
181	Technical Drawing No. SPAN/C-652/STR-30	Requested NHAI to Provide Topography of the interchange and Elevated Highway. (Including turning radius and ramp details etc)	Relevant details are already provided.
182	Technical Drawing No. SPAN/C- 652/RD/VUP01	To construct the underpasses using box pushing technique, it is mandatory to have diversions at these locations. We have observed that these locations are highly infected with commercial activities / buildings and NHAI should take the responsibility to provide us adequate land for constructing diversion routes. Also requested NHAI the Concessionaire should be allowed alternative methodology to construct vehicular underpass without affecting traffic movement.	For construction of underpass no diversion of NH traffic would be allowed.
183	Technical Drawing No. SPAN/C-652/STR28	Two precasting yards are indicated in the drawings at Km.11 and 15. Whether NHAI will hand over the land to us for these precasting yards or is it the responsibility of the Concessionaire to arrange for the same. If the Concessionaire is required to arrange for the land, then the pre-cast yard should be declared as part of the Site in the Documents.	<i>Locations of casting yard are for guidance. Concessionaire is to make arrangement for the land. The pre-cast yard(s) would be part of the site. The definition of "Site" in Cl.1 stands amended as follows: "Site" means the real estate licensed by NHAI to the Concessionaire on which project highway is situated or arranged by the later where any activity relating to construction of the Project Highway is undertaken under and in accordance with this agreement.</i>



167

184	Technical Drawing No. SPAN/C-652/STR23	Sheet piling has been indicated in the drawings on both sides of the Carriageway adjoining the median. Moreover, at some locations, it is indicated availability of rock strata within 4 metres which makes sheet piling not feasible. Hence, NHA I should permit us to adopt our own method of slope protection.	Agreed. However, maximum working space would be 8.5 meter and carriageway width as specified in RFP shall be ensured.
185	Technical Drawing No. SPAN/C-652/RD/CD-03	Box culverts are to be provided for the missing service road stretches and widening of existing carriage way. NHA I should permit us to pre-fabricate the same and erect on Site.	May be used subject to specifications.
186	Volume III – P.62 – Clause No. 1.2	Procurement of TMT bars is restricted to specific manufacturer or need to be imported and hence, the Concessionaire should be given the option of using alternate quality bars.	As per RFP
187	Technical – General	Drawing No. SPAN/C-652/STR-32 Crash barrier for elevated highway (Section XX), Railing for Ground Median and crash barrier for service road  Is it mandatory, is it required for the railing / crash barrier for entire length, please clarify	Mandatory as per RFP
188	General	Is it acceptable for constructing the elevated highway super structure using under slung method / pier to pier supports / supporting from the road, without disturbing the traffic movement	Not allowed
189	Volume III – Schedule B - Clause No. 3.1	ETC lane is specified in the ramp plaza, but main toll plaza is only with magnetic card. This needs to be modified.  ETC lane equipment specification shall be left to the Concessionaires requirement.	Concessionaire may adopt ETC lane in main plaza depending upon its feasibility.  In RFP broad guidelines have been given.
190	Volume III – Schedule D – Cl. No. 4.12.2 – P. 55	Specifications for HTMS and toll equipment shall be left to the Concessionaire as the technology for this is changing at a fast pace.	Specifications for HTMS and toll equipments shall conform to guidelines prescribed in RFP.



