



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India
(Ministry of Road Transport and Highways)
जी-5 एवं 6, सेक्टर-10, द्वारका, नई दिल्ली - 110 075
G-5 & 6, Sector-10, Dwarka, New Delhi-110075

दूरभाष / Phone : 91-11-25074100/25074200
फैक्स / Fax : 91-11-25093507 / 25093514
एक्स. / Extn.: 2223 / 2318 / 2468 / 2553

No.11041/218/2007-Admn

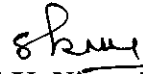
December 23, 2009

POLICY MATTER : TECH (39/2009)
(Decision taken on File No.NHAI/BOT/11023/16/2009)

Sub: Standard RFP document for appointment of Independent Engineer for BOT Projects under NHDP-III

Standard RFP document for appointment of Independent Engineer for BOT projects under NHDP-III has been prepared. A copy of the same is attached. This document may be used for all projects.

This has the approval of Competent Authority.


(S.K. Nirmal)
Chief General Manager (Coord)

Encl: a/a

To:

All Officers at Hqrs.

All ROs/PIUs/CMUs

Copy for information to:

PS to Chairman

PSs to Members

Librarian



NATIONAL HIGHWAYS AUTHORITY OF INDIA

(MINISTRY OF ROAD TRANSPORT & HIGHWAYS, GOVT.OF INDIA)

Independent Engineer services for *** on
DBFOT Basis under NHDP-Phase-III**

REQUEST FOR PROPOSAL (RFP)

December 2009

National Highways Authority of India
Plot No. G-5 & 6, Sector – 10, Dwarka
New Delhi – 110 075

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REQUEST FOR PROPOSAL (RFP)**SECTION 1. INFORMATION TO CONSULTANTS**

Sub.: Independent Engineer services for *** on DBFOT Basis under NHDP-Phase-III**

GENERAL:-

- The National Highways Authority of India (NHAI) invites proposals for engaging an Independent Engineer (IE) on the basis of International Competitive Bidding for the following contract package in the State of _____ under NHDP Phase III programme.

TABLE 1: LIST OF DBFOT PROJECTS

S No	Consultancy Package	NH	State	Project Stretch	Project Length (Km) / Total Project Cost (Cr.)	Assignment period (months)	Group	Shortlisted Consultants
1								As per enclosure-I

- The proposal shall be submitted in English Language and all correspondence would be in the same language.
- The DBFOT projects basically constitute up-gradation involving construction of 4-lane highway including Bridges; widening and rehabilitation of bridges and culverts; construction of high embankment/elevated structures/ROBs wayside amenities etc. along the existing highways including provision of realignment and bypasses. The proposed construction works will involve use of modern equipment and construction practices/techniques.
- NHAI intends to appoint a Consultant to act as Independent Engineer for implementation of this DBFOT project. As per the Terms and Conditions of the Concession Agreement (s), the Independent Engineer is broadly required to: (i) independently review activities associated with design, design review, during construction, required quality assurance and quality control tests and operation and maintenance of the project on behalf of both NHAI and Concessionaire so as to ensure compliance of the requirements of the provisions of Concession Agreement (ii) report to NHAI on the Financial, Technical and physical progress of implementation aspects of the project, (iii) assist the parties in arriving at an amicable settlement of disputes, if any. The selection of Independent Engineer shall follow the laid down procedure given in the Concession Agreement signed between NHAI and the Concessionaire for this DBFOT project.*

5. The interested eligible consultancy firms may obtain the RFP from NHA office from address given below w.e.f. ----- on all working days within 1000 hrs and 1700 hrs. IST by payment of non-refundable Demand Draft amounting to Rs. 5,000/- drawn in favour of “National Highways Authority of India” payable at any schedule bank in New Delhi. The RFP document is also available on NHA website. The Consultant who download the RFP document from the website will be required to pay the non- refundable fee of Rs. 5,000/- at the time of the submission of the Bid proposal.
6. The proposal should be submitted by eligible consultancy firm (refer ***Enclosure I List of 10 Consultant shortlisted by the Concessionaire for this project***) in two parts in two separate envelopes/package and put together in one single outer envelope/package. The two parts of the proposal are **Part 1: Technical Proposal** and **Part 2: Financial Proposal**. For a given DBFOT Project, Stage -I of the Evaluation shall consider the evaluation of the Technical Proposal (i.e. Part 1). *The firms scoring the qualifying marks (minimum 75%) as mentioned in RFP shall be considered for further evaluation. The financial proposal of only those firms, who score qualifying marks in the Technical proposal would be opened and evaluated.* The weightage of Technical and Financial score shall be 80% & 20% respectively. The final selection of the firm shall be based on the highest combined score of Technical and Financial Proposal.
7. The total time period for the assignment as Independent Consultant will be for **36** months.
8. Refer the defined list of consultants for each package. The eligible Consultants may apply for any or all the packages by fielding a different team for each individual project. Also the eligible consultants may apply for all of the packages in one group by proposing one team for all packages and in such case, one Technical proposal needs to be submitted with a separate Financial Proposals for each intended package. For award of work a separate team, one for each package needs to be fielded.
9. No change in the configuration of the eligible firms as listed in ***Enclosure I*** is permitted. However, sub-consultants and Associates shall be allowed incase the Consultants invited for this Assignment considers to opt for the same. Also, any Short Listed Consulting firm shall be allowed to form JV with any reputed foreign Consultancy firm (which is outside the list of Pre-Qualified Consultancy firms given at Enclosure-I) provided such foreign firm pool expatriate manpower resources for these DBFOT Projects. In such case, the Short Listed firm shall have to assume the role of the Lead Member of the JV and only CV proposed by the foreign firm, who act as Non Lead Member, shall be evaluated.
10. NHA will not be responsible for any delay, loss or non-receipt of RFP document sent by post/courier. Further, NHA shall not be responsible for any delay in receiving the Proposal and reserves the right to accept/reject any or all applications without assigning any reason thereof.
11. The two parts of the Proposal (Technical proposal and Financial proposal) must be submitted in a hard bound form (hard bound implies binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper

without disturbing the documents. Spiral bound form, loose form, etc. will be not accepted) with all pages numbered serially, along with an index of submission. All figures quoted in the Financial Proposal should be covered with a transparent adhesive tape. In the event, any of the instructions mentioned herein have not been adhered to, NHAI may reject the Proposal.

12. RFP submission must be received not later than **1100 hrs on -----** in the manner specified in the RFP document at the address given below.

General Manager
National Highways Authority of India
G-5 & G-6, Sector 10, Dwarka
New Delhi 110 075.
(Tel:- 011-25074100/4200 Ext)
(Fax:- 011-25074100 Extn.)

GM (T), NHAI

Enclosure- I

Name of stretch-

List of Pre-qualified Consultancy firms eligible for engagement as IE
(Subject to meeting the laid down Contract Conditions)

S. No.	Name of the Consultant
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10	

SECTION 2. LETTER OF INVITATION TO ELIGIBLE CONSULTANTS**1 INTRODUCTION**

- 1.1 The group-wise eligible consulting firms to act as IE are shown in *Enclosure I*. Accordingly, you are hereby invited to submit a proposal for providing consulting services required for the assignment named in the attached Letter of Invitation. Your proposal could form the basis for future negotiations and ultimately a contract between your firm and the NHAI.
- 1.2 A brief description of the assignment and its objectives are given in the Terms of Reference (TOR).
- 1.3 The assignment shall be implemented in various stages such as Design, Construction supervision, and Operation and Maintenance supervision. Continuation of services for the next stage shall be subject to satisfactory performance of the previous stage, as determined by the NHAI.
- 1.4 To obtain first hand information on the assignment and on the local conditions, you are encouraged to pay a visit to the NHAI before submitting a proposal and attend a pre proposal conference as specified in the data sheet. You must inform yourself of local conditions and take them into account in preparing your proposal.
- 1.5 Please note that (i) the costs of preparing the proposal and negotiating for the contract, including a visit to site, are not reimbursable as a direct cost of assignment and (ii) NHAI is not bound to accept any of the proposals received by it and reserves the right to annul the selection process at any time prior to contract award, without thereby incurring any liability to the Consultants.
- 1.6 We wish to remind you that in order to avoid conflict of interest situations, any firm associated with the Concessionaire of the Project Highway as its Design and/or Supervision Consultant and/or the Contractor(s) as Design Consultant and/or Construction Supervision Consultant is not eligible to participate in the bidding.
- 1.7 Those Consultants who were engaged by Ministry/ NHAI for the above projects as Design Consultants for preparation of Detail Project Reports shall not be permitted to submit proposal for providing the consultancy services as Independent Consultant for the same project either individually or in JV with other firms.
- 1.8 Consultant have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or than may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 1.9 It is the NHAI's policy that the consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the NHAI:
 - (a) Defines, for the purpose of this paragraph, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

- (iii) “collusive practices” means a scheme or arrangement between two or more consultants with or without the knowledge of the Client, designed to establish prices at artificial, non-competitive levels;
 - (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
 - (b) will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;
 - (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and
 - (d) will have the right to require that a provision be included requiring consultants to permit the NHAI to inspect their accounts and records relating to the performance of the contract and to have them audited by authorized representatives of NHAI.
- 1.10 Consultants, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices. Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.
- 1.11 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, in the Financial Proposal.
- 1.12 The Data Sheet indicates how long Consultants’ Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiations within this period. Should the need arise, however, the Client may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.

2. CLARIFICATIONS AND AMENDMENT OF RFP DOCUMENTS

- 2.1 The eligible Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the Proposal submission date. Any request for clarification must be sent in writing by paper mail, facsimile, or electronic mail to the Client’s address indicated in the Data Sheet. The Client will respond by cable, facsimile, or electronic mail to such requests and will send copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.

- 2.2 At any time before the submission of Proposals, the Client may for any reason, whether at its own initiative or in response to a clarification requested by a Consulting firm, modify the RFP documents by amendment. Any amendment shall be issued in writing through addendum. Addendum may be sent by mail, cable, telex, facsimile or electronic mail to consultants or/and will be hosted on NHAI website which will be binding on them. The Client may at its discretion extend the deadline for the submission of Proposals.

3. PREPARATION OF PROPOSAL

- 3.1 You are requested to submit your proposal in Two Parts using but not limited to the formats enclosed herewith (refer section 3,4 and 5) in 2 separate envelopes/ packages and put together in one single outer envelope/package. The two parts shall be:

Part 1: Technical Proposal and

Part 2: Financial Proposal.

The proposal shall be written in the English language as specified in the Data Sheet. All pages of the Proposal shall be signed Either by the Managing Director/Head of the eligible consultancy firm OR by an authorized representative holding proper Power of Attorney. *The original Power of Attorney shall be executed by Managing Director/ Head of firm duly notarized and submitted with the proposal.* In case of Joint Ventures (J.V.), the signatory to the bid proposal shall be in the similar way by the Lead Member only. In case of J.V., a fresh MoU indicating the specific Projects, input and role of each Partner etc. shall be submitted with the proposal.

Part 1: Technical Proposal

- 3.2 You are expected to examine all terms and conditions included in the documents. Failure to act or to provide all requested information will be at your own risk and may result in rejection of your proposal.
- 3.3 During preparation of the Technical proposal you may give particular attention to the following :
- i. The estimated man-months for the assignment which shall be the minimum as stated in the Terms of Reference for your information. The proposal shall however be evaluated on the number of professional staff months estimated by the firm.
 - ii. The eligible Consultants should prefer to field as many of their permanent staff as possible and higher marks shall be given in this regard. The permanent staff would be considered those already employed with the firm prior to the month during which this Tender Notice is issued. . Please enclose evidence (e.g: Pay roll, Auditor's Certificate) in this regard. More weightage will be given to those key personnel who are employed with more years with the firm.

- iii. No alternative to key professional staff may be proposed and only one Curriculum Vitae (CV) may be submitted for each position and
 - iv. A good working knowledge of the language specified in the data sheet is essential for key professional staff on this assignment. Reports must be in the language (s) specified in the data sheet.
 - v. Joint venture among the eligible short listed firms is not allowed.
 - vi. Deleted
 - vii. The Consultants are allowed to field the same person for a given position on maximum 2 different projects, provided the Total Time input for that position does not exceed 4 months. Financial Expert, Legal Expert and Road Safety Expert are therefore eligible to be repeated once more on a different project under a different group if the consultant is eligible to bid for the same.”
 - viii. For Key Personnel e.g. Team Leader, Pavement Specialist and Road Safety Expert, the Consultants should prefer candidates having worked on PPP Projects. Such personnel shall be rated higher than the candidates having no such experience at all”.
- 3.4 Your Technical Proposal must provide the following information, using but not limited to the formats attached in the Section 3 &4.
- i. A brief description of the firm’s organisation and an outline of recent experience of the Consultants and, in the case of Joint Venture, for each partner, on assignments of a similar nature. The information which you shall provide on each assignment should indicate, *inter-alia*, the profiles of the staff provided, duration, contract amount and firm’s involvement.
 - ii. Any comments or suggestions on the ToR and a description of the methodology (work plan) which the firm proposes to execute the services, illustrated with bar charts of activities.
 - iii. The composition of the proposed staff team, the tasks which shall be assigned to each and their timing;
 - iv. **CVs recently signed in blue ink on each page** by both the proposed professional staff and the Managing Director/Head of the eligible short-listed firms or the authorized representative. Key information should include years with the firm and degree of responsibility held in various assignments. As far as possible, all the 9 CVs which are to be evaluated should be completed in all respect including signing by the concerned individual key personnel.
 - v. Estimates of the total time effort (person x months) to be provided for the services, supported by bar chart diagrams showing the time proposed (person x months) for each professional staff and sub professional staff.
 - vi. Any additional information.

