



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(पोल परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Shipping, Road Transport and Highways)

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

No. NHA/13013/3/CMD-CO/Policy on Toll (Vol. VIII)

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01.10.2005

CIRCULAR NO: NHA/COMMERCIAL OPERATIONS/65

Subject: Method of collection of user fee and maintenance etc.: Public Funded Projects and Annuity based BOT Projects.

Please refer our circular no NHA/COMMERCIAL OPERATIONS/52 dated 6.1.2005 providing various methods of collection of user fee in the order of preference. Further circular no. NHA/Commercial Operations/48 dated 20.10.2004, inter-alia, provides that in principle approval for collection of user fee through Private Contractor should be obtained from Head Office. It has been decided to dispense with the requirement of seeking by PIUs/CMUs in principle approval of Head Office for engaging Private Contractor for collection of fee. It has also been decided that collection of user fee on all sections will be undertaken through engagement of Private Contractor **only for all new cases and on expiry of existing contracts** for departmental collection except in following cases:

(i) In case, where tolling of section has started/to start after merging the tolling of an ongoing BOT facility e.g bridge and where due share of the BOT Concessionaire has to be remitted by NHA as per arrangement worked out.

(ii) where the performance of an organization of ex-servicemen or an ex-serviceman (whether sponsored by Directorate General Resettlement or otherwise engaged) already engaged in collection, is considered to be satisfactory based on the findings of various checks undertaken directly or indirectly by CMU/PIU and Head Office. Specific approval of Head office will be obtained well in time by the concerned PIU/CMU in this case.

2. **Duration of contracts:** Considering proposed six laning of Golden Quadrilateral and pending finalization of model bid documents of Operate, Maintain and Transfer (OMT) Concession, duration of contract for collection of user fee through Private Contractor will be one year. Extension of duration will be governed by the provisions as contained in the respective model bid document.

3. **Revised bid document:** In case of collection of user fee, a revised bid document (pending legal vetting and financial concurrence) is enclosed for immediate purposes in supercession of the document provided with referred circular dated 20.10.04. Modifications, if any, will be circulated as soon as finalized.

4. In future, contracts for tolling will be separated from contracts for maintenance.

5. Please ensure that all existing contracts are switched over from departmental collection to collection through Private Contractor within next six months or immediately on expiry of the existing contract if remaining period of the contract is more than 6 months, for departmental

collection under all circumstances without any further reference to Head Office except as warranted by this circular.

6. For avoidance of doubt, it is further clarified that no separate approval of Head Office is required for collection through Private Contractor except to the extent mentioned in para 1 (ii). For exceptional cases not provided for in this circular, Project Director must ensure to take approval of Head Office, giving specific reasons if he cannot opt for collection through Private Contractor in the best interest of NHAI.

7. The policy mentioned above may be further reviewed on installation of equipment/gadget on the plazas which are under process.

8. Above instruction will be applicable only for Public Funded Projects and Annuity based BOT Projects where the fee collected accrues to Government/NHAI, in supercession of Circular no. NHAI/Commercial Operation/43 dated 9.8.04 and in partial modification of Circular no. NHAI/Commercial Operation/48 dated 20.10.04 and Circular no. NHAI/Commercial Operation/52 dated 6.1.05.

9. Please ensure strict compliance.

This issues with approval of Competent Authority.



(MM Lohia)
General Manager (CO)

Encls. : As above

To

All PIUs / CMUs

NHAI

Copy to:

1. PS to Chairman
2. All Members
3. All CGMs/CVO
4. All GMs
5. Librarian

Revised

On 08.09.2005

(STANDARD FORMAT)

NATIONAL HIGHWAYS AUTHORITY OF INDIA

COLLECTION OF FEE THROUGH PRIVATE CONTRACTOR ON THE BASIS OF COMPETITIVE BIDDING AT KM..... (ALSO MENTION THE NAME OF THE LOCATION OF THE FEE COLLECTION BOOTHS) FOR KM..... TO KM ON SECTION OF NATIONAL HIGHWAY NO.

OR

COLLECTION OF FEE THROUGH PRIVATE CONTRACTOR ON THE BASIS OF COMPETITIVE BIDDING AT KM..... (ALSO MENTION THE NAME OF THE LOCATION OF THE FEE COLLECTION BOOTHS) FOR THE (MENTION THE NAME, IF ANY) BRIDGE LOCATED AT KM. ONSECTION OF NATIONAL HIGHWAY NO.