191	Volume III – Schedule C – Cl. 3.7	The requirement of HTMS equipment and numbers are very high for a project road of 9 Kms / urban in nature and this may be reduced. Please note these requirements unnecessarily increase the project cost. The locations and the exact numbers needs to be specified without any ambiguity upfront so that all the bidders are on the same footing.	As per RFP
192	Volume III – Schedule C – Cl. 3.7.7	To be changed as Crane or tow truck, instead of both.	As per RFP
193	Volume III – Schedule G	We suggest two wheelers to use the at grade sections only and shall be banned from using the elevated section.	No
194	Volume III - Schedule G	We do not find a separate toll fee for MAV. This shall be included as a category equivalent to earth moving, heavy construction equipment.	As per RFP
195	Volume III - Schedule G	Since the toll fee rates are effective from 1 <sup>st</sup> of April, the revision shall be done three months in advance (by end December or beginning of January) based on the provisional projected WPI for the next March.	As per RFP
196	Schedule B P17 Cl. 3.1 v)	Pl. confirm whether the location of toll plaza is fixed or the concessionaire has the freedom to locate the toll plaza as per requirement.	Locations as per RFP
197	P50 Cl. 3.5.11.1	The facilities like Paint shop, welding shop, garage room, alb, petrol pump, etc may please be waived from the scope of work, since the above services can be made used by the concessionaire form the nearby urban stretches.	Provision of petrol pump stands deleted
198	P237 Schedule 1.1	Being an urban project request you to review the provisions of Lane availability condition. The minimum lane availability on a cumulative basis shall be revised to 95% from the existing provision of 99%.	As per RFP

169



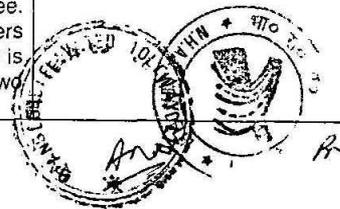
199	Volume 3, Schedule B, Clause 3	Please Clarify whether the third party underground service lines shall be made clear prior to commencement for box pushing technique construction at the locations of Pedestrian underpasses and Vehicular subways?	The shifting of third party underground service lines if any would be responsibility of the concessionaire.
200	General	Please confirm whether the total land is made available at commencement? Please extend the date for submission of proposal upto 28.04.2005.	Land handing over schedule is as per Schedule H. No Extension of date is allowed.
201	Cl 2.2 Schedule D, 3 - Concession Agreement	This clause stipulates that "In order to achieve the above time cycle and complete the entire construction in given time frame, the concessionaire needs to maintain minimum level of mobilization for plants / equipments / skilled site personnel as indicated in enclosed tables. Table A&B furnishes the minimum level mobilization required and table C&D furnishes the same for carrying out all the ground level improvement work in the given time frame of 24 months". Query.1 : Table A & Table B - List of major plant and equipment to be deployed : We presume that at the bid stage an undertaking from Bidder to comply with these requirements is sufficient and individual details of equipments need not be given. Please confirm. Query.2 : Table C and Table D : List of key personnel to be deployed : We presume that at the bid stage an undertaking from the bidder to comply with these requirements is sufficient and names of key personnel along with Curriculum Vitae need not be indicated. Please confirm.	Details given in Table A, B, C & D are for guidance of bidders.
202	Schedule 0, cl 8.2, Vol 3	The duration for appointment of Independent consultant is mentioned as 3 years, whereas clause 20.2 states that NHA1 shall appoint Independent consultant initially for a period of 4 years. Pls clarify?	<b><i>In Clause 20.2 period of appointment stands modified to 3 (three) years.</i></b>

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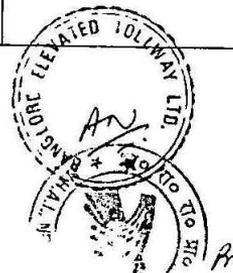


203		The time period is 30 months from the appointed date in page 48 of the draft concession agreement, whereas schedule H of Vol.III states that the completion period is 24 months.	<b>30 months indicated in Clause 15.3 stand modified to 24 months.</b>
204		Since project specific inventory has to be designed / fabricated / procured, the time limit of 30 months appears to be less. Could the construction period be increased to 42 months and the concession period suitably modified.	As per RFP
205		Two casting yards have been proposed near Km. 11.500 and Km. 15.5 respectively.	Responsibility of bidder
206		Could NHAI using the power vested with it, acquire these lands and make them available to the concessionaire, for overcoming legal and local problems, as the entire project scope is based on the availability of these lands for timely completion.	
207		Concrete Batch mix, plants are also proposed in these casting yards. Would it not create environmental problems?	
208		For vehicular underpasses, box pushing may cause upheaval of the existing pavement, as the cushion available is less than 2.0 meters.	Necessary precautions shall be taken by the bidder.
209		In Page 17, Schedule B of Vol. III, it is mentioned that 8.75 meters carriageway in each direction clear of the working strip shall be constructed, whereas the drawings of setting out details for structures shows three lane carriageway of 13.0 mtrs.	As specified in Schedule 'B'
210		Please confirm whether use of ready mix concrete will be permitted for construction.	Yes
211	Number of consortium members	As we understand, the bidder can hold the stipulated stake in the SPV through its associates as well. However, the number of members in a consortium is limited to three. Please clarify if this limitation of three members in a consortium will also apply in case equity is held by the bidder through more than two associate companies.	Limitation of 3 no. shall apply

