



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India
(Ministry of Road Transport & Highways)
G-5 & 6, Sector-10, Dwarka, New Delhi-110075

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NHAI/13013/22/04-05/CMD-CO/DGR

13th Oct, 2004

CIRCULAR NO: NHAI/COMMERCIAL OPERATION/46

Sub: Standard format of contract to be entered into with DGR sponsored ex-servicemen for departmental collection of user fee.

In partial modification of Circular No. NHAI/COMMERCIAL OPERATION/14 dated 20.02.2003, standard format of contract to be entered into with DGR sponsored ex-servicemen for departmental collection of user fee, enclosed with the referred circular, stands superseded.

Revised standard format of contract to be entered into with DGR sponsored ex-servicemen for departmental collection of user fee is enclosed herewith.

This issues with the approval of Competent Authority.

(M M Lohia)
General Manager (CO)

To
All PIUs/CMUs

Copy to :

1. All Members/CGMs/CVO
2. All GMs
3. PS to Chairman
4. Director General of Resettlement, Ministry of Defence, Govt. of India
- ✓ 5. Librarian

(STANDARD FORMAT)

CONTRACT FOR DEPARTMENTAL COLLECTION OF FEE

This Contract is made at New Delhi, on this the _____ day of _____ 2004 by and between the National Highways Authority of India, a Statutory body, having its Corporate Office at G-5&6, Sector-10, Dwarka, New Delhi-110075, hereinafter referred to as "**the Authority**"(which expression shall, unless excluded by or repugnant to the context thereof, be deemed to mean and include its successors in office and administrators) of the **ONE PART**.

AND

(a)* M/s _____, a Company incorporated under the Indian Companies Act, 1956 having its Registered Office at _____ (*mention full address*) and incorporation Certificate No. _____ dt. _____.

Or

(b)* M/s _____, a Partnership firm, registered under the Indian Partnership Act, 1932 carrying on its business under the name and style as hereinbefore mentioned and having its principal office at _____ (*mention full address*) and having Registration No. _____ dt. _____.

Or

(c)* M/s _____, a Society registered under the Multi State Cooperative Societies Act, 1984 / under _____, (*mention the name of the State*) Cooperative Societies Act, _____ having its Registered Office at _____ (*mention full address*) and having registration No. _____ dt. _____.

Or

(d)* Sh/Smt. _____, S/o. or D/o. _____, Proprietor of M/s _____ carrying on its business at _____ (*mention full address*);

Hereinafter referred to as "**the Collecting Entity**" (which expression shall, unless excluded by or repugnant to the context hereof, be deemed to mean and include its successors, administrators and permitted assigns) of the **SECOND PART**.

() * *Strike out, whichever is not applicable.*

WHEREAS the Collecting Entity is authorised by its Memorandum of Association/Partnership Deed/bylaws to carry on the business of providing various services on contract basis through its personnel, either regularly employed or otherwise.

AND WHEREAS the Collecting Entity has its own separate and independent establishment which:

- (a) has been registered under the provisions of the Shops & Establishments Act, 1954 of the _____ (*mention the name of concerned State*);
- (b) is licensed under the provisions of Contract Labour (Regulations & Abolition) Act, 1970 and has obtained license No. ____ dt. _____;

Or

AND WHEREAS the Collecting Entity also undertakes to get itself licensed under the provisions of Contract Labour (Regulations & Abolition) Act, 1970 and registered with under the provisions of the Shops & Establishments Act, 1954 within 90 days under the relevant laws mentioned above, if it is not already licensed/registered.

Strike out, whichever is not applicable.

AND WHEREAS the Collecting Entity undertakes to:

- (c) Comply with all the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952;
- (d) Pay to all its personnel deployed as per the Minimum Wages Act, 1948 and
- (e) Comply with all the provisions, duties and any obligations imposed upon it by any law for the time being in force as may be applicable.

In the case of the Collecting Entity being an individual or sole proprietorship concern or any other entity sponsored/ recommended/suggested by the Directorate General of Resettlement, Ministry of Defence, Government of India, amount to be paid to the personnel deployed will be as per the rates fixed by the said Directorate General of Resettlement.

AND WHEREAS the Authority is authorised under the National Highways Authority of India Act, 1988 (hereinafter referred to as "the 1988 Act") to collect fees on behalf of Central Government for

services or benefits rendered under Section 7 of the National Highways Act, 1956 (hereinafter referred to as the 1956 Act).

AND WHEREAS the Authority is an executing agency under the provisions of National Highways (Fees for the use of National Highways Section and Permanent Bridge-Public Funded Project) Rules, 1997, (hereinafter referred to as "**the Fees Rules, 1997**") and is authorised, inter-alia, to collect fees departmentally.