PERIOD FROM .../.../.... TO .../.../....(24.00 HOURS) I.E. INITIAL ONE YEAR, EXTENDABLE UPTO ANOTHER ONE YEAR IN PHASES OF THREE MONTHS EACH

BID DOCUMENTS

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SECTION-I
INVITATION FOR BIDS

Bid document issued to

Date of Issue

Dated: _____

Demand Draft no:

For Rs. _____ (Rupees _____ only)

Banker's name _____

NHAI,

BID INVITATION NOTICE

Collection of fee through private contractor on the basis of competitive bidding at Km _____ (also mention the name of the location of fee collection booths) for Km_____ to Km___ on _____ Section of the National Highway No_____ (hereinafter referred to as the said section of the National Highway) or at Km _____ for the _____ (also mention the name, if any) bridge located at ____ Km on _____ Section of the National Highway No._____ (hereinafter referred to as the said bridge).

- (i) National Highways Authority of India (hereinafter referred to as the Authority) has been entrusted with the development, maintenance and management of National Highways Development Project (NHDP).
- (ii) The Authority invites the bids from eligible Companies/Cooperative Societies/Registered Partnership Firms/Individuals for collection of fee for the said Section of the National Highway or the said bridge.

The bids are invited on behalf of the Chairman of the Authority for collection of user fee for the said Section of the National Highway or the said bridge:

S. No.	Description	Bid Security (Rs. In lacs)	Period of Collection
(1)	(2)	(3)	(4)
	Collection of fee through private contractor on the basis of competitive bidding at Km _____ (also mention the name of location of the fee collection booths) for Km_____ to Km___ on _____ Section of the National Highway No_____ or at Km _____ for the _____ (mention the name, if any) bridge located at _____ Km on _____ Section of the National Highway No._____.	*	From DD-MM-YYYY....(0:00 Hours) to DD-MM-YYYY....(24:00 Hours) i.e. initial one year, extendable upto another one year in phases of three month each.

- * For the use of Project Director. Amount of bid security shall be worked out on the basis of the latest traffic census data and expected fee collection in 3 months.

- (iii) The collection of fee will be only from the place mentioned above. The bidder specifically recognizes this condition and may bid only if this is acceptable.
- (iv) The document containing the instructions to bidders and form of Contract will be available as under:

Place and period of sale of Bid Documents:	Place: # From .../.../... to .../.../... during 10.00 hrs to 17.00 hrs on normal working days. National Highways Authority of India,
Date, Time and Venue of Pre-bid meeting	*** On .../.../... at 14.00 hrs National Highways Authority of India,
Last date, time and venue for submission of bids:	**** Upto 14.00 hrs on .../.../... National Highways Authority of India,
Date & Time of Opening of Technical bids:	*** ** at 15.00 hrs on .../.../...
Date & Time of Opening of Financial bids:	** ** ** at 15.00 hrs on .../.../...
Venue for pre-bid meetings and for opening of bids:	National Highways Authority of India,

- (v) The bid document may be collected by the prospective bidders from the address given below after depositing Rs.20,000/- in the form of Demand Draft drawn on any Public Sector Bank of India in favour of "National Highways Authority of India", payable at The bid document can also be downloaded from the Authority's website www.nhai.org and document fee of Rs.20,000/- may be deposited along with bid submission.

- # Minimum period of 15 days to be allowed, preferably 30 days from the date of publication of first advertisement. Last date for sale of bid documents, termed as X date.
- *** 10th day from the X date.
- ** ** 30th days from the X date.
- ** * ** 30th days from the X date.
- ** * * ** 45th days from the X date.

(vi) The Authority will not be responsible for any delay in submission of bids and reserves the right to accept or reject any or all bids without assigning any reason thereof.

(vii) Address for Communication:

Project Director
National Highways Authority of India,
.....
.....
Pin.....
Tel no.

Website: <http://www.nhai.org>

SECTION-II

INSTRUCTIONS TO BIDDERS

In case of any conflict, instructions mentioned below will be superseded by the terms and conditions set out in the draft Contract enclosed to the Bidding Documents as contained in SECTION IV____ and subsequently as entered into between the Authority and the successful bidder.

1. ELIGIBLE BIDDERS:

i. This invitation to bid is open to the following entities only:

- (a) Companies registered under the Indian Companies Act, 1956.
- (b) Partnership Firms registered under the Indian Partnership Act, 1932.
- (c) Cooperative Societies registered under any Cooperative Societies Act (of any state in India) or under Multi State Cooperative Societies Act, 1984 and,
- (d) Sole Proprietorship concerns or Individuals.

Bidding by Consortium or Joint Venture is not allowed.

ii. Following are the pre-requisites for eligible bidders:

- (i) A statement showing of Annual turnover of the entity, for not less than Rs.#_____ lakhs during the last financial year, certified by a firm of Chartered Accountants.
- (ii) Certified copy of Solvency Certificate issued by any Public Sector Bank for an amount not less than Rs.#_____ lakhs (sum equivalent to 12 months' expected fee collection). In case of a partnership firm, value mentioned in the solvency certificate of the partnership firm and not of individual partners only shall be taken into account.

(#sum equivalent to 12 months' expected fee collection).