171



212	NHA/GM(MC-III)/Elevated Highway/98, submission of original RFP documents	Please clarify whether the original RFP documents have to be submitted along with the technical and financial proposal. If yes, please advise whether each page will need to be initialed by the authorized signatory of the lead member.	Yes, each page shall be initialed by the Authorised Signatory.
213	Technical queries	<ol style="list-style-type: none"> <li>1. We intend to give our design proposal for elevated structure keeping obligatory conditions unchanged including design parameters, vertical clearance, plan arrangement and pier locations. Please confirm.</li> <li>2. In case above is not acceptable, please provide design of elevated structure as adequacy of the design has bearing on the cost of the structure.</li> <li>3. In case of details proposed by M/s. Span consultants is only to be adopted, provide the complete details of the superstructure at lay-bye and at the intersection.</li> <li>4. Whether methodology given in the tender is obligatory or alternative can be adopted.</li> <li>5. We propose to construct irregular segments, i.e., varying width of superstructure at lay-bye section by insitu construction method. Please confirm.</li> </ol>	<ol style="list-style-type: none"> <li>i. Please refer Clause 2.1 of Schedule D (Structures)</li> <li>ii. Design parameters have been provided</li> <li>iii &amp; iv. Please refer Clause 2.1 of Schedule D (Structures)</li> <li>v. In-situ construction except where specified in RFP is not allowed.</li> </ol>



172



## भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)

### National Highways Authority of India

(Ministry of Shipping, Road Transport and Highways)

जी-5 एंव 6, सेक्टर-10, द्वारका, नई दिल्ली-110 075

G-5 & 6, Sector-10, Dwarka, New Delhi-110075

दूरभाष / Phone: 91-11-25074100/2507420

फैक्स / Fax: 91-11-25093507 / 2509351

एक्स. / Extn. 2223 / 2318 / 2468 / 255

NHA/GM (MC III)/Elevated Highway/ 442

16.11.2005

To

M/s. Soma-NCC-Maytas Consortium.  
14, Avenue-4, Banjara Hills,  
Hyderabad 500 034  
Fax No.040- 5563 6666

**Sub:Construction of Elevated Highway Project of Bangalore-Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis – Letter of Acceptance (LOA)**

Ref: Your BOT Bid dated 25/03/2005

Sir,

This is to notify that your aforesaid bid for the work "Construction of Elevated Highway Project of Bangalore-Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis" involving Negative Grant of Rs. 16.00 Crore (Rupees Sixteen Crores Only) is hereby accepted and you are declared as the "Successful Bidder". The payment in cash of this negative grant is to be made to NHA upfront on the date of financial close. The Concession Period is 20 Years including Construction Period of 24 months.

2. In accordance with the Bid Document Clause 1.29.1 (refer Vol. - I), you are hereby requested to confirm us of your acceptance of this LOA and execute the Concession Agreement within Two (2) Weeks from the date of issue of LOA.

3. You are also required to furnish the Performance Security of Rs. 9.00 Crore (Rupees Nine Crore Only) within the period expiring on the Two (2) Weeks from the date of issue of LOA but prior to the execution of the Concession Agreement (refer Clause 1.30.1 of Vol - I).