****AND WHEREAS** the Authority is empowered under the provisions of the 1988 Act to enter into contracts and the Authority is desirous of engaging the Collecting Entity to collect fees at Km. _____ (*also mention the name of the location of fee collection booths*) for Km. ____ to Km. ____ on _____ Section of National Highway No. _____ (hereinafter referred to as "**the said Section of the Highway**")

or

**** At Km. _____** (*also mention the name of the location of fee collection booths*) for the _____ (*mention the name, if any*) bridge located at Km. _____ on _____ section of the National Highway No. _____ (hereinafter referred to as "**the said bridge**").

AND WHEREAS the Authority has authorised the Project Director, Project Implementation Unit/Corridor Management Unit _____ (hereinafter referred to as "**the Project Director**") as Office In-charge to supervise departmental fee collection work and to enter into a Contract with the Collecting Entity.

**** Strike out whichever is not applicable throughout the Contract.**

AND WHEREAS the Collecting Entity has authorised Sh./Smt. _____, S/o or D/o _____, of the Collecting Entity to enter into this Contract with the Authority. (*Enclose the proof of authorization*)

AND WHEREAS the parties are desirous of recording the terms and conditions on which the Collecting Entity shall carry out the job of fees collection on behalf of the Authority.

NOW THEREFORE THIS CONTRACT WITNESSETH AS FOLLOWS:

1. ENGAGEMENT OF COLLECTION ENTITY:

In consideration of the premises, the Authority hereby engages the party of the Second Part as the Collecting Entity and the Collecting Entity do hereby agrees to act as the Collecting Entity for the Authority for collection of fee for the use of the said Section of National Highway/the said Bridge.

2. PERIOD OF CONTRACT:

(i) This Contract shall be for a period of ___ months/year beginning from the time and date of commencement of fee collection, which period may be extended at the sole discretion of the Authority and such terms and conditions as may be mutually agreed to by the parties.

(ii) Notwithstanding anything contained in any other clause of this contract, performance of the Collecting Entity shall be reviewed every six months by the Authority and if the Authority, at its sole discretion, find the performance unsatisfactory, the Authority can terminate the Contract by giving 14 days notice in writing.

3. RATE OF FEE:

(i) The Collecting Entity shall collect fees at such rates and on such vehicles as have been notified by the Central Government vide Notification No. ___ dated..... for the use of the said section of the National Highway/the said bridge. A copy of the said Notification is appended to Schedule-I to this Contract.

(ii) The Collecting Entity shall not be allowed to make his own interpretation about a particular type of vehicle(s) attracting a particular rate so as to charge a higher rate from a particular type of vehicle(s) than the rate prescribed by the notification appended to Schedule-I. Decision of the Project Director on such matter shall be final and binding.

4. COLLECTION ONLY AT PRESCRIBED RATE:

The Collecting Entity shall ensure that under no circumstances, fee in excess of the prescribed rate or without issuance of receipt in the format prescribed by the Authority is charged by the Collecting Entity from the road users.

5. CHANGE IN THE RATE OF FEE:

The right of the Central Government to modify, change or vary the rate of levy of fee, or conditions for collection of fee, or both is hereby reserved by the Authority.

6. COMMENCEMENT OF FEE COLLECTION:

(a) The fee collection shall commence from the date & time as communicated by the Authority in writing and terminate on expiry of a period of ___ months/year beginning

from the time and date of commencement of fee collection or at the end of extended period, if any, as the case may be.

- (b) In no case, the Collecting Entity shall have a right to demand continuance or extension of the period beyond a period of ___ months/year beginning from the time and date of commencement of fee collection or the extended period as the case may be.

7. EXEMPTION OF VEHICLES AND CONCESSION:

(a) Type(s) of vehicles exempted as stated in the notification appended to the **Schedule I** appended to this Contract could be varied at any time either by the Authority or by the Central Government of India.

(b) All exemptions available to users under the Indian (Army and Air Force) Act, 1901 and rules there under, further extended to officials of Indian Navy, shall be honoured by the Collecting Entity.

{c} The Collecting Entity shall ensure to provide monthly and daily pass for multiple journey in accordance with the provision in the notification appended in Schedule I and shall also provide concession to all eligible users as per provision of NHAI's circular no. NHIA/CM/RM-1/462 dated 5.8.2002, copy appended to Schedule II. In case of any dispute about eligibility of any user about a particular concession or about the operating procedure, the decision of the Project Director concerned or his authorized representative shall be final and binding.

(d) If the Authority is satisfied that exemption or concession available to an otherwise eligible user for whatsoever reason, has been denied, the Collecting Entity shall be liable to pay 10 (Ten) times of the value of fee charged as penalty within 7 days of the issue of a notice by the Authority in this regard provided a receipt has been issued for the fee charged.

8. PLACE OF COLLECTION:

The Collecting Entity shall collect fees only at the Fees Plaza(s)/Fees collection booth(s) at Km.____ (*mention name of the place*) put up by the Authority. It shall not collect fee from any other place unless otherwise instructed by the Authority in writing. The decision of the Authority in this regard shall be final and binding.