- (iii) Character Certificate from concerned Asst. Commissioner of Police to be submitted in case of an individual, in case of a Partnership Firm, certificates for all the partners in the firm and in case of Company/Cooperative Society, such certificate is required for the Chief Executive by whatsoever names called.
- (iv) (a) An affidavit from the bidder, that the bidder is not involved in any litigation with the Authority, except any litigation pertaining to this bid.
- (b) In case of partnership firm an affidavit from the partners, that the bidder or any of its partners are not involved in any litigation with the Authority, except any litigation pertaining to this bid.
- (v) A power of Attorney favouring the Authorised Representative from the individual, all the partners, Chief Executive/Secretary in case of the Company/Society, as the case may be, showing the authority delegated to the representative to submit the bid or participate in the bidding process and to sign the Contract, in case of their selection.

2. COST OF BIDDING:

The bidder shall bear all costs associated with preparation and submission of its bid. The Authority will in no case be responsible or liable for any such cost, regardless of the conduct or outcome of the bidding process.

3. ASSESSMENT OF FEE REVENUE AND RESTRICTION ON PLACE OF COLLETION OF FEE:

(i) The bidder is advised to visit the Fee collection Plaza(s) and/or Fee collection Booth(s), make an assessment of the fee revenue based on its own estimation at its own responsibility and expense and may obtain any other information from its own sources that may be required by the bidder for preparing the bid and entering into Contract for collection of fee. The Authority does not guarantee extent of fee revenue during the contract period.

(iii) The bidder recognizes the fact that there may be a number of lateral entries, accesses or diversions or median openings, whether in existing use or not, which any road user may opt ,

inter-alia, to avoid payment of the fee by bypassing the fee collection booths. The successful bidder will not be entitled to (a) close and or (b) demand closure of any one of them, by any authority whatsoever. The bidder undertakes that it shall not make any claim for any decrease in traffic on the ground of use of such lateral entry, access, diversion or median opening, even if such use did not exist at the time of submission of the bid by the Contractor. Thus, the bidder recognizes that all tollable traffic may not pass through the fee collection booth or fee plaza.

(iv) During the contract period, the successful bidder cannot ask for collection from any other place, for whatever reason. Under all circumstances, fee collection shall be only from the place specifically provided in the bid invitation notice. The bidder specifically recognises this condition and must bid only if this is acceptable.

4. FEE RATES:

Fee rates applicable and chargeable on different categories of vehicles are given in Schedule I to the Contract.

5. REMITTANCE OF AGREED AMOUNT:

The fee shall be collected by the successful bidder and the agreed amount shall be remitted to the Authority on calendar month basis, latest by 5th of the following month by way of demand draft/pay order drawn in favour of the National Highway Authority of India payable at taken on any Public Sector Bank of India.

6. LANGUAGE OF BID:

All correspondence and documentation related to the bid exchanged between the bidder and the Authority shall be in English language.

7. THE BID (TWO ENVELOPE SYSTEM):

Technical and Financial Bids shall be submitted in original, in separate sealed envelopes, kept in an outer envelope duly sealed, signed and marked with the title of the bid as per following details, along with name/address of the party submitting the bid by the last date specified in the bid documents.

(A) Technical Bid (to be submitted in hard bound form with all pages duly numbered)

* "Technical Bid for Collection of fee through private contractor on the basis of competitive bidding at Km _____ (also mention the name of the location of fee collection booths) for Km_____ to Km_____ on _____ Section of the National Highway No_____for one year from .../.../... (00.00 hrs) to .../.../... (24.00 hrs) and extendable upto another one year in phases of three months each"

or

* "Technical Bid for Collection of fee through private contractor on the basis of competitive bidding at Km _____ (mention the name, if any) for the bridge located at _____ Km on _____ Section of the National Highway No._____ for one year from .../.../... (00.00 hrs) to .../.../... (24.00 hrs) and extendable upto another one year in phases of three months each"

(B) Financial Bid

* "Financial Bid for Collection of fee through private contractor on the basis of competitive bidding at Km _____ (also mention the name of location of the fee collection booths) for Km_____ to Km_____ on _____ Section of the National Highway No_____for one year from .../.../... (00.00 hrs) to .../.../... (24.00 hrs) and extendable upto another one year in phases of three months each"

or

* "Financial Bid for Collection of fee through private contractor on the basis of competitive bidding at Km _____ (mention the name, if any) for the bridge located at _____ Km on _____ Section of the National Highway No._____for one year from .../.../... (00.00 hrs) to .../.../... (24.00 hrs) and extendable upto another one year in phases of three months each"

* Strike out whichever is not applicable.

The details of the bid shall be as follows:

7.1 ENVELOPE- 1:

TECHNICAL BID:

Technical Bid in the form contained in the Bidding Documents strictly confirming to Schedule-III

7.2 ENVELOPE - 2:

FINANCIAL BID:

Financial bid in the Form contained in the Bidding Document strictly conforming to Schedule IV.