- 3.5 The technical proposal must not include any financial information.

Part 2: Financial Proposal

- 3.6 Your Financial Proposal must be using the formats attached in Section 5.
- 3.7 The Financial Proposal should clearly identify as a separate amount, the local taxes (including social security), duties, fees, levies and other charges imposed under the applicable law, on the consultants, the sub-consultants, and their personnel (other than nationals or permanent residents of the government's country); unless the Data Sheet specifies otherwise.
- 3.8 Consultants may express the price of their services in the Local currency (Indian Rupees) and/or US Dollar/ Euro. For evaluation purposes, the client shall consider 1US\$=Rs.48/- and 1 Euro = Rs. 68/-. The Client may require consultants to state the portion of their price representing local cost in the national currency if so indicated in the Data Sheet.
- 3.9 Service tax as applicable shall be paid to the consultant. It will be paid alongwith invoice subject to the Consultants submitting proof of payment alongwith subsequent invoices or within 90 days.

4. SUBMISSION, RECEIPT AND OPENING OF PROPOSALS

- 4.1 The 'ORIGINAL' proposal shall be prepared in indelible ink. It shall contain no inter-lineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initiated by the person or persons who sign(s) the Proposals.
- 4.2 All pages of the 'ORIGINAL' Proposal shall be signed by the eligible authority as specified in Para 3.1 of LOI given above.
- 4.3 You must submit one 'ORIGINAL' proposal only. The financial proposal for each intended project shall be sealed separately and duly marked on the envelope containing it showing the name of the project, package no. etc. The envelope must be clearly marked.

"DO NOT OPEN, EXCEPT IN PRESENCE OF THE EVALUATION COMMITTEE"

- 4.4 This outer envelope shall include two separate envelopes, each clearly marked as "Part 1: Technical Proposal" or "Part 2: Financial Proposal".
- 4.5 The proposal must be submitted in a hard bound form (hard bound implies binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the document - spiral bound form, loose form, etc. will be not accepted) with all pages numbered serially, along with an index of submissions. All figures quoted in the financial Proposal should be covered with a transparent adhesive tape
- 4.6 Your completed proposal must be delivered on or before the time and date stated in the data sheet.

5 PROPOSAL EVALUATION

5.1 A two -stage procedure shall be adopted in evaluating the proposals.

Firms Eligible to apply:

5.2 Based on evaluation of EoI submitted, NHAI has finalized the List (**Enclosure I**) of eligible firms who can apply for engagement as IE for these DBFOT projects. Only such eligible firms are now invited to participate in Bidding for these DBFOT projects.

Technical Proposal

5.3 The Evaluation Committee appointed by the NHAI shall carry out its evaluation applying the evaluation criteria and point system specified in the data sheet. Each responsive proposal shall be attributed a technical score (St.) The technical proposal should score at least 75 points to be considered responsive for Financial evaluation.

Financial Proposal

5.4 After the evaluation of Technical Proposals is completed and the shortlist of 3 eligible firms is finalised, NHAI may notify those consultants whose proposals were not considered as per conditions of RFP indicating that their Financial Proposal will be returned unopened after completing the selection process. The NHAI shall simultaneously notify the finally selected 3 consultants indicating the date and time set for opening of the Financial Proposals.

5.5 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

5.6 The Evaluation Committee will determine whether the submitted Financial Proposals are complete (i.e. whether they have included cost of all items of the corresponding proposals; if not, then the cost towards such missing items will be considered as NIL, but the Consultant shall, however, be required to carry out such obligations without any additional compensation. In case under such circumstances, if Client feels that the work cannot be carried out within the overall cost as per the submitted financial proposal, such proposals shall be considered non responsive or correct without any computational errors).

5.7 The Evaluation Committee shall determine if the financial proposal is complete and without computational errors. The lowest financial proposal (Fm) shall be given a financial score (Sf) of 100 points. The financial score of the proposals shall be computed as follows : $Sf = 100 \times Fm/F$ (F-amount of financial proposal).

5.8 Proposals shall finally be ranked according to their combined technical (St) and financial (Sf) scores using the weights indicated in the data sheet.

6 NEGOTIATIONS

- 6.1 Prior to the expiration period of validity of proposal, the NHAI shall notify the successful firm who submitted the highest scoring proposal in writing by registered letter or facsimile and may either issue LOA if negotiations are not required or may invite it to negotiate the contract. In case two or more firms obtain same score, the firm achieving the highest Technical score shall be invited first for negotiations.
- 6.2 Negotiations normally take one to two days. The aim is to reach agreement on all points, and initial a draft contract by the conclusion of negotiations
- 6.3 Negotiations shall commence with a discussion of your technical proposal, the proposed methodology (work plan), staffing and any suggestions you may have made to improve the ToR. Agreement must then be reached on the final ToR, the staffing and bar charts, which shall indicate activities, staff, periods in the field and in the home office, staff months, logistics and reporting. Special attention shall be paid to optimise the required outputs from the firm within the available budget and to define clearly the inputs required from the NHAI to ensure satisfactory implementation of the assignment.
- 6.4 It is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm's tax liability in the Client's country, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.
- 6.5 Changes agreed upon shall then be reflected in the financial proposal, using proposed unit rates .
- 6.6 Having selected a firm, among other things, on the basis of an evaluation of proposed key professional staff, the NHAI expects to negotiate, a contract on the basis of the staff named in the proposal and, prior to contract negotiations, will require assurance that this staff shall be actually available. NHAI shall not consider substitutions during contract negotiations except in cases of unexpected delays in the starting date or incapacity of key professional staff for reasons of health.
- 6.7 Each key personnel of the preferred consultant shall be called for interview at the time of negotiation at the cost of the Consultant. The negotiations shall be concluded with a review of the draft form of Contract. The NHAI and the firm will finalise the contract to conclude negotiations.
- 6.8 In case negotiations fail with the first invited firm, the second highest ranking firm shall be invited and the same procedure shall be followed until successful negotiations are concluded.

7 AWARD OF CONTRACT

- 7.1 After completion of negotiations with the consultants, the Client shall award the Contract to the selected Consultant. However, after signing of the Contract, the Client may return the unopened Financial Proposals to the unsuccessful Consultants.
- 7.2 The successful firm with whom the contract is signed is expected to commence the assignment on the date and at the location specified in the data sheet.

8. CONFIRMATION OF RECEIPT

8.1 We shall appreciate your informing us by Fax/Letter:

- (i) Receipt of the LoI, and
- (ii) Whether or not you will submit a proposal

()
GM (Tech), NHAI

DATA SHEET
(As Mentioned in Information to Consultants)

Sub clause No. in Information to Eligible Consultants

- 1.4 **Pre-Proposal Conference shall be held at: NHAI HQ on _____ at 15.00 hrs.**
- 1.12 The proposal shall be valid for 120 days after the last date of submission.
- 2.1 Clarification may be requested 7 days prior to Pre Proposal Conference. The address for requesting clarification is:

General Manager (T)
National Highways Authority of India
G-5 & G-6, Sector 10, Dwarka
New Delhi 110 075.
(Tel:- 011-25074100/4200 Extn.)
(Fax:- 011-25074100 Extn.)

- 3.1 **The Language** of documents and correspondence will be English
- 3.3 Only short-listed firms shown in Enclosure I are eligible. No change in configuration in case of eligible JV firm shall be allowed. However, any eligible firm can have Sub-consultants or Associates. In case of association/sub-consultant the experience of associated firm/sub-consultant shall not be counted whereas the key personnel of the associated firm would be considered for evaluation. Also, any Short Listed Consulting firm shall be allowed to form JV with any reputed foreign Consultancy firm (which is outside the list of Pre – Qualified Consultancy firms given at Enclosure – I) provided such foreign firm pool expatriate manpower resources for these DBFOT Projects. In such case, the Short Listed firm shall have to assume the role of the Lead Member of the JV and only CV proposed by the foreign firm, who act as Non Lead Member, shall be evaluated.

All the personnel shall have working knowledge of English and all the reports etc shall be written in English.

- 3.7 NHAI shall pay only service tax. Consultant has to assess all other taxes and should inbuilt them in their financial proposal. These taxes (other than service tax) should not be provided separately. Consultants are requested to consult Tax Consultants for details.
- 3.8 The Consultants to state local cost in INR and foreign currency payments in US Dollars only.
- 4.6 The time and date of submission: **1100 hrs on** .
- 5.3 **The points assigned to Technical Evaluation criteria are:**

S. No.	Description	Marks
1	Relevant experience for the assignment	20
2	The quality of methodology and work plan proposed	05
3	Qualifications and competence of the key staff for the assignment	75
	Total	100

(i) Sub criteria for Relevant Experience of the firm for the assignment

Year of Establishment of the Firm (In case of JV year of establishment of LM shall be considered)	2
Average Annual Turnover (last 3 years) from consultancy business	2
Experience as Independent Consultant / Construction Supervision in Highway Projects of length 30 km of 4-laning or more in last 10 years *	12
Experience in DPR preparation for Highway Projects (of length 50 km of 4-laning or more) in last 10 years *	2
Experience in Construction Supervision/DPR /Design Review of Major structures having length of more then 500 meter in last 10 years.	2

Employer's certificate should be submitted substantiating the experience claimed by the firm.

*Consultants should give details of the experience of the firm considering the completed and the on-going highway assignments, separately for PPP and non-PPP Projects. This list of the completed works should also include those assignments which are substantially (90% of Contract value) completed.

(ii) Sub criteria for Adequacy of the proposed work plan and methodology in response to the ToR.

Comments & Suggestions on TOR	1
Quality of Approach and Methodology	3
Work Programme & Manning Schedule	1

(iii) Qualification and competence of following professional/sub-professional staff for the assignment shall be evaluated. The weightage for various key staff are as under:-

S. No	Staff Position	Marks.
1	Team Leader Cum Senior Highway Engineer	15
2	Senior Bridge Design Engineer	9
3	Traffic & Transport Expert	6
4	Senior Pavement Specialist	9
5	Senior Quality cum Material Expert	9
6	Resident cum Highway Engineer	8
7	Highway Design Engineer	6
8	Bridge/Structural Engineer	7
9	Road Safety Expert	6
	Total	75

Sub criteria for qualification of key Personnel (i.e. Professional staff)

General qualifications including Experience in Region and language	30
Adequacy for the project	70
Total	100

The technical proposal should score at least 75 points to be considered responsive for financial evaluation.

- 5.6 The single currency for price conversion is INR. For evaluation of bid proposals, the foreign currency conversation rate of 1US Dollar = Rs. 48/- and 1 Euro = Rs. 68/- shall be used.
- 5.8 The weightage given to technical proposal is 80%.
The weightage given to financial proposal is 20%.
- 7.2 Commencement of Assignment: The firm shall begin carrying out the services within one month of signing of the Consultancy Agreement.

Remarks: Based on experience and the Consulting Industry's Capacity, Project specific requirement etc., NHAI may modify the above criteria for Selection of IE.

SECTION 3. FORMATS FOR SUBMISSION OF FIRMS CREDENTIALS

The proposal should contain the following information in enclosed format attached at Appendix A.

- Year of Establishment of Firm
- Average annual turnover (last three years)

Appendix A

The following information related to the firm should be provided in the proposal.

- i. Name of the package applied for:-
- ii. Year of establishment of firm *

Consultant	Year of Establishment	Country	Type of Organization			
			Individual	Partnership	Corporation	Other
Individual / Lead Partner (of JV)						

NOTE:- Year of Establishment of Lead Partner of JV shall be considered.

*Copy of Certificate of incorporation shall be submitted.

- iii. Office/Business Address/Telephone nos./Cable Address.
- iv. Narrative description of firm (Not more than 2 sheets)
- v. Name of two(2) principals who may be contacted with title and telephone number/fax number.
- vi. Financial Statement of the last three years. **

S. No.	Particulars	2008-09	2007-08	2006-07
i.	Annual turnover from Consulting business			
ii.	Total Assets			
iii.	Current Assets			

**a) The amount shall be stated in INR. (Consider 1US Dollar = Rs. 48/- and 1 Euro = Rs. 68/-)

b) The currency conversion rate for the respective years shall be mentioned for other international currencies.

c) Balance Sheet/ Auditor Certificate of last 3 years (2006-07, 2007-08 and 2008-09) shall be submitted as evidence of Annual Turnover.