9. HANDING OVER THE FEE PLAZA (S)/COLLECTION BOOTHS:

- (a) The Authority shall hand over the Fee Plaza at km _____ near _____ for the said Section of National Highway/ at km _____ near _____ for the said bridge at 00.00 hrs on .../.../... to the Collecting Entity for the purpose of fee collection on the said Section of the National Highway/the said bridge.
- (b) The Authority has right to hand over the Fee plaza(s) earlier than or after the date mentioned in Clause (a) above.
- (c) The Collecting Entity shall handover to the Authority the Fee Plaza(s) on 00.00 hrs of the following day on (i) the completion of the period of Contract as per Clause 2 above or (ii) date of the termination of the Contract as per the provision of the Contract as the case may be. In case it fails to do so, without prejudice to other rights of the Authority, the Collecting Entity shall not be entitled to any remuneration and will also be liable to pay the Authority a penalty equal to twice the daily collection in addition to payment of daily collection.
- (d) The word " Fee Plaza" wherever occurring in this contract shall include administration office at the plaza, server room, fee collection booths, such facilities, items and surrounding area as are generally understood to be part of the fee plaza but not limited to widened road, hoardings, canopy, unless the context requires otherwise.

10. DISPLAY OF RATE OF FEE AND FEE NOTIFICATION:

- (a) The rates of fee, the categories of vehicles exempted from payment of fee and the name, address and telephone number of the Authority to whom complaints, if any, should be addressed, shall be conspicuously and prominently displayed 500m ahead of the fee collection booths, 100m ahead of the fee collection booths and at the fee collection booths also, the height of the display boards and size of letters being such that it is easy for drivers to read the display boards. In this regard, (i) all arrangement shall be made by the Authority and (ii) all expenses in this regard shall be borne by the Authority.
- (b) The Collecting Entity shall display a copy of fee notification having the rate of fee at a conspicuous place(s) near the fee collection booths legibly written or printed in English, Hindi and the regional language of the concerned area.

11. DEPLOYMENT OF PERSONNEL:

(a) For the purpose of discharging its obligations under this Contract, the Collecting Entity shall deploy adequate number of personnel as may be considered necessary from time to time by the Authority , amongst others, to ensure the free flow of traffic, from such date as may be intimated by the Authority. Such persons shall be rotated randomly.

However, the Authority reserves the right to instruct for any change in the number of personal to be deployed by the Collecting Entity, for the purpose of Collection of fee, amongst others, to ensure free flow of traffic.

- (b) The Collecting Entity shall ensure that the personnel deployed by it for discharging its duties under this Contract are of good health, of highest integrity, punctual, well dressed and well behaved.
- (c) The Collecting Entity shall furnish to the Authority a list of persons deployed for the purpose of discharging its obligations under the Contract, containing all the details like their educational qualifications, training/s attended, experience, present residential address, permanent address, a character certificate issued by a Gazetted Officer and recent photographs and details of security deposit obtained.
- (d) The uniform of the personnel deployed shall be provided by the Collecting Entity and shall necessarily bear the name of the individual and name of the Collecting Entity. The uniform shall be such, as may be approved by the Authority.
- (e) The Authority reserves its right to object to the deployment of any personnel for any reason. In such a case, such person or persons being objected by the Authority shall be removed by the Collecting Entity forthwith and replaced within a day from such removal.
- (f) The personnel deployed by the Collecting Entity shall not misconduct/misbehave with the members of public and they shall observe strict discipline and decency in their behavior.
- (g) (i) The Authority shall not be liable for any misconduct or misdeeds or any act or incident involving the Collecting Entity or any of its personnel in any criminal or civil case and if any such incident takes place, the Collecting Entity shall (i) forthwith intimate the said incident to the Project Director and (ii) alone be responsible for consequences.

(ii) The Collecting Entity specifically agrees that the personnel deployed by it, will not in any way claim employment with the Authority. The Collecting Entity shall be solely

responsible for any dispute raised by the personnel deployed either during the term of the Contract or thereafter.

(iii) Notwithstanding any thing contained in clause 17(g) (i) and (ii), the Collecting Entity also undertakes to indemnify to the authority for all losses suffered or likely to be suffered, if any.

(h) The Collecting Entity shall ensure to obtain adequate amount of security deposit from the personnel deployed for due discharge of their duties, in consultation with the Authority.

(i) A list of persons of different level with their designation and duties to be deployed by the Collecting Entity, is enclosed at Schedule III. Such number /level can be varied any time by the Authority by giving one month's notice.

Notwithstanding anything contrary in this Contract pending issuance of the official notification prescribing rate of fee etc. as required under Clause 4 and to be appended to Schedule-I:

- (i) The Authority may also enter into this Contract in anticipation:
- (ii) The Collecting Entity can be asked to deploy its personnel for trial run prior to the actual commencement of collection on issuance of the notification. For any reason, if the notification is not issued or is likely to be delayed for a period beyond 15 days of the actual deployment, the authority may ask the Collecting Entity to discontinue the deployment without any liability except for the period of actual deployment; and
- (iii) On issuance of notification, the authority will provide to the collecting entity a copy of the same.