8. BID SECURITY:

- i. The bidder shall furnish, as part of his bid, a bid security amounting to Rs*...../- lakhs (Rupeesonly). The bid security shall be in the form of an account payee pay order / demand draft on any Public Sector Bank of India drawn in favour of 'National Highways Authority of India' payable at
- ii. The bid security of other two next highest bidders will be returned by the Authority without any interest only after the highest bidder enters into a Contract and after handing over the fee collection booths/plaza to the highest bidder, or after the period allowed for signing the contract has expired whichever is later. The Authority shall not pay any interest on all the amounts deposited by way of bid security by the bidder whether successful or otherwise.

* For the use of Project Director: Equal to 3 months' expected fee collection.
- iii. The bid security shall be forfeited by the Authority under the following circumstances:
 - (a) If the bidder withdraws his bid during the period of bid validity: or
 - (b) If the bidder does not accept the correction of the bid price, pursuant to sub-clause 13(iii) or
 - (c) In case the successful bidder fails within the specified period to:
 - (i) Furnish the required performance security or
 - (ii) Sign the Contract or
 - (iii) Get the Contract engrossed
- iv. The Authority may at the successful Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in terms of Clause-17 hereof.

v. Bid security is to be deposited with Technical Bid (Envelope no 1)

9. NON-RESPONSIVENESS:

A bid not accompanied by an acceptable Bid Security or any of the details stipulated vide Clause 7 or a conditional bid shall be treated as non-responsive in terms of the Bidding Document and shall be rejected.

10. BID VALIDITY:

Bid shall remain valid for a period of 120 (One hundred and twenty) days from and including the last date of submission of the bid or for such extended period as is mutually agreed upon.

11. DEADLINE FOR SUBMISSION OF THE BID:

1. The completed bids shall be submitted in sealed cover to Project Director, National Highways Authority of India,Pin- (Tel: _____) as per the date and the time specified in the Bid Invitation Notice.

2. Bids will be opened as per the date and time and venue mentioned in the bid invitation notice and in the presence of sole authorised representative of the bidder, who choose to attend. In the event of the specified date of bid submission or pre bid meeting or bid opening being declared a holiday for the Authority, the bid shall be received/opened on the next official working day at same time. The risk of delay/loss in transmission by post/courier rests with the bidder. No claim in this regard will be entertained.

3. The Authority may at its discretion, extend the deadline for submission and opening of bids by issuing amendments by way of an advertisement in any of the newspapers or by merely placing an advertisement on the website of the Authority i.e. www.nhai.org, only.

12. PRE-BID MEETING FOR CLARIFICATION OF BIDS:

Pre bid meetings will be held as per the date, time and venue mentioned in the bid invitation notice and in case of extension of time under clause 11(3) on such date and time as may be notified in any of the newspapers or through website of the Authority (www.nhai.org). All clarifications issued/provided during such meeting, will have to be incorporated in the Contract

and will have no independent value/meaning, if not incorporated in the Contract. To assist in examination and evaluation of bids, the Authority may at its discretion, ask the bidder for any clarification of its bid. The request for clarification and the response of the bidder shall be in writing but no change in the bid price shall be sought, offered or permitted.

13. BID EVALUATION:

Following procedure will be adopted for evaluation of Bids:

i. OPENING OF TECHNICAL BID:

Envelope of Technical Bid containing the technical bid shall be opened and the contents shall be crosschecked to establish the responsiveness of the bid as per Clause 7.1 above. The bids that meet the criteria for responsiveness shall only be evaluated further for their Financial Bid. The Bid Security of the technically disqualified bidders would be returned within 90 days from the date of opening of technical bid, without any interest. For any delay beyond this period, interest @ 6% p.a. shall be payable.

ii. OPENING OF FINANCIAL BID:

Envelope of Financial Bid of technically qualified Bidders are proposed to be opened as per the date, time and venue mentioned in the bid invitation notice in the presence of those Bidders or their single authorised representatives who elect to be present during the process of said bid opening. Conditional financial bids shall be rejected by the Authority.

iii. CORRECTION OF ERRORS:

Bids determined to be substantially responsive will be checked by the Authority for any arithmetical error. Errors will be corrected by the Authority as follows:

- (a) Where there is any discrepancy between the amounts in figures and in words, the amount in words will prevail and
- (b) Where there is discrepancy between the total amount payable for a period and amount to be paid per month, the total amount for that period will prevail.

The amount stated in the bid will be adjusted by the Authority in accordance with the above procedure for the correction of errors and shall be considered as binding upon the

bidder. If the bidder does not accept the corrected amount, the bid will be rejected and the bid security will be forfeited.

14. EVALUATION AND COMPARISON OF FINANCIAL BIDS:

The financial bids shall be evaluated on the basis of amount quoted for the initial one year.