- vii. Experience as Independent Consultant/Construction supervision of Highway projects, separately for PPP and non-PPP Projects during the last 10 years. ***

S No	Projects Name / Year	Type of Services Rendered	Description of Highway Project/ Length (kms)	Client (with complete address, contact person, telephone Nos. and Fax Nos.)	Fee in INR (Applicant's share in case of JV)	Approx. cost of Highway Project	Period
	Sole consultant / prime consultant of JV / minor consultant of JV/ or sub consultant / as Associate consultant						
1	2	3	4	5	6	7	8
A. Completed / Substantially completed projects: 1. 2. 3. B. Projects in progress: 1. 2. 3.							

viii. Experience in DPR preparation of 4/6 laning Highway Projects separately for the PPP and non-PPP projects during the last 10 years. ***

S No	Projects Name / Year	Type of Services Rendered	Length of Project (kms)	Client (with complete address, contact person, telephone Nos. and Fax Nos.)	Fee in INR (Applicant's share in case of JV)	Period
	Sole consultant / prime consultant of JV / minor consultant of JV/ or sub consultant / as Associate consultant (Road/Highway projects with or without bridges)					
1	2	3	4	5	6	8

- *** a) Only those projects, to be included in the table which are Highways Projects and for which clients certificates from the concerned Government agencies are enclosed with the proposal.
- b) The details of bridges having length more than 500m in the listed projects is to be specifically mentioned.
- c) The weightage given for experience of a firm would depend on the role of the firm in the respective assignments. The firm's experience would get full credit if it was the sole firm in the respective assignment. In case it was a lead firm, it would get 75% weightage; if it was the other partner in a Consortium of two firms or an associate, it would get 40% weightage for the respective assignment"

SECTION 4. FORMAT FOR SUBMISSION OF TECHNICAL PROPOSAL

Appendix B-1	Technical proposal submission form.
Appendix B-2	Firm's comments and suggestions on the Terms of Reference and on data, services, and facilities to be provided by the NHAI.
Appendix B-3	Approach paper on methodology and work plan for performing the assignment.
Appendix B-4	Composition of the Team and Task(s) of each Team member
Appendix B-5	Curriculum vitae of proposed Professional staff.
Appendix B-6	Time schedule for deployment of Professional staff
Appendix B-7	Activity (works) schedule.

APPENDIX B-1**Technical proposal submission form.**

FROM (Name of Firm)

To: (Name and Address of Client)

Ladies/Gentlemen:

Subject: Submission of Technical and Financial Proposal for engagement as IE for the DBFOT work _____.

We, the undersigned, offer to provide the consulting services for the above in accordance with your Request for Proposal dated (Date), and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed under a separate envelope for the above mentioned work.

If negotiations are held during the period of validity of the Proposal i.e. before (Date) we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from contract negotiations.

We understand you are not bound to accept any Proposal you receive

We remain,

Yours sincerely,

Managing Director/Head of the firm *
Name of the firm
Address

*Lead Member in case of JV

APPENDIX B-2 : COMMENT AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON SERVICES AND FACILITIES TO BE PROVIDED BY THE NHAI

On the Terms of Reference (not more than one page):

1.

2.

3.

4.

....

On the services and facilities to be provided by the NHAI (not more than one page)

1.

2.

3.

4.

....

APPENDIX B-3 : APPROACH PAPER ON METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

(not more than six pages)

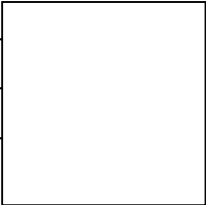
APPENDIX B-4 : COMPOSITION OF THE TEAM PERSONNEL, AND TASK(S) OF EACH TEAM MEMBER**1. Technical/Managerial Staff**

Sl. No.	Name	Position	Task
1			
2			
3			
4			
..			
..			

2. Support Staff

Sl. No.	Name	Position	Task
1			
2			
3			
4			
..			
..			

APPENDIX B-5 : FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position :	Photograph 
Name of Firm :	
Name of Staff :	
Profession :	
Date of Birth :	
Years with Firm/Entity :	Nationality :
Membership of Professional Societies :	
Detailed Task Assigned :	

Key Qualifications :

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations. Use about half a page.]

Education :

[Summarise college/university and other specialised education of staff member, giving their names, dates attended, and degrees obtained. Use about one quarter of a page.]

Note:-

- a) **Personnel is to affix his recent photograph on first page of CV.**
- b) **Complete address and phone number of the Personnel is to be provided.**
- c) **Document for proof of age is to be enclosed.**
- d) **Document for proof of qualification is to be enclosed.**
- e) **Age of the personnel shall not be more than as specified.**

Employment Record :

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, name of employing organisations, titles of positions held, and locations of assignments. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about three-quarters of a page.]

Languages :

[For English language indicate proficiency : excellent, good, fair, or poor; in speaking, reading, and writing]

Certification by the Candidate

I, the undersigned, (Name and Address) certify that I have not left any assignment with the consultants engaged by NHAI / contracting firm (firm to be supervised now) for any continuing work of NHAI without completing my assignment. I will be available for the entire duration of the current project (named.....). If I leave this assignment in the middle of the completion of the work, NHAI would be at liberty to debar me from taking any assignment in any of the NHAI works for an appropriate period of time to be decided by NHAI. I have no objection if my services are extended by NHAI for this work in future.

.....

Date :
(Day/Month/Year)

Certification by the firm

The undersigned on behalf of -----(name of consulting firm) certify that Shri ----- (name of the proposed personnel and address) to the best of our knowledge has not left his assignment with any other consulting firm engaged by NHAI / Contracting firm (firm to be supervised now) for the ongoing projects. We understand that if the information about leaving the past assignment is known to NHAI, NHAI would be at liberty to remove the personnel from the present assignment and debar him for an appropriate period to be decided by NHAI.

.....

Date :
(Day/Month/Year)

[Signature of staff member or authorised representative of the Firm]

APPENDIX B-6: TIME SCHEDULE FOR PROFESSIONAL PERSONNEL**A. Activity Schedule**

Sl. No.	Name	Position	Monthwise Program (in form of Bar Chart) <i>[1st, 2nd, etc. are months from the start of assignment]</i>												Number of Months
			1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th and subsequent years	
1															Subtotal (1)
2															Subtotal (2)
3															Subtotal (3)
4															Subtotal (4)
-															-
-															-

APPENDIX B-7 : ACTIVITY (WORKS) SCHEDULE**A. Activity Schedule**

Sl. No.	Item of Activity (Works)	Monthwise Program (in form of Bar Chart) <i>[1st, 2nd, etc. are months from the start of assignment]</i>											
		1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th
1												
2												
3												
4												
-												
-												

B. Completion and Submission of Reports

S.No	Reports :	Programme : (Date)
1	Monthly reports (Design and Construction)	
2	Quarterly Reports	
3	Various others reports as provided in the Concession Agreement such as Completion Report	

SECTION 5: FORMAT FOR SUBMISSION OF FINANCIAL PROPOSAL.

Appendix C-1 Financial proposal submission form

Appendix C-2 Summary of costs

Appendix C-3 Breakdown of local currency costs

Appendix C-4 Breakdown of foreign currency cost.

APPENDIX C-1 : FINANCIAL PROPOSAL SUBMISSION FORM**FROM : (Name of Firm)****TO :**National Highways Authority of India
G-5&6, Sector-10, Dwarka
New Delhi (India) – 110 075**Subject :**

We, the undersigned, offer to provide the consulting services for the above in accordance with your Request for Proposal dated [Date], and our proposal. Our attached financial proposal is for the sum of [Amount in words and figures]. This amount is exclusive of the local taxes which we have estimated at (Amount in Words and Figures).

Our financial proposal shall be binding upon us subject to the modifications resulting from contract negotiations, up to the expiration of the validity period of the proposal, i.e., [Date].

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act 1988”.

Commission and gratuities, if any, paid or to be paid by us to agents relating to this proposal and contract execution, if we are awarded the contract, are listed below:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
.....
.....

We understand you are not bound to accept any proposal you receive.

We remain,

Yours sincerely,

Managing Director/Head of the firm

* Name of the firm

Address

*Lead Member in case of JV

APPENDIX C-2 : SUMMARY OF COSTS

No.	Description	Amount (:LC)*	Amount (FC)**
	Local Consultants		
I	Remuneration for Local Professional Staff		
II	Supporting Staff		
III	Transportation		
IV	Duty Travel to Site		
V	Office Rent		
VI	Office Supplies, Utilities and Communication		
VII	Office Furniture and Equipment		
VIII	Reports and Document Printing		
IX	Survey Equipment with Survey Party and Vehicle		
X	Contingencies		
	Subtotal Local Consultant		
	Foreign Consultants		
F-I	Remuneration for Expatriate Staff		
F-II	Mobilization and Demobilisation		
F-III	Accommodation for Consultants' Staff		
F-IV	Other Costs		
	Subtotal Foreign Consultants		
	Consultancy Services Tax Payable in India		
	Total Costs (Including Tax)		

LC* Local Currency FC** in US Dollar

Note: Payments will be made as per stipulations of the Conditions of Contract..

APPENDIX C-3 : BREAKDOWN OF LOCAL CURRENCY COSTS**I. REMUNERATION FOR LOCAL PROFESSIONAL STAFF**

No.	Position	Name	Year 1-4		
			Rate	No. of man-months*	Amount
	Key Personnel (Professional Staff)				
1.	Team Leader cum Senior Highway Engineer				
2.	Senior Bridge Engineer				
3.	Traffic & Transportation Expert				
4.	Senior Pavement Specialist				
5.	Senior Quality cum Material Expert				
6.	Financial Expert				
7.	Legal Expert				
8.	Road Safety Expert				
9.	Resident cum Highway Engineer				
10.	Highway Design Engineer				
11.	Bridge/Structural Engineer				
	Sub – Total				
	Sub-professional				
1.	Survey Engineer	TBN			
2.	Assistant Highway Engineer	TBN			
3.	CAD Expert	TBN			
4.	Environmental Engineer	TBN			
5.	Assistant Bridge Engineer	TBN			
6.	Assistant Quality cum Material Engineer	TBN			
7.	Electrical Engineer	TBN			
8.	HTMS/Toll Expert	TBN			
	<i>Sub Total</i>				
	Total				

TBN = To Be Named

*The man-month against each key personnel/sub – professional shall be same as specified in Enclosure A.

II. Support Staff

No.	Position	Name	Staff Months	Billing Rate ()	Amount ()
1.	Office Manager (1 no)	TBN	36		
2.	Accountant (1 no)	TBN	36		
3.	Cashier (1no)	TBN	36		
4.	Photocopy Machine Operator (1 no)	TBN	36		
5.	Steno (1no)	TBN	36		
6.	Computer Operator (1 no)	TBN	36		
7.	Guard (2 nos)	TBN	2X36=72		
8.	Office Boy (1 no)	TBN	36		
				Total :	

Note : For the first 18 months from the Date of Commencement of Services, Consultants shall be paid billing rates as indicated above. Beginning 19th month of the services provided, billing rates shall be increased @ 8% every 18 months for the subsequent period of services rendered by the personnel of all categories namely (i) key Personnel; (ii) sub-Professional personnel and (iii) Support staff. The increase as above shall be payable only on the remuneration part of Key Personnel, Sub-Professional Personnel and support staff. However, for evaluation of Bid proposals, the quoted initial rate (as applicable for first 18 months) shall be multiplied by the total time input for each position on this contract, i.e. without considering the increase in the billing rates.

III. Transportation (Fixed rate on rental basis)

The vehicles provided by the Consultants shall include the cost for rental, drivers, operation, maintenance, repairs, insurance, etc. for all complete approx. 4000km/month run

S.No	Description of Vehicles	Qty. (No. of vehicle-month)	Rate/ Vehicle- Month	Amount
1	Innova / Scorpio or equivalent	210		
2	Hard Top Four Wheeler	168		
	Total			

IV. Duty Travel to Site (Fixed Costs) : Professional and Sub-Professional Staff

Trips	Number of Trips	Rate*	Amount
Site to NHAI HQ / Regional Office and back	40		
Site to Consultants HQ and back (for mobilisation & demobilisation)	40		

* **Rate quoted includes Hotel charges, travel cost etc. complete.**

V. Office Rent (Fixed Costs)– Minimum 200 sqm area of office shall be rented.

The rent cost includes electricity and water charges, maintenance, Cleaning, repairs, etc. complete.