12. INTER SE RELATIONS:

(a) In all circumstances it is clearly understood by the parties that the personnel deployed by the Collecting Entity shall have no connection whatsoever with the Authority and the relationship of employer and employee shall be only between the Collecting Entity and the personnel deployed by it.

(b) However, if considered necessary, the Authority shall have every right to enquire and seek documentary evidence from the Collecting Entity to confirm, whether all the statutory dues like ESI, EPF, Minimum Wages, Weekly offs, Bonus, Medical Leave,

Workmen Compensation and any other entitlements for which the Collecting Entity is liable to provide, are being paid or not or have been paid or not for a particular period.

- (c) In case of any breach by the Collecting Entity in the payment of such statutory dues not necessarily pertaining to its personnel, the Authority, on being brought to its notice by any appropriate authority and on its prime facie satisfaction about such claim, shall be entitled to adjust the same from the Performance Security and pay such statutory dues to the appropriate Authority. The Collecting Entity shall replenish the Performance Security within 7 days of the notice by the Authority, failing which the same will be replenished from any sum payable to the Collecting Entity. The decisions of the Authority in this regard shall be final and binding on the Collecting Entity.

13. PROVISIONS OF INFRASTRUCTURE AND TECHNOLOGICAL ADVANCEMENT:

- (a) (i) In order to enable the Collecting Entity to discharge its duties of fee collection efficiently and uninterruptedly, the Authority shall provide such infrastructural facilities and other items, as may be considered appropriate by the Authority.
- (ii) However, provision of consumable and stores, repair and maintenance of such facilities and other items shall be responsibility of the Collecting Entity. Actual expenses incurred by the Collecting Entity, in consultation with the Project Director, in this regard will be reimbursed by the Authority.
- (b) An inventory of entire infrastructural facilities and other items shall be prepared and duly signed by both the parties at the time of handing over or taking over of the Fee Plaza(s) as per Clause 9 of this Contract.
- (c) The Collecting Entity also undertakes to abide by all instructions of the Authority to make the process of fee collection simple, faster and hassle free by extending necessary cooperation in adopting the technological advancements in the process/work of collection of fee. In the matter of computer hardware and software also, the Collecting Entity shall abide by all the instructions issued by the Authority.
- (d) The Authority shall keep the riding surface of the surrounding area of Fee Plaza(s)/Collection booths in traffic worthy condition and maintain the same during the subsistence of this Contract. However the general cleanliness of the Fee Plaza shall be the responsibility of Collecting Entity.

14. INSURANCE:

- (a) If required under any law for the time being in force, the Collecting Entity shall arrange adequate insurance to cover each of its personnel deployed against any type of accident or any other risk. However, the Authority shall not be responsible for any accident or any other risk if the Collecting Entity fails to take such insurance cover.
- (b) As per instructions of the Authority, the Collecting Entity shall also arrange Insurance cover favoring the Authority, for all the properties handed over by the Authority including cash in chest and cash in transit for comprehensive risks during the subsistence of the Contract.
- (c) All expenses incurred by the Collecting Entity on account of providing Insurance cover referred in Clause (a) and (b) above shall be reimbursed by the Authority.

15. RECEIPT AND CONCESSIONAL PASSES:

The Collecting Entity shall use only such receipts and concessional passes as provided by the Authority. The Collecting Entity undertakes not to issue any receipt and concessional pass other than those provided by the Authority and further undertakes to keep Authority indemnified against any loss suffered by the Authority on account of forged/fake receipt and concessional passes issued or used whether or not by or in connivance of Collecting Entity or by personnel deployed by it.

16. PERFORMANCE SECURITY:

The Collecting Entity shall have furnished, a performance security deposit in favour of the Authority for an amount of Rs. _____ (Rupees _____) in the form of Bank Draft drawn on any Public Sector Bank of India and if so permitted by the Authority by a Bank Guarantee as per the proforma provided by the Authority issued by any Public Sector Bank of India within 7 days of signing of the Contract. Such bank guarantee shall be valid for a period of 6 months after the expiry of a period of ___ months/year beginning from the time and date of commencement of fee collection. The said security amount shall not bear any interest and shall be refunded either within 90 days of the expiry of the contract period or termination thereof, as the case may be, subject to settlement of all the accounts by the Collecting Entity. The Authority shall also be competent to utilize the security amount against any shortfall/leakage detected or any penalty levied by the Authority at any time and in that event, the Collecting Entity shall immediately but not later than 7 days of the date of intimation,

replenish the said security deposit failing which the said security deposit shall be replenished from service charges or any other amount due and payable to the Collecting Entity. The Authority shall also be competent to utilize the said security deposit against any loss or damage caused to the property of the Authority by any act of omission and/or commission of the Collecting Entity or its personnel.

17. REMUNERATION:

- (i) For performing various functions under this Contract, the Collecting Entity shall be entitled to a consolidated service charge of Rs. ____ per month.