15. AWARD OF FEE COLLECTION RIGHTS:

The bidder whose bid amount for one year is found highest shall be declared as the successful bidder. However the bidder specifically undertakes that the initial Contract will be only for initial one year while the dates mentioned, if any, are indicative only and further extension after initial one year at the amount above 10% of the bid price will be at the sole discretion of the Authority. The successful bidder may be required to furnish such additional information as may be required by the Authority.

Notwithstanding the above, the Authority reserves the right to accept or reject any bid and to annul the bidding process and reject any or all the Bids, at any time prior to Award of the Fee Collection Rights, in its sole discretion without assigning any reason and without thereby incurring any liability to the affected bidder(s) or without any obligation to inform the affected bidder(s) the grounds on the basis of which the Authority has rejected the bid(s).

16. NOTIFICATION OF AWARD:

Prior to expiration of the period of bid, the Authority will notify the successful bidder in writing that his bid has been accepted. "Letter of Acceptance" as given in Section-III of Bid Documents shall specify the amounts, which the successful bidder shall pay to the Authority during the initial one (1) year period and the extended period, if any, and the necessary formalities to be completed by the successful bidder before signing the "Form of Contract" as given in Section IV of Bid Documents, with such modification as mutually agreed to. Once signed, the Contract will supersede all previous communications, correspondence, minutes etc. and will be the sole repository of the terms and conditions governing the contract notwithstanding anything to the contrary stated in the bid documents, correspondences and meetings.

17. PERFORMANCE SECURITY:

Within ten days from the date of the "Letter of Acceptance", the successful bidder shall furnish to the authority performance security consisting of (a) a crossed account payee demand draft/pay order drawn on any Public Sector Bank of India amounting to Rs./- lakhs (an amount equal to first six (6) months' agreed remittance) in favour of "National Highways Authority of India", payable at..... and (b) a bank guarantee as per the format prescribed by National Highway Authority of India from any Public Sector Bank of India for Rs./- lakhs (an amount equal to first six (6) months' agreed remittance), valid for a period of 24 months, for due observance of the terms and conditions contained herein and the performance of its obligation as per the Contract to be entered into initially for one year and at the sole discretion of the Authority, for extended period of one more year in phases of three months each. The bidder is at liberty to submit a crossed account payee demand draft/pay order drawn on any Public Sector Bank of India in lieu of the bank guarantee. If the successful bidder desires that the bid security of Rs...../- lakhs (Rupees only) should be adjusted towards performance security, the bidder has to remit the balance amount towards Performance Security as stated at (a) above in addition to submission of the bank guarantee as stated at (b) above.

18. **SIGNING OF CONTRACT:**

After furnishing Performance Security to the Authority and within fifteen (15) days from the date of receipt of performance security, the successful bidder shall sign the Contract in the form of Contract contained in the bidding documents and as mutually agreed upon between the successful bidder and the Authority. Within twenty eight (28) days of the date of signing the Contract or within such period as provided by the law applicable, whichever is shorter, the successful bidder shall, if required, have the same engrossed as per the terms of Contract in the State where the fee collection booths are located, unless prohibited by any law for the time being in force. Successful bidder's failure to sign the Contract after furnishing the Performance Security shall result in forfeiture of the Performance Security. All rights, delegations and functions of the successful bidder shall be governed by the terms of draft Contract given under Section IV of Bid Documents and as subsequently entered into, with such modifications as mutually agreed to.

(To be issued in duplicate, one copy marked as original and the other as duplicate)

SECTION III

FORM OF ACCEPTANCE LETTER

No:

Date:

To,

Sub: Bid Invitation Notice No. _____ dated _____ inviting offer for Collection of fee through private contractor on the basis of competitive bidding *at Km _____ (also mention the name of the location of fee collection booths) for Km_____ to Km___ on _____ Section of the National Highway No.____ (hereinafter referred to as the said section of the National Highway) or *at Km _____ for the _____ (also mention the name, if any) bridge located at _____ Km on _____ Section of the National Highway No.____ (hereinafter referred to as the said bridge).

*Strike out whichever is not applicable

Ref: Your offer dated _____ submitted pursuant to the referred notice

Dear Sir,

Your above mentioned offer for engagement as the private contractor for collection of fee on the basis of competitive bidding *at Km _____ (also mention the name of the location of fee collection booths) for Km_____ to Km___ on _____ Section of the National Highway No.____ (hereinafter referred to as the said section of the National Highway) or *at Km _____ 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) has been accepted by the Competent Authority on the terms and conditions of contract forming part of the bid documents submitted by you or as mutually modified subsequently.