Nos of Months	Rate/month	Amount
36		

VI. Office Supplies, Utilities and Communication (Fixed Costs)

No	Item	Months	Monthly Rate	Amount in Rs.
1.	Office Supplies	36		
2.	Drafting Supplies	36		
3.	Computer Running Costs	36		
4.	Domestic and International Communication	36		

VII. Office Furniture and Equipment (Rental)

(Brand new Furniture and Equipment shall be mandatory at the time of commencement of services)

No	Description	Unit	Qty.	Rate/ Month /unit (Rs.)	Period in Months	Amount (Rs.)
	Office Furniture (Rental/Hire)					
1	Executive Table (Godrej make, model No. T-108 or equivalent)	each	3		36	
2	Executive Chairs (Godrej make, model No. PCH-701 or equivalent)	each	3		36	
3	Tables (Godrej make, model No. T-104 or equivalent)	each	9		36	
4	Ordinary Chairs Type-1 (Godrej make, model No T-CHR –6 or equivalent)	each	21		36	
5	Tables (for all other staff) (Godrej make, model No. T-101 or equivalent)	each	4		36	
6	Ordinary Chairs –Type II (for all other staff) (Godrej make, model No. CHR-6	each	7		36	

No	Description	Unit	Qty.	Rate/ Month /unit (Rs.)	Period in Months	Amount (Rs.)
	or equivalent)					
7.	Steel Almirah 1980mm x 915mm x 485mm (Godrej make, model No. 1 Storewell plain or equivalent)	each	3		36	
8	Steel Almirah 1270mm x 765mm x 440mm (Godrej make, model minor plain or equivalent)	each	10		36	
9.	Steel Cash Chest of size 1.5' x 1.5' (450 mm x 450 mm) (approx.) (Godrej make, or equivalent)	each	1		36	
10	4 Drawer filing cabinet with visafile suspension system (Godrej make, or equivalent)	each	5		36	
11	Visitors chairs/Conference room chairs (Godrej make, model No. DCH7004 or equivalent)	each	16		36	
12	Tables for computers with 3 drawers, key board/mouse pull out trays size 1664mm x 900 (Godrej make. Or equivalent as per Engineer's design)	each	2		36	
13	Printer desks (Godrej make or equivalent)	each	2		36	
14	Side tables (Godrej make or equivalent)	each	2		36	
15	Conference Table (Godrej make, model No. T-12 or equivalent)	each	1		36	
16	Revolving Chairs for Compute Room/Drawing room	each	5		36	
	Office Equipment (Rental/Hire)				36	
1	Telephone with PABX facilities (2 external lines & 10 internal lines)	each	2		36	
2	Photocopier	each	1		36	
3	Fax	each	1		36	
4	Air-Conditioner (1.5 Ton)	each	4		36	
5	Computer PC (state of the art)	each	5		36	
6	Laser Jet Printers	each	2		36	
7	Ink Jet Printers	each	1		36	
8	Diesel Generator 95KVA) with running cost	each	1		36	
9	Engineering Plan Printer	each	1		36	
10	Binding Machine	each	1		36	
11	Plotter A 0 size	each	1		36	
12	Overhead Projector (PowerPoint)	each	1		36	
13	Air Cooler (of 24" size fan with suitable pump and shall be of either GEC, Khaitan or Cool Home make or equivalent)	each	2		36	
14	Water Coolers (Voltas or equivalent)	each	1		36	

No	Description	Unit	Qty.	Rate/ Month /unit (Rs.)	Period in Months	Amount (Rs.)
15	Software	LS	LS		36	
	Total					

VIII. Reports and Document Printing

No.	Description	No. of Reports	No. of Copies per Report	Total Nos. of copies	Rate per Copy ()	Amount
1	Monthly reports (Design and Construction)	36	6	216		
2	Quarterly Reports	12	6	72		
3	Various others reports as provided in the Concession Agreement such as Completion Report	36	6	216		
				Total		

IX. Survey Equipment with Survey Party and Vehicle etc complete

Description	Nos. of Months	Rate /month	Amount
Rental cost towards Survey Equipment (GPS/Total station /Auto Level) with semiskilled survey Party (4 persons) and one dedicated vehicle for Survey Party (inclusive of vehicle rental driver's salary, fuel operation and maintenance etc complete) with rods, flags and other sundries	30		

X. Contingencies

A fixed amount of Indian Rupees ONE MILLION shall be included in the Financial Proposal. The provisions of Contingency shall be operated with the specific approval from the Competent Authority in NHAI.

APPENDIX C-4: BREAK UP OF COSTS IN FOREIGN CURRENCY

No.	Description	INR	US \$
F-I	Remuneration for Expatriate Staff		
F-II	Mobilisation and Demobilisation 1. International Airfares 2. Inland travel in Home Country 3. Inland Travel in Overseas Country 4. Excess Luggage Allowance 5. Unaccompanied Luggage Allowance 6. Relocation/Storage Allowance 7. Miscellaneous Travel Expense 8. Temporary Lodging during Mobilization/demobilization 9. Establishment 10. Exit charges		
F-III	Accommodation of Consultant's Expatriate Staff		
F-IV	Other costs		
	TOTAL COSTS ()		

I. “Remuneration for Expatriate Staff”

No.	Position	Name	Years 1 to 4		
			Monthly Billing rate (in US\$)	No. of Man-Month	Amount (US\$)
			Total:		

II. Mobilization and Demobilization

1. International Airfares (Reimbursable)
(Economy Class)

 Position

 Total:

Total costs for round trips home office to site at cost per person per round trip conform to the official IATA economy class fares

2. Inland Travel in Home Country (Fixed Rate)

Total cost for travel between consultants' Head office and airport

_____ x _____

3. Inland Travel in Overseas Country (Fixed Rate)
local cost for travel from the airport to hotel

_____ x _____ - _____

1. Excess Luggage Allowance (Reimbursable)

At cost per person per single trip to conform to the
Official IATA rates

___x___kg. x___ _____

2. Unaccompanied Luggage Allowance (Fixed Rate)

At cost per family per round trip

___x___kg x___ _____

3. Relocation/Storage Allowance (Fixed Rate)

For long term staff with an assignment of more than 12 months

- family(es) x___ _____

4. Travel Documents and Miscellaneous Costs (Fixed Rate)

Travel documents, visa, health certificates, etc.

(a) Short term staff, first trip

___x___ _____

(b) Short term staff subsequent trips

___x___ _____

(c) Long term staff first trip

- Family (es) x___ _____

(d) Long term staff subsequent trip

- Family(es) x___ _____

Total _____

8. Temporary Lodging during Mobilization/Demobilization (Reimbursable)

___Family x___ day(s) x_____

9. Establishment allowance (Fixed Rate)

Expenses for legal documents in country, extension of permits, work permits, etc.

(a) For short term staff assignments less than 6 months

_____x_____

(b) Long term staff

____person(s) x ____ trip (s) _____

Total: _____

10. Exit Charges (Reimbursable)

Allow for expatriate staff with assignments of
More than 6 months _____per exit at cost

____person(s) x ____ trip(s) _____

III. Accommodation for Consultants' Expatriate Staff (Fixed Rate)1. Per Diem allowance Short Term Staff

Total ____staff months of ____days is ____days
Reimbursement of the cost will be on actual day basis.

____days x _____

2. Housing of Long Term Expatriate Staff (Fixed Rate)

Housing including furniture, costs for utilities and maintenance has to be
Arranged for 1 family

____months x _____

IV. Other Costs (Reimbursable)

Purchase of documents

Budget for purchase of documents, books, maps
Software, International standards etc. to be
Reimbursed at cost. Allow as ceiling amount

SECTION 6: TERMS OF REFERENCE FOR INDEPENDENT ENGINEER**1 Scope**

- 1.1 These Terms of Reference for the Independent Engineer (**the “TOR”**) are being specified pursuant to the Concession Agreement dated *** (the **“Agreement”**), which has been entered into between the Authority and **** (the **“Concessionaire”**) for Six Laning of _____ on build, operate and transfer (DBFOT) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.
- 1.2 This TOR shall apply to construction, operation and maintenance of the Four-Lane Project Highway.

2 Definitions and interpretation

- 2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.
- 2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
- 2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

3 Role and functions of the Independent Engineer

- 3.1 The role and functions of the Independent Engineer shall include the following:
- (i) review of the Drawings and Documents as set forth in Paragraph 4;
 - (ii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5;
 - (iii) conducting Tests on completion of construction and issuing Completion/ Provisional Certificate as set forth in Paragraph 5;
 - (iv) review, inspection and monitoring of O&M as set forth in Paragraph 6;
 - (v) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;
 - (vi) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
 - (vii) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
 - (viii) assisting the Parties in resolution of disputes as set forth in Paragraph 9; and
 - (ix) undertaking all other duties and functions in accordance with the Agreement.

- 3.2 The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Development Period

- 4.1 During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 4.2 The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- 4.3 The Independent Engineer shall review the Drawings sent to it by the Safety Consultant in accordance with Schedule-L and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.
- 4.4 The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.
- 4.5 Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Highway, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

5 Construction Period

- 5.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.
- 5.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 5.3 The Independent Engineer shall inspect the Construction Works and the Project Highway once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the “**Inspection Report**”) setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of

the Project Highway. The Inspection Report shall also contain a review of the maintenance of the existing lanes in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

- 5.4 The Independent Engineer may inspect the Project Highway more than once in a month if any lapses, defects or deficiencies require such inspections.
- 5.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 5.5, the tests specified in the IRC Special Publication-11 (Handbook of Quality Control for Construction of Roads and Runways) and the Specifications for Road and Bridge Works issued by MOSRTH (the “Quality Control Manuals”) or any modification/substitution thereof shall be deemed to be tests conforming to Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 5.6 The sample size of the tests, to be specified by the Independent Engineer under Paragraph 5.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.
- 5.7 The timing of tests referred to in Paragraph 5.5, and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 5.8 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
- 5.9 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project Highway is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.

- 5.10 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 5.11 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 5.12 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
- 5.13 The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-I and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph 5.13 and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-I.
- 5.14 Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.
- 5.15 The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

6 Operation Period

- 6.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.
- 6.2 The Independent Engineer shall review the annual Maintenance Programme furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Programme.
- 6.3 The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 6.4 The Independent Engineer shall inspect the Project Highway once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project

Highway. The Independent Engineer shall send a copy of its O&M Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

- 6.5 The Independent Engineer may inspect the Project Highway more than once in a month, if any lapses, defects or deficiencies require such inspections.
- 6.6 The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Project Highway is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
- 6.7 In respect of any defect or deficiency referred to in Paragraph 3 of Schedule-K, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
- 6.8 The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.
- 6.9 The Independent Engineer shall examine the request of the Concessionaire for closure of any lane(s) of the carriageway for undertaking maintenance/repair thereof, keeping in view the need to minimise disruption in traffic and the time required for completing such maintenance/repair in accordance with Good Industry Practice. It shall grant permission with such modifications, as it may deem necessary, within 5 (five) days of receiving a request from the Concessionaire. Upon expiry of the permitted period of closure, the Independent Engineer shall monitor the re-opening of such lane(s), and in case of delay, determine the Damages payable by the Concessionaire to the Authority under Clause 17.7.
- 6.10 The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in Clause 19.4.
- 6.11 In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Project Highway, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.
- 6.12 The Independent Engineer shall undertake traffic sampling, as and when required by the Authority, under and in accordance with Article 22 and Schedule-O.

7 Termination

- 7.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 10 (ten) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the Project Highway for determining compliance by the Concessionaire with the Divestment Requirements set forth in Clause 38.1 and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of the Project Highway is such that its repair and rectification would require a larger amount than the sum set forth in Clause 39.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.

7.2 The Independent Engineer shall inspect the Project Highway once in every 15 (fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire under Article 39, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Authority and the Concessionaire.

8 Determination of costs and time

8.1 The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.

8.2 The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

9 Assistance in Dispute resolution

9.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.

9.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

10 Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

11 Miscellaneous

11.1 The Independent Engineer shall notify its programme of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.

11.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.

11.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in two copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send one of the copies to the Authority along with its comments thereon.

11.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.

11.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished

in micro film form or in such other medium as may be acceptable to the Authority.

12. PERFORMANCE CLAUSE

Independent Engineers shall be expected to fully comply with all the provisions of the 'Terms of Reference', and shall be fully responsible for supervising the Designs, Construction and maintenance and operation of the facility takes place in accordance with the provisions of the Concession Agreement and other schedules. Any failure of the Independent Consultant in notifying to NHAI and the Concessionaire on non-compliance of the provisions of the Concession Agreement and other schedules by the Concessionaire, non-adherence to the provision of ToR and non-adherence to the time schedule prescribed under ToR shall amount to non-performance.