Provided that in the case of the Collecting Entity being an individual/sole proprietary concern or any other entity sponsored by Directorate General of Resettlements, Ministry of Defence, Government of India, the Authority shall (a) provide a list of personnel in Schedule III in accordance with clause 11 (i) of this contract alongwith their current scale of payment and to be revised periodically in accordance with the guidelines issued by the said Directorate General of Resettlement and (b) in addition to amount payable as per schedule III to such personnel deployed, also pay a fixed service charge of Rs. per month ** or __% ** on the amount payable to the personnel engaged as per schedule III.

**** *Strike out whichever is not applicable.***

- (ii) Remuneration as stated at (i) above shall be paid to the Collecting Entity by the Authority, on monthly basis, within 15 days of the submission of bills after the expiry of the month along with prescribed information and documents, after deducting such amount as the Authority may claim under this contract from the Collecting Entity.

(iii) The Collecting Entity shall be entitled for their remuneration from the date the Collecting Entity has been asked to deploy their personnel subject to the actual deployment. Decision of the Project Director or his authorized representative shall be final and binding whether a particular person was deployed or not, including about period of his deployment.

(iv) The payment of service charges shall be made in such manner and on production of such documents as may be specified by the Authority for the aforesaid purpose. Service Tax if applicable and as admissible, shall be reimbursed by the Authority.

- (v) Within 28 (twenty eight) days from the date of signing this Contract or within such period as provided by the law applicable which ever is shorter, the Collecting Entity shall have the Contract engrossed or registered, by affixing the correct Stamp Duty

as may be applicable under the Stamp Duty and Registration laws in the State where fee collection booths are located, unless prohibited by any law for the time being in force. In such an eventuality it could be engrossed in any other state and will be returned to the Authority. Actual cost incurred by the Collecting Entity in this regard will be reimbursed by the Authority.

18. DIVERSION OF TRAFFIC

The Collecting Entity, with a view to augment collection of user fee, shall be under an obligation to inform the Authority immediately about any regular diversion of traffic through use of a public road or a private property whether or not existing on the date of commencement of collection of fee, to avoid crossing the fee collection booths. For failure to do so on each occasion, the Collecting Entity shall be liable to a minimum penalty of Rs. 5000/- (Rupees five thousand only) which may extend to Rs. 25000/- per day having due regard to the loss of revenue suffered by the Authority.

19. EXCESS CHARGE OF FEE FROM USER

In case, it is observed and/or established to the satisfaction of the Authority that the Collecting Entity has charged fee in excess of the prescribed rate without issuance of a valid receipt for same, the Authority may terminate the contract forthwith and/or may impose a penalty of Rs. One Lakh or an amount equivalent of one day's average collection of fee during the preceding period, whichever ever is higher and may provide the another opportunity of continuing the Fee Collection. However, in no case, the Authority shall afford more than one opportunity to the Collecting Entity.

The Authority also, reserves the right to estimate the excess collection of fee made by the Collecting Entity and recover the same, which will be over and above the penalty imposed and to be recovered from the Collecting Entity.

The termination under this clause shall make the Collecting Entity liable for unconditional forfeiture of the Performance Security.

20. WITHHOLDING OF SERVICE CHARGES:

The Authority shall be entitled to withhold from the service charges such amount as may be considered adequate by it if any complaint is received and found to be correct on the enquiry conducted by the Project Director or his authorized representative that the Collecting Entity has not paid or has paid less than what is legally due to the personnel deployed including any

remuneration, wage, bonus, contribution or any other statutory dues of whatever nature and may utilize the amount so withheld to make payment to the personnel deployed on behalf of the Collecting Entity as may be directed by any Competent Authority or as may be considered by it legitimately due to such personnel deployed. The payment, if any, made as above shall always be deemed to have been made to the Collecting Entity.

21. OPERATIONAL TRANSPARENCY:

The Collecting Entity shall solely be responsible to keep complete working and management of fee collection under this Contract operationally transparent & efficient at all points of time and at all levels e.g. at the level of fee Inspectors, accountant. The cash in the chest and in the booths should exactly match with the numbers of receipts issued prescribed rates of different categories of vehicles minus amount remitted to the Authority. Any shortfall therein shall be recouped by the Collecting Entity immediately and the Authority shall not be liable for such occurrence.

22. AUTHORISED REPRESENTATIVE OF THE AUTHORITY:

- (a) The Authority has designated Shri. _____ PIU / CMU _____ NHAI as "the Project Director" to carry out all functions on its behalf under this Contract and may change the Project Director at its sole discretion.
- (b) The said Project Director of the Authority shall have the overall authority to control and supervise the work of collection of fee carried on by the Collecting Entity with a view to ensure that collection of fee is carried out smoothly, efficiently and without any hindrance or harassment to the users.
- (c) The Project Director or any other officer of the Authority or any agency as authorized by the Authority or by the Project Director, shall have right and authority to inspect and check the receipt books (used/unused/counterfoils), registers and books of accounts maintained by the Collecting Entity.
- (d) The instructions given from time to time by the Project Director or his authorised representative in this regard shall be complied with promptly by the Collecting Entity.
- (e) The Collecting Entity shall provide proper system for receiving feedback/complaints/suggestions from public and ensure for prompt redressal of all

grievances of the public. The Collecting Entity shall keep records of all the complaints received and replied directly or otherwise by it and forward a copy on monthly basis to the Project Director. In respect of suggestions, same will be forwarded to the Project Director alongwith the recommendation of Collecting Entity.