5. As prescribed in Bid Document under Clause 1.11.4 and 1.30.2 (Vol. - I), failure to comply with these requirements constitutes sufficient ground for the annulment of this Letter of Acceptance and forfeiture of the Bid Security.

Yours faithfully

*Bansal 16.11.05*  
(B. K. Bansal)

General Manager (MC-III)

For and on behalf of

National Highways Authority of India



**SOMA-NCC-MAYTAS CONSORTIUM**

14, Avenue - 4, Banjara Hills, Hyderabad - 500 034

Tel: 91- 40 - 5563 6666, Fax : 91 - 40 - 2332 1286

E-mail : info@somaenterprise.com

SOMA-NCC-MAYTAS Consortium/2397

November 22, 2005

To

Mr. B.K. Bansal  
 General Manager (MC-III)  
 National Highways Authority of India  
 G-5 & 6, Sector - 10  
 Dwarka  
 New Delhi - 110 075.

*Keep on record.**16/11/05**mp (mc III) RDN*

**Sub: Construction of Elevated Highway Project of Bangalore - Hosur Section of NH-7 from Silk Board Junction to Electronic City Junction on Built, Operate and Transfer (BOT) basis - Letter of Acceptance (LOA) - Reg.**

Dear Sir,

We acknowledge with thanks the receipt of your letter of acceptance No. NHA/IGM(MC III)/Elevated Highway/440 dated 16.11.2005. We hereby confirm the acceptance of your said Letter of Acceptance for the subject work.

Thanking you and assuring the best of our services at all times.

Yours faithfully,  
 for **SOMA-NCC-MAYTAS Consortium**

*P. Venkatramiah*

(P. Venkatramaiah)  
 Lead Technical Member  
 Authorised Signatory

*Kanchan Roy*

(Kanchan Roy)  
 Lead Financial Member  
 Authorised Signatory



ANNEXURE - I  
Annexure - A

(18)

*K... ..*

ANNEXURE - I

RPES Ltd.  
Bangalore-11

**THE GAZETTE OF INDIA  
EXTRAORDINARY**

PART II - Section 3 - Sub-section (ii)

PUBLISHED BY AUTHORITY

No. 85] NEW DELHI, FRIDAY, FEBRUARY 6, 1998/MAGHA 17, 1919

**MINISTRY OF SURFACE TRANSPORT  
(Roads Wing)**

**NOTIFICATION**

New Delhi, the 6<sup>th</sup> February, 1998

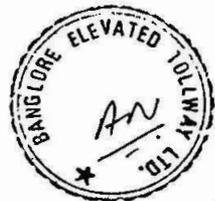
S.O. 113(E) - In exercise of the powers conferred by Section 11 of the National Highways Authority of India Act, 1988 (68 of 1988), the Central Government hereby entrusts the stretches as specified in column (3) of the Table annexed hereto (hereinafter referred to as the said Table) of the corresponding section as mentioned against them in column (2) of the said Table of the National Highway as described in column (1) of the said Table, to the National Highways Authority of India.

**TABLE**

National Highway No.	Section	Stretch in kilometre
(1)	(2)	(3)
7	Bangalore to Hosur (in Karnataka State)	From Km. 8.0 to Km. 33
6	Amravati Bypass (in Maharashtra State)	From km. 149.800 to km. 166.00

[ F.No. RW/NH-37011/34/97-D.O.I.]

A.D. NARAIN, Director General (Road Development) and Addl. Secy.



Annexure - A

(1/8)

*Handwritten notes:*  
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Annexure - I

RITES Ltd.  
Bangalore-11

# THE GAZETTE OF INDIA EXTRAORDINARY

PART II - Section 3 - Sub-section (ii)

PUBLISHED BY AUTHORITY

No. 85] NEW DELHI, FRIDAY, FEBRUARY 6, 1998/MAGHA 17,1919

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(Roads Wing)

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[F.No. RW/NH-37011/34/97-D.O.I.]

A.D. NARAIN, Director General (Road Development) and Addl. Secy.