The Independent Engineer shall appoint its authorized representative, who shall issue on behalf of the IE, the Provisional Completion Certification and Completion Certificate along with the Team Leader and shall carry out any such task as may be decided by NHAI. The IE shall take prior approval of NHAI before issuing Provisional Completion Certification and Completion Certificate. The proposal submitted shall also include the name of the authorized representative along with the authorization letter and power of attorney.

13. CONSULTANT'S PROPOSAL

13.1 List of key personnel to be fielded by the Consultants shall be as below:

- i. Team Leader Cum Senior Highway Engineer
- ii. Senior Bridge Design Engineer
- iii. Traffic and Transportation Expert
- iv. Senior Pavement Specialist
- v. Senior Quality cum Material Expert
- vi. Resident –cum-Highway Engineer
- vii. Bridge / structural Engineer
- viii. Road Safety Expert
- ix. Financial Expert
- x. Legal Expert

13.2 Broad job-description and minimum qualification for key personnel mentioned above is enclosed as **Enclosure–B**. However, higher marks shall be accorded to the Candidate with higher relevant qualification and experience. The Consultant should feel free to submit their proposal on the basis of the man-months which they consider to be necessary to undertake the assignment. All the CV's of the personals mentioned in Para 5.3 (iii) of Data Sheet shall be evaluated at the time of evaluation of technical proposal. **The age of the Key Personnel should not be more than 65 years on the date of submission of proposal. Age Limit for the positions of Team Leader, Resident Engineer, Senior Pavement Specialist and Senior Quality cum Material Expert is relaxable by 5 years i.e. upto 70 years of age at the time of deployment and he can continue upto 73 years, subject to production of Medical Fitness Certificate.** Consultants are advised in their own interest to frame the technical proposal in an objective manner as far as possible so that these could be properly assessed in respect of points to be given as part of evaluation criteria. The bio-data of the key personnel

should be signed on every sheet by the personnel concerned and the last sheet of each bio-data should also be signed by the authorised signatory for the Consultant. The key personnel shall also certify at the end of their bio-data proforma that they have not left any of the NHAI works without completing of their assignment and have not accepted any other offer at the time of signing of the bio-data and as such shall be available to work with the Independent Consultant, if the Project is awarded. In case the key personnel leaves the assignment without approval of NHAI, NHAI would be at liberty to take any appropriate action against that key personnel including debarment.

- 13.3 In addition to above, consultants are required to propose other key personnel, sub-professional staff and other field engineers as detailed in **Enclosure-A** and the minimum qualification requirements for the same is enclosed in **Enclosure-B**.

14. PERIOD OF SERVICES

- 14.1 The services of an Independent Engineer will be in phases as per Contract / Concession Agreement.

- 14.1.1 The appointment of the Independent Engineer shall initially be as per details given below.

Period of service (in months)	Development period (in months)	Constructio n period (in months)	O&M period (in months)
36	03	30	3

The proposed manpower deployment for this period shall be matching the activities to be performed during the said period. The time frame for services during the deployment of key personnel during this period shall be as shown in **Enclosure A**.

15. PERFORMANCE SECURITY

The successful consulting firm shall have to submit a Bank Guarantee (BG) for an amount of 2.50% of the Contract Value within 15 days of issue of LOA. The BG shall be valid for a period of 38 months i.e. upto 2 months beyond the expiry of the Contract of 36 months. The BG shall be in the format specified in Appendix J of draft contract form and furnished from a Nationalised Bank. In case of foreign firm, the BG issued by foreign Bank should be counter guaranteed by any Nationalised Bank in India. In case of JV, the BG shall be furnished on behalf of the JV and not individually by the members.

Enclosure-A

**MAN - MONTHS INPUT FOR KEY PROFESSIONAL STAFF
INDEPENDENT ENGINEERS (refer Table 1 on Page 1 of RFP)**

S. No.	Key Personnel	Man-month in Construction period of 30 months and development period of 3 months	Man-month in O & M period of 3 months
A: Key Personnel			
1.	Team Leader Cum Senior Highway Engineer	33	03
2.	Senior Bridge Design Engineer	18	1
3.	Traffic and Transportation Expert	4	1
4.	Senior Pavement Specialist	12	2
5.	Senior Quality cum Material Expert	30	3
6.	Financial Expert	2	1
7.	Legal Expert	2	2
8.	Road Safety Expert	4	1
9.	Resident cum Highway Engineer	30	3
10.	Highway Design Engineer	30	3
11.	Bridge/Structural Engineer	30	3
	Sub Total	195	23
	Total for Construction and O&M	218	
B: Sub Professional Staff			
(a)	Survey Engineer	30	2
(b)	Assistant Highway Engineer	2 x 30=60	3
(c)	CAD Expert	8	0
(d)	Environmental Engineer	6	2
(e)	Assistant Bridge Engineer	2 x 30=60	3
(f)	Assistant Quality cum Material Engineer	2 x 30=60	3
(g)	Electrical Engineer	6	1
(h)	HTMS/Toll Expert	3	2
	Sub Total	233	16
	Total for Construction and O&M	249	

Note: The qualification and experience of Sub Professional staff other than Highway Design Engineer would not be accounted in the evaluation. However, Consultant shall have to get their CVs approved from NHAI before mobilization. The other inputs like support staff shall also be provided by the Consultant of an acceptable type commensurating with the roles and responsibilities of each position.

Enclosure B

MINIMUM QUALIFICATION OF KEY PERSONNEL**TEAM LEADER CUM SENIOR HIGHWAY ENGINEER**

This is the senior most position and the expert engaged as the team leader shall be responsible for reviewing the entire Project preparation and implementation activities of the Concessionaire. He shall check all the Designs being prepared by the Concessionaire, ensure execution of works on site as per specification and standards, and continuously interact with the NHAI and the Concessionaire. He shall undertake Project site visits and shall guide, supervise, coordinate and monitor the work of other experts in his team as well as those of the Concessionaire. The candidate should have a proven record of supervising, organising and managing of Project preparation and construction of highway projects of large magnitudes, as defined below, financed by international lending agencies and others. Knowledge of Project management shall be an added advantage.

This position requires a Senior Highway Engineer who shall be a graduate in Civil Engineering preferably with higher qualifications and specialization in highway engineering. He should have a **minimum of 15 years experience and** involved for at least 5 years for Highway Development Projects preferably PPP Projects. He should have handled as Team Leader or similar capacity at least two Project Preparation and Construction supervision work of major highway Project of four laning/ six- laning/ expressway costing more than Rs. 2000 million or of at least 50 km length. He should have experience of operation and maintenance of major highway links

Note: Definition of Team Leader includes Project Manager/Resident Engineer/ or any equivalent position.

SENIOR BRIDGE DESIGN ENGINEER

The Senior Bridge Design Engineer shall be responsible for checking the designs of bridges, ROBs, interchanges and any other structure to be constructed in the Project highway. He shall also review the rehabilitation measures to be proposed by the Concessionaire for existing structures based on site condition and structural requirement basis. His expertise shall include computer aided design methods for Civil/Structural Engineering with particular reference to Structural design.

He should be a graduate in Civil Engineering from a recognized University. Post Graduation in Structural Engineering would be preferred. Bridge Design Engineer should have a minimum of 15 years experience in Bridge Design out of which a minimum of 10 years experience in similar capacity for major highway bridges is required. He should have design of at least 4 major highway bridges, Experience in other countries, involvement in innovative bridge designing works with use of computer aided software and involvement in designing of bridges more than 200m length excluding approaches would be preferred.

TRAFFIC AND TRANSPORTATION EXPERT

Shall review and check the traffic analysis, projection, and assignment exercises to be carried out by the Concessionaire. He shall also review/design of intersections and interchanges, toll plaza layout, toll collection method and user facilities, scheme for traffic management during construction period. He shall also study and comment on safety audit report prepared by the Concessionaire.

The position requires minimum a graduate in Civil Engineering preferably with higher qualification in traffic engineering. The minimum period of professional experience is 15 years including at least 5 years on projects of similar nature, of which at least one should involve works of four laning/six-laning/expressway or similar project. The candidate should have enough knowledge on road safety aspects.

RESIDENT CUM HIGHWAY ENGINEER

The Resident cum Highway Engineer shall be responsible for supervising the works of highway to be constructed by the Concessionaire for this project. He shall also inspect the pavement rehabilitation and repair works to be undertaken by the Concessionaire.

Resident cum Highway Engineer should be a Graduate in Civil Engineering from a recognized University (higher qualifications will be preferable). He should have a minimum of 15 years experience in supervision of highway works. He should have handled atleast 2 major 4- laning highway projects. Experience in PPP Projects would be preferred.

BRIDGE /STRUCTURAL ENGINEER

The Bridge Engineer shall be responsible for supervising the works of bridges, interchanges and any other structure to be constructed by the Concessionaire for this project. He shall also inspect the bridge rehabilitation and repair works to be undertaken by the Concessionaire. The position requires a graduate in Civil Engineering, (preference would be given to Post Graduation in Structural Engineering). He should have minimum 15 years experience out of which at least 10 years in Construction of bridges/interchanges/any other structures including rehabilitation. He should have supervised at least two major highway bridges. The candidate should have a thorough understanding and experience with international 'best practices', and of modern bridge construction technology.

SENIOR PAVEMENT SPECIALIST

The expert shall be continuously interacting with the Concessionaire, to ensure life cycle cost effectiveness and viable design of pavement including appropriate rehabilitation / strengthening of the existing two lane pavement which is significantly distressed. He shall also be responsible for ensuring complete adherence to maintenance standards during Construction and Operation period. Thus, the position requires a pavement specialist with thorough knowledge and understanding of international 'best practices' in the field of Design, Construction and maintenance of flexible/rigid type of pavements including latest Codal stipulations and specifications.

The candidate should be a graduate in Civil Engineering preferably with higher qualification and specialization in Pavement Design. He should have a minimum of 15 years of professional experience of pavement Design, Construction and its maintenance out of which 5 years should be in similar capacity for 4 laning of major highway projects. This position also requires experience of PPP Projects. The candidate should have involved

in at least 2 major highways projects as Pavement/Geotechnical Engineer. Experience in PPP Projects would be preferred.

SENIOR QUALITY/MATERIAL EXPERT

The Quality/Material Expert shall review the test results of bore holes, quarry and borrow area material to find out their strength characteristics and suitability for using them in construction. He shall inspect the Concessionaire's field laboratories to ensure that they are adequately equipped and capable of performing all the specified testing requirements of the contract. He shall look into the quality assurance aspect of the construction works and supervise the setting-up of the various Concessionaire's rock crushers and bituminous mixing plants to ensure that the specified requirements for such equipments are fully met.

The position requires a graduate in Civil Engineering, preferably Post Graduation in Geotechnical Engineering. He should have a minimum of 15 years of professional engineering experience including 5 years in similar capacity for major highway projects. He should have handled at least 2 similar highway projects in similar capacity. He should have exposure quality assurance programs in highway projects using modern technology.

FINANCIAL EXPERT

The candidate shall have MBA(Finance)/Chartered Accountant. He should have 8 to 10 years experience as a Financial Advisor particularly in the field of project financing. Advisory experience in the field of transportation project would be desirable.

LEGAL EXPERT

Lawyer with over 8 years experience in contracts and financial documentation related to project financing. Advisory experience in transportation would be desirable. .

ROAD SAFETY EXPERT

The candidate should be a graduate in Civil Engineering preferably Post Graduation in Traffic/Transportation/Safety Engineering. He should have at least 15 years of experience out of which 10 years should be in road safety works. The candidate should have undertaken at least 2 projects of roads safety audits, including at least 1 in design stages. The candidate should have international exposure in the fields of road safety management plan. Preference would be given to the candidate who have been involved in preparation of road safety policy for any national/state/city. The experience for preparing road safety management plan for inter-urban highways on PPP mode would be desirable

SUB PROFESSIONAL

SURVEY ENGINEER

The candidate should be Graduate in Civil Engineering/Survey with at least 5 years experience in the field of surveying out of which 3 years should be for highway projects. He should have involved in at least 1 similar highway projects. Firm may field Survey Engineer with diploma in Civil Engineering/Survey having at least 10 years experience in the field of surveying out of which at least 5 years should be in highway projects and they should have also dealt with at least 1 project of similar nature. This position requires thorough understanding of modern computer based method of surveying with total station digital level etc.

HIGHWAY DESIGN ENGINEER

The Highway Engineer shall be responsible for the review of highway designs and drawings using sophisticated computer software and also construction and O&M works. Should be a graduate in Civil Engineering from a recognized University (higher qualifications will be preferable); His expertise shall include computer aided design methods for Civil/Highway Engineering with particular reference to CAD application to the geometric design for highway rehabilitation and/or upgrading projects.

Highway Engineer should have a minimum of 15 years experience in highway works out of which a minimum of 5 years in Highway Designing works. He should have handled at least 2 major road four laning improvement projects. He should have exposure of computer software programmes for design of highways. Experience in PPP Projects would be preferred.