23. OBLIGATIONS OF THE COLLECTING ENTITY:

a) (i) The Collecting Entity undertakes the responsibility of the complete job of fee collection, regular deposit of fee collected in the designated bank/s of the authority, maintenance of all records, maintenance of fee collection account, maintenance of vehicle type and direction wise Traffic Data on shift to shift basis with registration numbers, maintaining the cleanliness of the fee plazas and any other duty as may be assigned by the Authority from time to time. The Collecting Entity specifically undertakes the responsibility of collection and deposit of the full amount of user fee realizable (whether realized or not by the Collecting Entity) and any shortfall occasioned for any reason whatsoever will be made good by the Collecting Entity. For avoidance of doubt, the Collecting Entity shall be liable for (A) all violations whether reported to the Authority or not, where user(s) may not have paid the fee and (B) all wrong decisions in the matter of allowing an exemption or a concessional pass to a user.

(a) (ii) The Collecting Entity shall be responsible for payment of fee not recovered from any user, for whatsoever reasons, otherwise liable to pay.

b) (i) Any excess recovered from booth operator/s or any other person during any checking shall also be deposited in the Account of the Authority on daily basis.

b) (ii) Any shortage observed during the checking shall be made good by the Collecting Entity on daily basis.

b) (iii) For shortage or excess observed during checking of any person in the fee plaza including such personal cash not declared in writing in advance, fifty times of such short or excess amount noticed from each individual checking of a booth or a person excluding such cases where amount of shortage or excess is not less than the lowest single journey fee, shall be deposited with the Authority as penalty on daily basis, irrespective whether such check has been carried out by the Collecting Entity or supervision consultant or auditor or any other official of the Authority or any other agency authorized by the Project Director or Head Office of the Authority.

b) (iv) If more than 5 incidents occur since commencement of collection of fee requiring levy of penalty under above clause (b) (iii), the contract may be terminated by the Authority at its sole discretion. Decision of the Authority in this regard shall be final and binding.

- c) The Collecting Entity shall make appropriate arrangement for management of the traffic at its own cost and shall ensure that no vehicle has to wait for more than 30 seconds at the fee collection booth including in negotiating the exempt lane. All the lanes shall be kept open at all times.
- d) The Collecting Entity specifically undertakes to unconditionally abide by all the instructions issued by the Authority from time to time on operational matters including on deployment of the personnel.
- e) The Collecting Entity shall also submit such information in such format which would enable the Authority to submit information to appropriate authorities under the various laws applicable or required otherwise by the Authority.
- f) The Collecting Entity shall ensure deposit of fee at least on daily basis with the designated bank of the Authority ensuring full security at its risk and cost during the transit.
- g) The Collecting Entity shall satisfy itself before start of the fee collection regarding proper functioning the Automatic Vehicle Counting Counter (AVCC) installed, if any, at all the plazas and any shortfall noticed after collection of user fee commences will be made good by him from his resources on monthly basis. However the Collecting Entity will have no claim in case AVCC reports shows a lesser count of vehicles as compared to the vehicles passed as per record of the Collecting Entity. In case of subsequent installation also, the Collecting Entity will satisfy himself about its proper functioning within 7 days of a receipt of a notice of its successful installation from Supervision Consultant, if engaged or the Project Director as the case may be.
- h) For non-performance of any of above obligations of the Collecting Entity under this contract not limited to the provisions under the clause 23, a penalty of Rs. 10000/=(Rupees Ten Thousand only) per incident of failure unless specifically provided elsewhere for specific failure of performance, shall be levied in addition to the recovery of the loss incurred/estimated to incur, if any, by the Authority. Decision of the Project Director shall be final and binding in the matter.
- i) The Collecting Entity shall be fully responsible for adequate quantity of coins and currencies of smaller denominations ('the Change') for ease of transactions. No advance shall be paid by the Authority for this purpose. The Collecting Entity shall invest its own fund for "the change" required at the beginning of the operations and any time thereafter.
- j) The Fee Collecting Entity shall submit an operating manual within 30 days of commencement of collection of fee, for collection of user fee highlighting, amongst others, the methodology

for user fee collection, entire process, documentations, accounting, transfer of revenue to Authority. Same shall be approved, with such modification as considered necessary, by the Authority.

- k) The Collecting Entity shall also ensure to have system of counter checking over the performance of its own persons specially those who are (i) involved in collection of user fee in the booths and (ii) assisting the booth operators .