As per "Instruction to the Bidders" and terms contained in the "Form of the Contract", both being the part of bid documents within 10 days of date of this letter, you have to submit Performance Security consisting of (a) a crossed account payee demand draft/pay order drawn on any Public Sector Bank of India amounting to Rs./- lakhs (an amount equal to first six (6) months' agreed remittance) in favour of "National Highways Authority of India", payable at..... and (b) a bank guarantee as per the format prescribed by National Highway Authority of India from any

Public Sector Bank of India for Rs./- lakhs (an amount equal to first six (6) months' agreed remittance), valid for a period of 24 months, for due observance of the terms and conditions contained herein and the performance of its obligation as per the Contract to be entered into initially for one year and at the sole discretion of the Authority, for extended period of another one year in phases of three months each. You are also at liberty to submit a crossed account payee demand draft/pay order drawn on any Public Sector Bank of India in lieu of the bank guarantee. The bid security of Rs...../- lakhs (Rupees only) can be adjusted towards performance security on your request in writing in this behalf.

The bid security shall be forfeited by the Authority, in case you fail within the specified period to furnish the required performance security or sign the contract. You shall also be required to sign the contract within 15 days from the date of receipt of the Performance Security and on failure to do so, the entire performance security including bid security and bank guarantee shall be liable to be forfeited and invoked. In the event of your failure to submit the performance security or to sign the contract, the award of the contract in your favour shall automatically be terminated without further notice. In such a case, your engagement shall forthwith automatically stand terminated and thereupon, without prejudice to any other rights and remedies of the Authority, the Authority shall be entitled to appoint another Contractor at your risk as to costs and consequences.

Please convey your unconditional acceptance by signing on the original of this letter and submit the required performance security within the specified period so that the Contract as per the draft enclosed, could be signed within the specified period.

Thanking you,

Yours faithfully

For National Highways Authority of India

(Signature)

Name:-

Designation: Project Director, _____

Place:-

Dated

Accepted unconditionally including the draft of the contract.

(Signature)**

Name:-

Name of the Sole Proprietorship / Regd partnership firm/Company Secretary / Ltd. Company
(if applicable)

Designation:

Place:-

Dated:-

* Please affix common seal.

SECTION: IV

CONTRACT

This Contract is made at....., 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-110 045 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, represented by its Project Director Shri....., Project Implementation Unit/Corridor Management Unit having its office at.....

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, 2002 (39 of 2002) 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 Contractor" (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 Contractor is authorised by its ~~**Memorandum of Association/ **Partnership Deed/ **Bye-laws~~ to carry on the business of providing various services on contract basis through its employees employed regularly or otherwise.

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

AND WHEREAS the Contractor 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 the Contract Labour (Regulations & Abolition) Act, 1970 and has obtained license No. ____ dated. _____;

Or

AND WHEREAS the Contractor undertakes to get itself licensed and/or registered with the appropriate Authority under the relevant laws mentioned above, and shall furnish necessary proof in this regard within _____ days of signing of this contract.

~~()#~~ Strike out, Whichever is not applicable.

AND WHEREAS the Contractor undertakes to:

- (c) Comply with all the provisions of the 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 obligations imposed upon it by any law for the time being in force as may be applicable.

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 WHEREAS the Authority is empowered under the provisions of the 1988 Act to enter into contracts with any person for the purpose of collection of fee under the said Fee Rules, 1997. The Authority is desirous of engaging the Contractor to collect fees only at km _____ (also mention the name of

the location fee collection booths) for Km _____ to Km _____ on _____ Section of the National Highway No. _____ (hereinafter referred to as "the said Section of the National Highways")

Or

at Km _____ 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 invited bids from interested entrepreneurs for collection of fee for the use of the said Section of National Highway/ the said bridge for a period of initial one year and at the sole discretion of the Authority, further extendable upto another one year in phases of three months, at the rates of fee prescribed in Schedule 1 appended to this Contract. The Contractor is one of those bidders who submitted bid and quoted in its offer that, in lieu of transferring Central Government's fee collection rights for the said Section of the National Highway/the said bridge for aforementioned period, the Contractor shall remit the following amount to the Authority so as to be received by the Authority latest by 5th of the following month as indicated below by way of a demand draft/pay order either for the said section of National Highway or the said bridge as applicable and the time is the essence of this Contract. The remittance shall be as follows:

S. No.	Period	Total Amount Payable by the Bidder to the Authority for the period mentioned in column B	Amount to be paid per month
A.	B.	C.	D.
a)	Initial One year (From DD/MM/YYYY 00.00 hrs to DD/MM/YYYY 24.00 hrs)	Rs. _____/- (_____ in words)	Rs. _____/- (_____ in words)
*b)	Extended period of another one year in phases of three months each (From DD/MM/YYYY 00.00 hrs to DD/MM/YYYY 24.00 hrs)	10% above the amount mentioned in column C of this table	10% above the amount mentioned in column D of this table

* The amounts payable will be applicable only if, the Authority, at its sole discretion, extends the Contract.