ASSISTANT HIGHWAY ENGINEER

The Candidate should be Graduate in Civil Engineering with 3 years experience. He should have handled at least 1 road project.

CAD EXPERT

He should be Graduate in Civil Engineering/Computer Science having experience in computer related design method for highway engineering. The incumbent should have 3 years experience and should have handled at least 1 road project.

ENVIRONMENTAL ENGINEER

The Candidate should be Graduate in Civil Engineering/Environmental Engineering or other relevant qualification. He should have at least 6 years experience out of which 2 years in highway projects. He should have good knowledge of MOEF guidelines/requirements for mitigation measures.

ASSISTANT BRIDGE ENGINEER

The Candidate should be Graduate in Civil Engineering with 3 years experience. He should have handled at least 1 major bridge project.

ASSISTANT QUALITY CUM MATERIAL ENGINEER

The Candidate should be Graduate in Civil Engineering with 3 years experience or diploma in Civil Engineering with 5 years experience. He should have handled at least 1 road project.

ELECTRICAL ENGINEER

The Candidate should be Graduate in Electrical Engineering from recognised institute. He should have at least 6 years experience.

HTMS/TOLLING SYSTEM EXPERT

The candidate should be a senior Systems Engineer having experience of at least 15 Years. He should be an expert in preparation of standards for projects of toll collection and HTMS. He should have bachelors degree in Civil Engineering/Electronics/Computer Science/other relevant areas. He should have experience of international latest practices in the field of HTMS and tolling. He should have work experience on at least 2 similar projects in similar capacity.

SECTION 7: DRAFT FORM OF CONTRACT

Note: This draft Agreement is a generic document and shall be modified based on particulars of the DBFOT Project.

CONTRACT FOR CONSULTANT'S SERVICES

Between

(Name of Client)

And

(Name of Consultant)

Dated:

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V ANNEXURES.....

1. FORM OF CONTRACT

COMPLEX TIME BASED ASSIGNMENTS

This CONTRACT (hereinafter called the “Contract”) is made the ____ day of the _____
Month of _____, 200 ____, between, on the one hand _____ (hereinafter
Called the “Client) and, on the other hand, _____ (hereinafter called the
“Consultants”).

[Note : If the Consultants consist of more than one entity, the above should be partially amended to read as follows:*

“... (hereinafter called the “Client”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly severally liable to the Client for all the Consultants’ obligations under this Contract, namely, _____ and _____ (hereinafter called “Consultants”)]

WHEREAS

- (a) the Client has requested the Consultants to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract (hereinafter called “GC”)
 - (b) The Special Conditions of Contract (hereinafter called “SC”);
 - (c) The following Appendices :

[Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix on the sheet attached hereto carrying the title of that Appendix].

Appendix A	:	Description of the Services
Appendix B	:	Reporting Requirements
Appendix C	:	Key Personnel and Sub-consultants
Appendix D	:	Medical Certificate
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Appendix-M	:	Minutes of pre-Bid Meeting

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular
- (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) The Client shall make payments to the Consultants in accordance with the Provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF
[NAME OF THE CLIENT]

By

(Authorized Representative)

FOR AND ON BEHALF OF
[NAME OF THE CONSULTANTS]

By

(Authorized Representative)

[Note: If the Consultants consist of more than one entity, all of these entities should appear as signatures, e.g. in the following manner]

FOR AND ON BEHALF OF EACH OF
THE MEMBERS OF THE CONSULTANTS

[Name of the Member]

By

(Authorized Representative)

[Name of the Member]

By

(Authorized Representative)

etc.

GENERAL CONDITIONS OF CONTRACT1. General Provisions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Government’s country [or in such other country as may be specified in the Special Conditions of Contract (SC)], as they may be issued and in force from time to time.
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1;
- (d) ‘foreign currency’ means any currency other than the currency of the Government;
- (e) ‘GC’ means these General Conditions of Contract;
- (f) “Government” means the Government of Client’s Country;
- (g) ‘Local currency’ means the Indian Rupees;
- (h) “Consultant” wherever mentioned in this Contract Agreement means the “Independent Consultant (IE)” and includes and sub-consultants or Associates engaged by the primary consultant.
- (i) “Member”, in case the Consultants consist of a joint venture of more than one entity, means any of these entities, and “Members” means all of these entities;
- (j) “Party” means the Client or the Consultants, as the case may be, and Parties means both of them;
- (k) “Personnel” means persons hired by the Consultants or by any Sub-Consultants and or Associates as Employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such persons who at the time of being so hired had their domicile outside the Government’s Country, “Local Personnel” means such persons who at the time of being so hired had their domicile inside the Government’s Country; and ‘key personnel’ means the personnel referred to in Clause GC 4.2 (a).
- (l) "SC" means the Special Conditions of Contract by which these General Conditions of Contract may be amended or supplemented;
- (m) "Services" means the work to be performed by the Consultants pursuant to his contract, as described in Appendix A hereto. The scope of work will be strictly as given in various Clauses in TOR. The approach and methodology to be adopted by the Consultant for carrying out the assignment as Independent Engineer may be modified depending on the site requirements and work programme of the Concessionaire after mutual discussions with NHAI, the Concessionaire and the Independent Engineer. The work plan as indicated by the Consultant may be modified accordingly to the site requirements.

- (n) "Sub-consultant and or Associates " means any entity to which the Consultants subcontract any part of the Services in accordance with the provisions of Clause GC 3.7; and
- (o) "Third Party" means any person or entity other than the Government, the Client, the Consultants or a Sub-consultant.

1.2 **Relation between the Parties**

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultants. The Consultants, subject to this Contract, have complete charge of Personnel and Sub- consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 **Law Governing Contract**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 **Language**

This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 **Headings**

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 **Notices**

- 1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telegram or facsimile to such Party at the address specified in the SC.
- 1.6.2 Notice will be deemed to be effective as specified in the SC.
- 1.6.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SC with respect to Clause GC 1.6.2.

1.7 **Location**

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations. whether in Government's Country or elsewhere, as the Client may approve.

1.8 **Authority of Member in Charge**

In case the Consultants consist of a joint venture of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultants' rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

1.9 **Authorized Representatives**

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the Consultants may be taken or executed by the officials specified in the SC.

1.10 **Taxes and Duties**

Unless otherwise specified in the SC, the Consultants, Sub-consultants and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable Law.

2. **Commencement, Completion, Modification and Termination of Contract**

2.1 **Effectiveness of Contract**

This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultants instructing the Consultants to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

2.2 **Termination of Contract for Failure to Become Effective**

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as shall be specified in the SC, either Party may, by not less than four (4) weeks' written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 **Commencement of Services**

The Consultants shall begin carrying out the Services at the end of such time period after the Effective Date as shall be specified in the SC.

2.4 **Expiration of Contract**

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire when services have been completed and all payments have been made at the end of such time period after the Effective Date as shall be specified in the SC.

2.5 **Entire Agreement**

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

2.6 **Modification**

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties as the case may be, has been obtained. Pursuant to Clause GC 7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure**2.7.1. Definition**

- (a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a party or such Party's Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the .time of the conclusion of this Contract and (B) avoid or overcome in the carrying out of its obligations hereunder .
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care" and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 **Payments**

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 **Consultation**

Not later than thirty (30) days after the Consultants, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8. **Suspension**

The Client may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension.

2.9 **Termination**

2.9.1 **By the Client**

The Client may, by not less than thirty (30) days' written notice of termination to the Consultants (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.9.1, terminate this Contract.

- (a) if the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- (b) if the Consultants become (or, if the Consultants consist of more than one entity, if any of their Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) if the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof;
- (d) if the Consultants submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultants know to be false;
- (e) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

- (f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (g) if the consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

- (h) if Concessionaire represents to NHAI that the Consultant is not discharging his duties in a fair, efficient and diligent manner and if the dispute remains unresolved, NHAI may terminate this contract.

2.9.2 By the Consultants

The Consultants may, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2, terminate this Contract:

- (a) if the Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 8 hereof within forty-five (45) days after receiving written notice from the Consultants that such payment is overdue;
- (b) if the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by the Client of the Consultants' notice specifying such breach;
- (c) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

2.9.3. Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except:

- (i) such rights and obligations as may have accrued on the date of termination or expiration;
- (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof;

- (iii) the Consultants' obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 (ii) hereof; and
- (iv) any right which a Party may have under the Applicable Law

2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Consultants shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Client shall make the following payments to the Consultants (after offsetting against these payments any amount that may be due from the Consultant to the Client):

- (a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) except in the case of termination pursuant to paragraphs (a) through (d) of Clause GC 2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultants' personnel and their eligible dependents.

2.9.6. Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. Obligation of the Consultants

3.1 General

3.1.1. Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods" The Consultants shall always" act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-consultants or Third Parties.

3.1.2 Law Governing Services

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub- consultants and or Associates, as well as the Personnel of the Consultants and any Sub- consultants and or Associates, comply with the Applicable Law. The Client shall advise the Consultants in writing of relevant local customs and the Consultants shall, after such notifications, respect such customs.

3.2 Conflict of Interests

3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.

The Remuneration of the Consultants pursuant to Clause GC 6 hereof shall constitute the Consultants' sole remuneration in connection with this Contract or the Services and, subject to Clause GC 3.2.2 hereof, the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any Sub- consultants and or Associates, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2 If the Consultants, as part of the Services, have the responsibility of advising the Client on the procurement of goods, works or services, the Consultants shall comply with any applicable procurement guidelines of the Client (NHAI) and or Associates Bank or of the Association, as the case may be, and other funding agencies and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultants in the exercise of such procurement responsibility shall be for the account of the Client.

3.2.3 Consultants and Affiliates Not to engage in Certain Activities

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any Sub-consultant and or Associates and any entity affiliated with such Sub-consultant and or Associates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services. .

3.2.4 Prohibition of Conflicting Activities

The Consultants shall not engage, and shall cause their Personnel as well as their Sub-consultants and or Associates and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality

The Consultants, their Sub-consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 Liability of the Consultants

Subject to additional provisions, if any, set forth in the SC, the Consultants' liability under this Contract shall be as provided by the Applicable Law.

3.5 Insurance to be Taken Out by the Consultants

The Consultants (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at their (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverages, as shall be specified in the SC, and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

3.6 Accounting, Inspection and Auditing

The Consultants (i) shall keep accurate and systematic accounts and records in respect of the Services, hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the bases thereof (including such bases as may be specifically referred to in the SC); (ii) shall permit the Client or its designated representative periodically, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client; and (iii) shall permit the client to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors appointed by the client.

3.7 Consultants' Actions Requiring Client's Prior Approval

The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in Appendix C ("Consultants' Sub-consultants' Key Personnel") merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the Sub-consultant and its Personnel pursuant to this Contract; and
- (c) any other action that may be specified in the SC

3.8 **Reporting Obligations**

The Consultants shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.

3.9 **Documents Prepared by the Consultants to Be the Property of the Client**

All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultants for the Client under this Contract shall become and remain the property of the Client, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SC.

3.10 **Equipment and Materials Furnished by the Client**

Equipment and materials made available to the Consultants by the Client, or purchased by the Consultants with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultants shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultants, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

4. **Consultants' Personnel and Sub-consultants and or Associates**

4.1 **General**

The Consultants shall employ and provide such qualified and experienced Personnel and Sub-consultants as are required to carry out the Services.

4.2 **Description of Personnel**

- (a) The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the Consultants' Key Personnel are described in Appendix C. If any of the Key Personnel has already been approved by the clients his/her name is listed as well.
- (b) If required to comply with the provisions of Clause GCC 3.1.1 hereof, adjustments with respect to the estimated periods "of engagement of Key Personnel set forth in Appendix C may be made by the Consultants by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Client's written approval.

- (c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1 (b) of this Contract.

4.3 **Approval of Personnel**

The Key Personnel i.e. Professional Staff and Sub-consultants listed by title as well as by name in Appendix C are hereby approved by the Client. In respect of other Key Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the client for review and approval a copy of their biographical data and (in the case of Key personnel to be used within the country of the Government) a copy of a satisfactory medical certificate in the form attached hereto as Appendix D. If the Client does not object in writing (stating the reasons for the objection) within thirty (30) calendar days from the date of receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Client.

4.4 **Working Hours, Overtime, Leave, etc.**

- (a) Working hours and holidays for Key Personnel are set forth in Appendix E hereto. To account for travel time, foreign Personnel carrying out Services inside the Government's country shall be deemed to have commenced (or finished) work in respect of the Services such number of days before their arrival in (or after their departure from) the Government's country as is specified in Appendix E hereto.
- (b) The Personnel of all types engaged by Consultant to provide Services on this Contract shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave **except as specified in Appendix E** hereto, and except as specified In such Appendix, the Consultants' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set for in **Appendix C**. Any taking of leave by Personnel shall be subject to the prior approval by the Client and the Consultants shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 **Removal and/or Replacement of Personnel**

- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.

- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Client. Except as the Client may otherwise agree, (i) the Consultants shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid to any of the Key Personnel provided as a replacement shall be 95% of the remuneration which would have been payable to the Key Personnel replaced. However, for the reason other than death/extreme medical ground. (iii) for total replacement upto 33% of key personnel, remuneration shall be reduced by 5% (iv) for total replacement upto between 33% to 50%, remuneration shall be reduced by 10% and (v) for total replacement beyond 50% of the total of key personnel, the client may initiate action for termination/debarment of such consultants for future projects of NHAI.

4.6 **Resident Project Manager**

If required by the SC, the Consultants shall ensure that at all times during the Consultants' performance of the Services in the Government's country a resident project manager, acceptable to the Client, shall take charge of the performance of such Services.

5. **Obligations of the Client**

5.1 **Assistance and Exemptions**

Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultants, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-consultants or Personnel to perform the Services;
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Government's country;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their - eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (e) assist the Consultants and the Personnel and any Sub-consultants and or Associates employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;

- (f) grant to the Consultants, any Sub-consultants and or Associates and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Government's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services: and
- (g) Provide to the Consultants, Sub-consultants and or Associates and Personnel any such other assistance as may be specified in the SC.

5.2 Access to Land

The Client warrants that the Consultants shall have, free of charge, unimpeded access to all land in the Government's country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultants and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultants or any Sub-consultant or the Personnel of either of them.

5.3 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultants in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

5.4 Services, Facilities and Property of the Client

The Client shall make available to the Consultants and the Personnel, for the purposes of the services and free of any charge, the services, facilities and property described in Appendix F at the times and in the manner specified in said Appendix F, provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultants for the performance of the Services, (ii) the manner in which the Consultants shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultants as a result thereof pursuant to Clause GC 6.1(c) hereinafter.

5.5 Payment

In consideration of the Services performed by the Consultants under this Contract, the Client shall make to the Consultants such payments and in such manner as is provided by Clause GC 6 of this Contract.

5.6 Counterpart Personnel

- (a) If so provided in Appendix F hereto, the Client shall make available to the Consultants, as and when provided in such Appendix F, and free of charge, such counterpart personnel to be selected by the Client, with the Consultants' advice, as shall be specified in such **Appendix F**. Counterpart personnel shall work under the exclusive direction of the Consultants. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultants which is consistent with the position occupied by such member, the Consultants may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
- (b) If counterpart personnel are not provided by the Client to the Consultants as and when specified in Appendix F, the Client and the Consultants shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultants as a result thereof pursuant to Clause GC 6.1(c) hereof.

6. Payments to the Consultants

6.1 Cost Estimates; Ceiling Amount

- (a) An estimate of the cost of the Services payable in foreign currency is set forth in Appendix G. An estimate of the cost of the Services payable in local currency is set forth in Appendix H.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SC. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to clauses GC 5.3, 5.4 or 5.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultants in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1 (b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause GC 6.1 (b) hereof, the Client shall pay to the Consultants (i) remuneration as set forth in Clause GC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GC 6.2(c). If specified in the SC, said remuneration shall be subject to price adjustment as specified in the SC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and Clause SC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to, and subject to such additional provisions as are set forth, in the SC.

- (c) Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services, as specified in Clause SC 6.3(b).

6.3 Currency of Payment

- (a) Foreign currency payments shall be made in the currency or currencies specified as foreign currency or currencies in the SC, and local currency payments shall be made in the currency of the Government.
- (b) The SC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency,

6.4 Mode of Billing and Payment

Billing and payments in respect of the Services shall be made as follows:

- (a) The Client shall cause to be paid to the Consultants an interest bearing advance payment as specified in the SC, and as otherwise set forth below. The advance payment will be due after provision by the Consultants to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SC, such bank guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SC, and (ii) to be in the form set forth in Appendix I hereto or in such other form as the Client shall have approved in writing.
- (b) As soon as practicable and not later than fifteen (15 days) after the end of each calendar month during the period of the Services, the Consultants shall submit to the Client, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and 6.4 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Client shall cause the payment of the Consultants periodically as given in schedule of payment above within sixty (60) days after the receipt by the Client of bills with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultants, the Client may add or subtract the difference from any subsequent payments. Interest at the rate specified in the SC shall become payable as from the above due date on any amount due by, but not paid on. such due date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90)-day period, gives written

notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty, (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.

- (e) All payments under this Contract shall be made to the account of the Consultants specified in the SC.

7. **Fairness and Good Faith**

7.1 **Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7.2 **Operation of the Contract**

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. **Settlement of Disputes**

8.1 **Amicable Settlement**

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

8.2 **Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

III. SPECIAL CONDITIONS OF CONTRACTGC Clause**A. Amendments of, and Supplements to, Clauses in the General Conditions of Contract**

1.1(a) The words 'in the Government's country' are amended to read 'in INDIA'

1.4 The language is: English

1.6.1 The addresses are:

Client: National Highways Authority of India
G 5 & 6, Sector-10, Dwarka,
New Delhi – 110 075.

Attention:

Cable address: _____@nhai.org

Telex:

Fax:

Consultants:

Attention:

Cable address : _____

Telex : _____

Facsimile : _____

[Note : Fill in the Blanks]

1.6.2 Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of telexes, 24 hours following confirmed transmission;

(c) in the case of telegrams, 24 hours following confirmed transmission;

and

(d) in the case of facsimiles, 24 hours following confirmed transmission.

1.8 The Member in Charge is: Member (P) Sh. S. I. Patel

(Note: If the Consultants consist of a joint venture of more than one entity, the name of the entity whose address is specified in SC 1.6.1 should be inserted here. If the Consultants consist of one entity, this Clause 1.8 should be deleted from the SC)

1.9 The Authorised Representative are:

For the Client:

For the Consultants: _____

1.10 The Consultants, Sub-consultants and the Personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract and the client shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

2.1 The effectiveness conditions are the following:

i) Approval of the Contract by the client

2.2 The time period shall be four months or such other time period as the parties may agree in writing.

2.3 The time period shall be one month or such other time period as the Parties may agree in writing.

2.4 The time period shall be 36 months (3 months for Development Period, 30 month for construction period and 3 months for O&M period)

3.4 Limitation of the Consultants' Liability towards the Client

(a) Except in case of gross negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Client's property, shall not be liable to the Client:

- i) for any indirect or consequential loss or damage; and
 - ii) Consultant will maintain at its expenses; Professional Liability Insurance including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement, (A) For the amount not exceeding total payments for Professional Fees and Reimbursable Expenditures made or expected to be made to the Consultants hereunder OR (B) the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.
 - iii) The policy should be issued only from an Insurance Company operating in India.
 - iv) The policy must clearly indicate the limit of indemnity in terms of "Any One Accident" (AOA) and "Aggregate limit on the policy period" (AOP) and in no case should be for an amount less than stated in the contract.
 - v) If the Consultant enters into an agreement with NHAI in a joint venture or 'in association', the policy must be procured and provided to NHAI by the joint venture/in association entity and not by the individual partners of the joint venture/association.
 - vi) The contract may include a provision whereby the Consultant does not cancel the policy midterm without the consent of NHAI. The insurance company may provide an undertaking in this regard.
- (b) This limitation of liability shall not affect the Consultants' liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services.
 - (c) Professional Liability Insurance may be accepted for initially one year which shall be extended annually for five years. PLI shall be uniformly taken for a period of five years.

3.5 The risks and the coverage shall be as follows

- (a) Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1988 in respect of motor vehicles operated in India by the Consultants or their Personnel or any Sub-consultants or their Personnel for the period of consultancy.
- (b) Third Party liability insurance with a minimum coverage, of Rs. 1.0 million for the period of consultancy.
- (c) Professional liability insurance as per 3.4 (a) (ii) of SC of the consultancy, with a minimum coverage equal to estimated remuneration and reimbursable.

- (d) Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of any Sub-consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
- (e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultants' property used in the performance of the Services, and (iii) any documents prepared by the Consultants in the performance of the Services.

3.7(c) The other actions are

- "(i) taking any action under a civil works contract designating the Consultants as "Engineer", for which action, pursuant to such civil works contract, the written approval of the Client as "Employer" is required".

3.9 The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

4.6 "The person designated as Team Leader cum Sr. Highway Engineer in Appendix C shall serve in that capacity, as specified in Clause GC 4.6."

6.1(b) The amount payable in foreign currency or currencies is: _____

The ceiling in local currency is: _____

6.2(a) "Payments for remuneration made in accordance with Clause GC 6:2(a) in foreign and/or local currency shall be adjusted as follows :

Remuneration of employed personnel designated in foreign currency or Indian currency pursuant to the rates set forth in the Appendix G & H shall be adjusted only once after 18 months from the date of commencement by increasing it by a factor of 8%.

Notwithstanding any other provisions in the agreement in this regard, this provision will prevail and over ride any other provision to the contrary in this agreement.

6.2(b)(i) (1) It is understood (i) that the remuneration rates shall cover (A) such salaries and allowances as the Consultants shall have agreed to pay to the Personnel as well as factors for social charges and overhead, and (B) the cost of backstopping by home office staff not included in the Personnel listed in Appendix C, and (C) the Consultants' fee; (ii) that bonuses or other means of profit-sharing shall not be allowed as an element of overhead, and (iii) that any rates specified for persons not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable salaries and allowances are known.

- (2) Remuneration for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Consultants' home office and directly attributable to the Services (one hour being equivalent to 1/240th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).
- 6.2(b)(ii) The rates for foreign [and local] Personnel are set forth in Appendix G [and the rates for local Personnel, in Appendix H]
- 6.3 (a) The foreign currency shall be in US dollar only.
- 6.3(b)(i) Remuneration for foreign Personnel shall be paid in foreign currency and remuneration for local Personnel shall be paid in local currency.
- 6.3(b)(ii) The reimbursable expenditures in foreign currency shall be the following:
- 1) a per diem allowance for each of the Personnel for every day in which such Personnel shall be absent from his home office and shall be outside India for the purpose of the Services at the daily rate specified in Appendix G.
 - 2) the following transportation costs
 - (i) the cost of international transportation of the foreign personnel and, as specified below, eligible dependents of the foreign Personnel, by the most appropriate means of transport and the most direct practicable route to and from the Consultants' home office; in the case of air travel, this shall be by less than first class;
 - (ii) for any foreign Personnel spending twenty-four (24) consecutive months or more in the Government's country, one extra round trip will be reimbursed for every twenty-four (24) months of assignment in India. Such Personnel will be entitled to such extra round trip only if upon their return to India, such Personnel are scheduled to serve for the purposes of the Project for a further period of not less than six (6) consecutive months;
 - (iii) the cost of transportation to and from India of eligible dependents who shall be the spouse and not more than two (2) unmarried dependent children under eighteen (18) years of age of those of the foreign Personnel assigned to resident duty in India for the purpose of the Services for periods of six (6) consecutive months or longer, provided that the stay of such dependents in India shall have been for not less than three (3) consecutive months duration. If the assignment period for resident staff of the foreign Personnel will be thirty (30) months or more, one extra economy class air trip for their eligible dependents for every twenty-four (24) month assignment will be reimbursed;

- (iv) for the air travel of each of the foreign Personnel, and each eligible dependent, the cost of excess baggage up to twenty (20) kilograms per person, or the equivalent in cost of unaccompanied baggage or air freight; and
 - (v) miscellaneous travel expenses such as the cost of transportation to and from airports, airport taxes, passport, visas, travel permits, vaccinations, etc. at a fixed unit price per round trip as specified in Appendix G .
- 3) the cost of communications (other than those arising in India) reasonably required by the Consultants for the purposes of the Services.
 - 4) the cost of printing, reproducing and shipping of the documents, reports, drawings, etc. Specified in Appendices A and B hereof;
 - 5) the cost of acquisition, shipment and handling of the following equipment, instruments, materials and supplies required for the Services as per Appendix-H;
 - 6) the cost of shipment of personal effects up to as per Appendix-G;
 - 7) the cost of programming and use of, and communication between, the computers for the purposes of the Services at the rate set forth in Appendix G;
 - 8) the cost of training of the Client's personnel outside India, as specified in Appendix G;
 - 9) the cost of laboratory tests on materials, model tests and other technical services authorized or requested by the Client, as specified in Appendix G;
 - 10) the foreign currency cost of any subcontract required for the Services and approved in writing by the Client;
 - 11) the cost of items not covered in the foregoing but which may be required by the Consultants for completion of the Services, subject to the prior authorization in writing by the Client; and
 - 12) any such additional payments in foreign currency for properly procured items as the Parties may have agreed upon pursuant to the provisions of clause GC6.1(c), *[Note: Items that are not applicable should be deleted; others may be added]*