24. RIGHT OF INSPECTION:

- (a) The Authority reserves the right to inspect, check or surprise check the activities of the Collecting Entity to monitor or ensure that any or all the activities enunciated are being carried out properly by the personnel deployed by the Collecting Entity. Such inspection or check can also be carried round the clock or on regular basis for such period as considered necessary.
- (b) During currency of the contract, the Authority reserves the right to temporarily take over all or any function(s) of the fee plaza (i) deploying its own personnel or (ii) entrusting to any other agency and deploying their personal or (ii) a combination thereof. During such temporary take over, the Authority reserves the right to replace or continue the personnel deployed by the collecting Entity for the functions (s) taken over.
- (c) The Collecting Entity shall ensure to keep such record of inspections including a register, as per proforma prescribed by the Authority.
- (d) The Authority can exercise any checks / control, either directly or through its authorized representative, to ensure discharge of various obligations by the Collecting Entity under the Contract not limited to following:
 - i) Correctness of the fee recovered from users.
 - ii) Issue of proper receipts to all Vehicles with registration number;
 - iii) Maintenance of proper registers;
 - iv) Remittance of amount due by the Collecting Entity ;
 - v) Maintenance of the Fee Plaza and its running in good condition;
 - vi) Proper arrangement for lighting and water;
 - vii) There is no undue delay in clearance of the traffic due to operational procedure; and
 - viii) There is no long queue at the fee collection booths.

- ix) Any other check or control as considered appropriate by the Authority either directly or through its authorized representative.

25. FORCE MAJEURE:

- (a) Either party shall not be liable for failure in performance of its duties for acts of God, war, fire, change in law and acts of Government, which make it impossible to collect fee from passing vehicles.

- (b) **PROCEDURE FOR FORCE MAJEURE:**

- I. NOTICE:**

- (1) If a party claims relief on account of a Force Majeure event, the Party claiming to be affected by the Force Majeure event shall, as soon as reasonably practicable and in any event within 7 days of becoming aware of the Force Majeure event, give notice giving details of the effects of such Force Majeure on the Party's obligations under this Contract to the other Party in writing, including the dates of commencement and actual/likely date of cessation of such Force Majeure and its effects.
 - (2) The Party receiving the claim for relief under Force Majeure shall, if wishes to dispute the claim, give a written notice of the dispute to the Party making the claim within 30 days of receiving the notice of claim.

- II. CONSULTATION AND DUTY TO MITIGATE:**

- (1) The Party claiming relief under Force Majeure shall, at its own cost, take reasonable steps to remedy and mitigate the effects of the Force Majeure event and restore its ability to perform its obligations under this Contract as soon as reasonably possible. The Parties shall consult with each other to determine the measures to be implemented to minimise the losses of either Party as a result of the Force Majeure event.
 - (2) The Party affected by Force Majeure shall keep the other Party informed of such efforts to remedy and make reasonable efforts to mitigate on a continuous basis and shall provide written notice of the resumption of performance hereunder.

- (3) Notwithstanding anything contrary to the specifically stated in this Contract no party shall be relieved of its obligations under this Contract by reason of impossibility of performance or any other circumstance whatsoever beyond its control.
- (4) Any Party claiming cessation of the event of Force Majeure may, if the other party has not served a notice of resumption of performance, give notice to the other party, of cessation of such event, notifying the date of alleged cessation and unless the party to whom such notice is given does not dispute the same within 30 days of the receipt of such notice the Force Majeure event shall be deemed to have ceased to consequences thereof and shall be deemed to have come to an end on the date so notified.

III. TERMINATION DUE TO FORCE MAJEURE:

If any event of Force Majeure shall continuously impede or prevent a Party's performance for longer than 60 days from the date of commencement of such Force Majeure event, the parties shall decide through mutual consultation, either the terms upon which to continue the performance of this Contract or to terminate this Contract by mutual consent. If the parties are unable to agree on such terms or to terminate the Contract by mutual consent within 90 days from the date of commencement of such Force Majeure event, either Party may issue a notice to terminate this Contract.

26. MATTERS NON-ARBITRABLE:

Any disputes or differences between the parties in regard to the matters covered under Clauses 3,7, 8 and 12 shall be referred to the Project Director of the Authority, Project Implementation Unit, Corridor Management Unit whose decision in the matter shall be final and binding.

27. ARBITRATION:

- (a) All disputes and/or difference except those which are mentioned in the matters non-arbitrable under Clause 28 above arising between the parties out of this Contract shall be settled by Arbitration under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The Chairman of the Authority or his nominee shall be the sole Arbitrator. The award made and published in pursuance of such Arbitration proceedings shall be final and binding on both the parties.

- (b) The proceedings of the Arbitration shall be held in English language and shall be held at such place as may be decided by the Chairman of the Authority or his nominee. The award of the Arbitration shall be final and binding on both the parties to the Contract.