AND WHEREAS the Authority has authorised the Project Director, Project Implementation Unit/Corridor Management Unit _____ (hereinafter referred to as "the said Project Director") as the Officer-in-charge

to supervise the discharge of various functions to be performed by the Contractor under this Contract and to enter into this Contract with the Contractor.

AND WHEREAS the Contractor has authorised Sh. / Smt. _____, S/o or D/o _____, of the Contractor to enter into this Contract with the Authority. (Enclose the proof of authorisation clearly stating relation of the person authorised with the Contractor)

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

NOW THEREFORE THIS CONTRACT WITNESSETH AS FOLLOWS:

1. ENGAGEMENT OF CONTRACTOR:

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

2. PERIOD OF CONTRACT:

The Contract shall be for a period of one year beginning from _____ (00.00 hrs.) to _____ (24.00 hrs.), which period may be extended upto another one year in phases of three months each at the sole discretion of the Authority. However, dates mentioned are merely indicative.

3. RATE OF FEE:

- (a) The Contractor shall collect fees at such rates only and from such vehicles only 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 and in strict compliance with the provisions of the notification. A copy of the said Notification (including a draft notification to be replaced by a notification published in the Official gazette in due course) is appended as Schedule I. In case, there is a material difference (i.e. impacting the collection of the contractor by more than 2 (two) % in a year), in the draft notification and the officially published notification, at the sole discretion of the Authority, entire contract can be renegotiated as per mutual agreement, prior to commencement of collection of fee.

- (b) The Contractor specifically undertakes not to claim during continuity of the Contract any change including addition, deletion and change in the types of vehicles mentioned or the rate of fee specified in the Notification referred above and appended to this Contract as Schedule I for any reason whatsoever, under any circumstance.
 - (c) The Contractor shall not be allowed to make his own interpretation about a particular type of vehicle attracting a particular rate so as to charge a higher rate from a particular type of vehicles. Decision of the Project Director on such matter shall be final and binding.
4. COLLECTION ONLY AT PRESCRIBED RATE:

The Contractor shall ensure that under no circumstances, fee in excess of the prescribed rate or without issuance of receipt in the format including condition of such receipts being bilingual or trilingual, prescribed by the Authority is charged by the Contractor from the road users. Printing of receipts shall be arranged by the Contractor at his own cost.

5. CHANGE IN THE RATE OF FEE:

- (a) The right of the Central Government to modify, change or vary the rate of fee to be levied or conditions for collection of fee, or both is hereby reserved by the Authority. However, such changes or variation shall not be to the prejudice of the Contractor.
- (b) In case, any variation in the prescribed fee rate for all or a particular type of the vehicles is effected, sought or permitted by the Central Government, the amount payable by the Contractor to the Authority for the period from which such variation has come/comes into force, shall be adjusted proportionately on the basis of fee rates specified in Schedule I vis-a-vis the new fee rates and as detailed in sub-clause (c) hereunder.
- (c) The amount to be increased/reduced shall be worked out based on:
 - (i) Monthly average amount based on actual collection from the affected category/categories of the vehicles during 6 calendar months immediately preceding the month from which the variation is effected or the actual period of collection, which ever is less, in the total collection of that period for all types of vehicles.

- (ii) Based on new rate/s, monthly expected collection for the affected category/categories of vehicles, if the increase or decrease is effected on same volume of the average monthly traffic as was used for working out the monthly average amount at sub clause (i) above.
- (iii) differences between (i) and (ii) will be applied to determine for working out revised amount payable to the Authority.

Provided in case of introducing a new category of vehicles not subjected to levy of fee earlier, an estimate of the traffic will be made by the Central Road Research Institute, New Delhi or nearest Indian Institute of Technology.

Provided that, any modification, change or variation in the conditions for collection of fee (including towards concession/rebate to the frequent short distance travellers by any scheme or for any specific purpose) shall, as far as possible, be effected by mutual discussions between the Contractor and the Authority with regard to the consequential adjustment in the amount payable by the Contractor to the Authority giving due regard to the procedure set out in Clause 5 (c) above and in the event of failure to arrive at an agreement on this issue, either party to this Contract will be at liberty to terminate this Contract by giving notice in writing as required under clause 35 of this Contract.

For avoidance of doubt, it is clarified that increased amount after applying 10% increase for extended period, if any, will be calculated after the amount otherwise payable for the extended period in accordance with this contract, has been adjusted by applying increase or decrease as per this clause.

6. COMMENCEMENT AND TERMINATION OF FEE COLLECTION:

- (a) The fee collection shall commence from the date as communicated by the Authority in writing which may be even at variance from the dates mentioned elsewhere and terminate on expiry of initial one year or at the end of extended period, if any, as the case may be.

Provided that the Contractor shall not commence collection if (i) a published copy of the fee notification in the Official gazette is not made available by the Authority; and (ii) The Authority does not inform about the completion of the said section of the Highway or the said bridge for which the fee is to be collected. The Authority can also change any date communicated

earlier for commencement of collection of fee for other reason/s, as considered necessary.