6.3(b)(iii) The reimbursable expenditures in local currency shall be the following :

- 1) a per diem allowance at a rate in local currency equivalent to _____
[Note: Name agreed foreign currency specified in Clause SC 6.3 (a) per day, for each of the short-term foreign Personnel (i.e. with less than twelve (12) months consecutive stay in India) for the first sixty (60) days during which such Personnel shall be in India;

- 2) a per diem allowance at a rate in local currency equivalent to _____ [Note: Name agreed foreign currency specified in Clause SC 6.3(a) per day, for each of the short-term foreign Personnel for each day in excess of sixty (60) days during which such Personnel shall be in India;
 - 3) a living allowance for each of the long-term foreign Personnel (twelve (12) months or longer consecutive stay in India) at the rates specified in Appendix H;
 - 4) the cost of the following locally procured items: local transportation, office accommodations, camp facilities, camp services, subcontracted services, soil testing, equipment rentals, supplies, utilities and communication charges arising in India, all if and to the extent required for the purpose of the Services, at rates specified in Appendix H;
 - 5) the cost of equipment, materials and supplies to be procured locally in India as specified in Appendix H;
 - 6) the local currency cost of any subcontract required for the Services and approved in writing by the Client;
 - 7) any such additional payments in local currency for properly procured items as the Parties may have agreed upon pursuant to the provisions of Clause GC 6.1(c); and
 - 8) the cost of such further items as may be required by the Consultants for the purpose of the Services, as agreed in writing by the Client.
- 6.4(a) The following provisions shall apply to the interest bearing advance payment and the advance payment guarantee :
- 1) An advance payment. of 10% of the contract price in proportion to the quoted Indian currency (INR) & foreign currency (US dollar) in the bid shall be made within 60 days after receipt and verification of advance payment bank guarantee. The advance payment will be set off by the Client in equal installments against the statements for the first 12 months of the Service until the advance payment has been fully set off.
 - 2) The bank guarantee shall be in the amount and in the currency of the foreign and local currency portion of the advance payment
 - 3) Interest rate shall be 10% per annum (on outstanding amount) for local currency, including converted foreign component into local currency.
- 6.4 (c) The interest rate is 6% per annum for local currency and London Inter Bank on Landing Rate (LIBOR) plus 1% per annum on foreign currency.
- 6.4(e) The accounts are:
- For foreign currency: _____
 - For local currency : _____

[Note: Insert account number, type of account and name and address of the Bank]

8.2 Disputes shall be settled by arbitration in accordance with the following provisions:

8.2.1 Selection of Arbitrators

Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:

- (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator or within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the President, Indian Roads Congress, New Delhi, for a list of not fewer than five nominees and, on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the President, Indian Roads Congress, New Delhi, shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.
- (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultants shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.
- (c) If, in a dispute subject to Clause SC 8.2.1 (b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary, Indian Council of Arbitration, New Delhi, to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

8.2.2 Rules of Procedure

Arbitration proceedings shall be conducted in accordance with procedures of the Arbitration & Conciliation Act 1996, of India unless the Consultant is a foreign national/firm, where arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.

8.2.3 Substitute Arbitrators

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

8.2.4 Qualifications of Arbitrators

The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Clause 8.2.1 hereof shall be an internationally/nationally recognized legal or technical expert with extensive experience in relation to the matter in dispute.

8.2.5 Payment to Arbitrator

(a) NHAH has decided that the maximum amount payable per arbitrator in arbitration case shall be as under:

Sl No.	Particulars	Maximum amount payable per Arbitrator/ per case
1	Arbitrator fee	Rs. 8,000/- per day subject to a maximum 2 lacs Or Rs 1.5 lacs (lump sum) subject to publishing the award within 12 months.
2	Reading Charges	Rs 6,000/-
3	Secretarial Assistance	Rs 5,000/-
4	Incidental charges (telephone, fax, postage etc.)	Rs 6,000/-
5	Charges for Publishing /declaration of the Award	Maximum of Rs. 10,000/-
6	Other expenses (actuals against bills subject to the prescribed ceiling) Traveling Expenses Lodging and Boarding	Maximum ceiling Economy class (by air), First class AC (by train) and AC car (by road) 1. Rs 10,000/- per day (in metro cities) 2. Rs 5,000/- per day (in other cities) 3. Rs 2,000/- per day, if any Arbitrator makes their own arrangements.
7	Local Travel	Rs. 1000/- per day
8.	Extra charges for days other than hearing/meeting days (maximum for 2 days)	Rs. 2,500/- per day

(b) In exceptional cases such as involving major legal implications/wider ramifications/higher financial stakes etc., a special fee structure could be fixed in consultation with the contractor/ supervision consultants and with the specific approval of the Chairman, NHAH before appointment of the Arbitrator.

8.2.6 Miscellaneous

In any arbitration proceeding hereunder:

- (b) proceedings shall, unless otherwise agreed by the Parties, be held in Delhi.
- (c) The English language shall be the official language for all purposes; and

- (d) The decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

IV. APPENDICES

Appendix A: Description of the Services

[Give detailed descriptions of the Services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Client, etc.]

Details as per TOR

Appendix B: Reporting Requirements

[List format, frequency, contents of reports and number of copies; persons to receive them; dates of submission, etc. If no reports are to be submitted, state here "Not applicable".]

Please refer TOR

Appendix C: Key Personnel and Sub-consultants

[List under: C-1 Titles [and names, if already available}, detailed job descriptions and minimum qualifications. experience of Personnel to be assigned to work in India, and staff- months for each.

C-2 Same information as C-1 for Key local Personnel.

C-3 Same as C-1 for Key foreign Personnel to be assigned to work outside India.

C-4 List of approved Sub-consultants [if already available]; same information with respect to their Personnel as in C-1 through C-4)

Appendix D: Medical Certificate

[Show here an acceptable form of medical certificate for foreign Personnel to be stationed in India. If there is no need for a medical certificate, state here: "Not applicable. "]

Appendix E: Hours of Work for Key Personnel

The Consultants Key personnel and all other Professional / Sub Professional / Support Staff / Sub-Consultancy personnel shall work 6 days (Mondays through Saturday) every week and observe the Gazetted Holidays of Government of India as Holidays. The Consultant shall work as per the work program of the concessionaire. In this context incase the work plan of the Consultant needs suitable modifications, the same shall be carried out and submitted to the client for consideration. The Consultants hours of work normally shall match with that of Contractor's activities on the site. No extra remuneration shall be claimed or paid for extra hours of work required in the interest of Project completion.

In respect of foreign personnel, one day per trip as travel time from and to the country of the Government shall be allowed.

Appendix F:**Duties of the Client**

1. Access to the quality control laboratory for performing various types of tests, which will be provided by the concessionaire including the testing personnel.
2. To provide Concessionaire's RFP, Bid submission, Concession Agreement, Data and information for field surveys and investigations
3. To ensure availability of the Detailed Work plan and Programme for Design and Construction of Project Highways from Concessionaire.
4. To ensure availability of the Quality Assurance Plan and Quality Control Procedures from the Concessionaire.
5. To provide relevant reports and necessary data as per the reporting obligation of concessionaire under the concession Agreement.
6. Necessary letters, which will be required for Visa's of foreign personnel and procuring other services by the consultant for performing project services.

Appendix G: Cost Estimates in Foreign Currency

List here under cost estimates in foreign currency:

1. *Monthly rates for foreign Personnel (Key Personnel and other Personnel)*
2. *Reimbursable/Rental/Fixed expenditures:*
 - a. *Per diem allowances.*
 - b. *Air transport for foreign Personnel.*
 - c. *Air transport for dependents.*
 - d. *Transport of personal effects.*
 - e. *International communications.*
 - f. *Printing of documents specified in Appendices A and B hereof*
 - g. *Acquisition of specified equipment and materials to be imported by the Consultants and to be paid for by the Client (including transportation to India).*
 - h. *Other foreign currency expenditures, like use of computers, foreign training of Client's staff, various tests, etc.*

Appendix H: Cost Estimates in Local Currency

List hereunder cost estimate in local currency:

1. *Monthly rates for local Personnel (Key Personnel and other Personnel)*
2. *Reimbursable/Rental/Fixed expenditures as follows:*
 - a. *Per diem rates for subsistence allowance for foreign short-term Personnel plus estimated totals.*
 - b. *Living allowances for long-term foreign Personnel, plus estimated totals.*
 - c. *Cost of local transportation.*
 - d. *Cost of other local services, rentals, utilities, etc.*

Appendix I: FORM OF PERFORMANCE SECURITY
(PERFORMAMANCE BANK GUARANTEE)

(Clause-20 of TOR)

To

The Chairman,
National Highways Authority of India, G-
5 & 6, Sector-10,
Dwarka,
New Delhi –110 075
India

WHEREAS _____
[Name and address of Consultants]¹ (hereinafter called “the consultants”)
has undertaken, in pursuance of Contract
No. _____ dated _____ to provides
the services on terms and conditions set forth in this Contract
_____[Name of contract and brief
description of works) (hereinafter called the “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Consultants shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Consultants such a Bank Guarantee;

NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Consultants up to a total of _____ [amount of Guarantee] ² _____ [in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [amount of Guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Consultants before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the services to be performed there under or of any of the Contract documents which may be made between you and the Consultants shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the consultants or of the Bank.

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. _____ (Rs. _____) and the guarantee shall remain valid till _____. Unless a claim or a demand in writing is made upon us on or before _____ all our liability under this guarantee shall cease.

This guarantee shall be valid until 365 days after the date of issue of the Defects Liability Certificate.

Signature and Seal of the Guarantor _____ In presence of

Name and Designation _____1.

(Name, Signature &
Occupation)

Name of the Bank _____

Address _____

2.

(Name & Occupation)

Date _____

¹ Give names of all partners if the Consultants is a Joint Venture.

**Appendix J: Form of Bank Guarantee for Advance Payments
(Reference Clause 6.4(a) of Contract)**

(To be stamped in accordance with Stamp Act, if any, of the country of issuing bank)

Ref: _____ Bank Guarantee: _____

Date: _____

Dear Sir,

In consideration of M/s. _____ (hereinafter referred as the "Client", which expression shall, unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s. _____ (hereinafter referred to as the "Consultant" which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a contract by issue of client's Contract Agreement No. _____ dated _____ and the same having been unequivocally accepted by the Consultant, resulting in a Contract valued at _____ for _____ Contract (hereinafter called the "Contract")

(scope of work)

and the Client having agreed to make an advance payment to the Consultant for performance of the above Contract amounting to (in words and figures) as an advance against Bank Guarantee to be furnished by the Consultant.

We _____ (Name of the Bank) having its Head Office at _____ (hereinafter referred to as the Bank), which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators executors and assigns) do hereby guarantee and undertake to pay the client immediately on demand any or, all monies payable by the Consultant to the extent of _____ - as aforesaid at any time upto _____ @ _____ without any demur, reservation, contest, recourse or protest and/or without any reference to the consultant. Any such demand made by the client on the Bank shall be conclusive and binding notwithstanding any difference between the Client and the Consultant or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. we agree that the Guarantee herein contained shall be irrevocable and shall continue to be enforceable till the Client discharges this guarantee.

The Client shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee, from time to time to vary the advance or to extend the time for performance of the contract by the Consultant. The Client shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Client and to exercise the same at any time in any manner, and either to enforce or to forebear to enforce any covenants, contained or implied, in the Contract between the Client and the Consultant any other course or remedy or security available to the Client. The bank shall not be relieved of its obligations under these presents by any exercise by the Client of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or

forbearance or other acts of omission or commission on the part of the Client or any other indulgence shown by the Client or by any other matter or thing whatsoever which under law would but for this provision have the effect of relieving the Bank.

The Bank also agrees that the Client at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Consultant and notwithstanding any security or other guarantee that the Client may have in relation to the Consultant's liabilities.

Notwithstanding anything contained herein above our liability under this guarantee is limited to _____ and it shall remain in force upto and including _____ and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s. _____ on whose behalf this guarantee has been given.

Dated this _____ day of _____ 200_____ at _____

WITNESS

 _____ (signature)
 (Signature)

 (Name)
 (Name)

 (Official Address)

Designation (with Bank stamp)

Attorney as per Power of

Attorney No.

Dated

Strike out, whichever is not applicable.

Note 1: The stamp papers of appropriate value shall be purchased in the name of bank who issues the "Bank Guarantee".

Note 2: The bank guarantee shall be from a Nationalized Indian Bank or reputed foreign commercial Bank acceptable to client for Foreign Consultant with counter guarantee from Nationalized Bank. Bank guarantee furnished by Foreign consultant shall be confirmed by any Nationalized Bank in India.

Appendix K

Letter of invitation

Appendix L

Letter of Award

Appendix M

Minutes of pre-bid meeting