28. SEVERABILITY:

If any provision of this Contract is prohibited by law or held to be invalid, illegal, or unenforceable, the remaining provisions hereof shall not be affected, unless the same materially affects the performance of the obligation of the parties under this Contract and this Contract shall continue in full force to the fullest extent possible and effect as if such prohibited, illegal or invalid provision had never constituted a part of this Contract.

29. BREACH:

Any breach of the terms and conditions herein contained in this Contract, which may cause any financial loss to the Authority shall attract immediate unilateral termination of this Contract by the Authority, notwithstanding anything contrary contained in this Contract.

30. WAIVER:

Failure or neglect by either of the Parties to enforce at any time any of the provisions hereof shall not be deemed to be a waiver of the right. In such an event, the same shall neither affect the validity of the whole or any part of this Contract nor prejudice the rights of Parties from taking subsequent action.

31. ASSIGNMENT:

The Collecting Entity under takes not to assign any right and/or obligation of this Contract to any other person without prior consent of the Authority in writing.

32. DEATH/WINDING UP:

If the Collecting Entity being a natural person dies or being a partnership firm is dissolved or adjudged insolvent or commits any act of insolvency or being a Cooperative Society/Limited Company is ordered to be wound up by any Court of Law or makes arrangements with its creditors to wind up, the Contract shall forthwith stand terminated without prejudice to any other rights or remedies of the Authority under this Contract.

33. ABANDONMENT:

In the event of abandonment of the Fee collection by the Collecting Entity, due to his default or due to bankruptcy or for any other reason, the Authority shall be entitled to take over the Fee plaza and terminate this Contract to continue the fee collection in the manner it deems fit.

Further, the Authority, in such a situation, shall forfeit the Performance Security furnished by the Collecting Entity to adjust any dues or claims or damages without prejudice to its other rights.

34. INDEMNITY:

The Collecting Entity shall indemnify the Authority and its officers, agents and authorized representatives against all liabilities, damages and expenses arising from any claims for damages, suits, proceedings, recoveries, judgments or executions (including, but not limited to litigation costs and expenses and reasonable fees of the Attorney) which may be made or recovered from the Authority by reason of any acts, omissions (whether negligent or otherwise) or due to willful misconduct of the Collecting Entity including its agents, survivors and personnel.

35. TERMINATION:

(1) The Authority shall be entitled to terminate this Contract at any time without assigning any reason(s) after giving notice to the Collecting Entity as under in writing and in that event, the Franchisee shall not be entitled to any claim, or any compensation whatsoever on account of such termination.

- (i) By giving fourteen (14) days prior notice in writing,
- (ii) By giving ninety (90) days prior notice in writing, the Collecting Entity may terminate the Contract.

(2) Notwithstanding anything contained in clause (1) above, the Authority may terminate the Contract for breach or non-observance of any of the terms and conditions of this Contract or for any misconduct on the part of the Collecting Entity or his personnel or for overcharging of fee from a user, or for harassment of any user.

36. DECISION OF PROJECT DIRECTOR: FINAL AND BINDING

Except where otherwise provided or specified in this Contract and subject also to such powers as may be delegated by the Central Government to any of the specific official of the Authority from time to time, any decision of the Project Director of the Authority, on all questions and

matters whatsoever arising out of or in relation to or in connection with this Contract or as to the interpretation of any its conditions whether during the subsistence of this Contract or at any time thereafter, shall be final and binding on the parties to this Contract.

37. INTEGRATED CONTRACT:

This Contract represents and constitutes the entire Contract between the Parties and shall not be explained, modified or contradicted by any prior or contemporaneous negotiations, representations or Contract(s), either written or oral or minutes of any meeting and correspondence between the parties or bid documents.

38. AMENDMENT:

Terms of this Contract can be amended with the mutual consent of both the parties.

IN WITNESS WHEREOF the parties hereto through their duly authorised representatives have set their hands and seal on the day, month and year first above mentioned.

For and on behalf of
National Highways Authority of India

For and on behalf of *
.....

(Signature) ..
Name:-
Designation: Project Director, _____
Place:-

(Signature)
Name:-
Designation:-
Place:-

In the presence of

In the presence of

1. Signature:
Name:
Address:
2. Signature:
Name:
Address:

1. Signature:
Name:
Address:
2. Signature:
Name:
Address:

**Collecting Entity must affix its common Seal.*

Schedule-1

NOTIFICATION NO..... DATED
PUBLISHED IN OFFICIAL GAZETTE ON.....

Schedule -II

COPY OF CIRCULAR NO. NHAI/CM/RM-1/462 DATED 5.8.2002

Schedule-III

S No	Level of the Personnel (e.g. security guard, gun man, supervisor, ASO, as given in guidelines issued by DGR)	Designation Proposed for operations at the Plaza	Number of personnel	Function	Monthly payment as per current scale applicable w.e.f.....as per guidelines issued by DGR	Total Monthly payment
A	B	C	D	E	F	G (D*F)
1						
2						
...						
	Total					

* E.g.