Provided that if the Contractor is not able to commence the collection of fee from a particular date, not attributable to the reasons beyond his control, the period of the fee collection for one year shall be deemed to have begun from such date and the Contractor shall be liable to pay the contracted amount even for such period for which the collection has not been made.

- (b) The right to collect fee shall come to an end on the expiry of a period of one year reckoned from the date of commencement of collection of fee, unless such period has been extended by the Authority for further period. In such a case, the said right shall come to an end on the expiry of the extended period.
- (c) In no case, the Contractor shall have a right to demand continuance or extension of the contract period beyond the period of initial one year or the period of contract extended by the Authority at its sole discretion as the case may be, without any cost to the Authority.

7. EXEMPTION OF VEHICLES AND CONCESSION:

(a) Type(s) of vehicles exempted as stated in the Schedule I appended to this Contract could be varied at any time either by the Authority or by the Central Government of India. Such variance, unless impact on his collection is considered more than half a percent in a year requiring renegotiation of terms of the Contract, shall not alter the liability of the Contractor to remit the specified monthly amount and shall also not affect any other terms and conditions of this Contract.

(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 Contractor, without any cost to the Authority.

(c) The contractor 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. NHAI/ Commercial Operation/ 56 dated 29.03.2005, copy appended at 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 Contractor shall be liable to pay 100 (Hundred) times of the value of fee charged as penalty within 7 days of the issue of a notice by the Authority in this regard.

8. PLACE OF COLLECTION:

- (a) The Contractor shall collect fees only at Km_____ where, permanent/temporary fee Plaza(s) or fee Collection Booth(s) are put up by the Authority. Such booth(s)/plaza/plaza area cannot be used or allowed by the Contractor to be used by others for any other purpose; including for sale of any commodity or advertisement.
- (b) The Contractor undertakes not to demand any additional place for collection of fee or for installation of check barriers under any circumstances and for any reason whatsoever. The Contractor also undertakes not to collect fee from any other place. The decision of the Authority in this regard shall be final and binding.
- (c) The Authority reserves the right to change including the right of addition, removal and merger of the number of fee collection points on mutually agreed terms and conditions.

9. DIVERSIONS ETC:

- (a) The Contractor has surveyed the said Section of the National Highway and surrounding area including any lateral entry, access or diversion or median opening and the Contractor has submitted its bid taking into consideration all such lateral entries, accesses or diversions or median openings, whether in existing use or not, which any road user may opt , inter-alia, to avoid payment of the fee by bypassing the fee collection booths.
- (b) The Contractor undertakes that, it shall not make any claim for any decrease in traffic on the ground of use of such lateral entry, access, diversion or median opening, even if such use did not exist at the time of submission of the bid by the Contractor.
- (c) The Contractor will not be entitled to (a) close and/or (b) demand closure by any authority whatsoever, of any lateral entry, access, diversion or median opening . The Contractor recognizes that all tollable traffic on the said section may not pass through the fee collection booth or fee plaza.

10. HANDING OVER THE FEE PLAZA(S):

- (a) The Authority shall endeavour to hand over the Fee Plaza collection booths at km..... near _____ in the said Section of National Highway/ the said bridge at ____ hrs on signing the contract to the Contractor for the purpose of fee collection on the said Section of the National Highway/the said bridge.
- (b) The Authority has a right to entrust the Fee plaza(s) earlier than the date mentioned in Clause (a) above, subject to fulfilment of other conditions of the Contract. In such an event, the Contractor's obligation to remit the agreed amount will begin from the date of such handing over itself, without any extension in the period of the contract.
- (c) In case, the Authority fails to handover the Fee Plazas on the date and time mentioned in Clause (a) above and hands over the same anytime after the date and time mentioned in clause (a), the Contractor is entitled for same period of the Contract as provided under clause 2, without any reduction in the period of the contract.
- (d) In such case as mentioned in (b) and (c) above, the contract period alongwith the obligation of total amount payable by the Contractor to the Authority as mentioned under column B (i.e Period) & C (i.e. total amount payable by the contractor to the Authority) of the table mentioned earlier shall remain same and commence from the date and time of actual handing over the fee plaza.
- (e) The Contractor shall handover the Fee Plaza(s) on 00.00 hrs of the following day on the completion of the period of Contract as per Clause 6 above.
- (f) In case, the Contractor fails to handover the Fee Plaza on 00.00 hrs of the following day of the completion period of the Contract or in case of termination of the Contract on the last day and the time given in notice for termination to the Authority together with all the equipments, facilities and articles in good condition failing which the Contractor shall be liable to pay, to the authority a penalty equal to twice the daily collection per diem in addition to payment of proportionate fee at the contract rate for the period of over stay. The Contractor shall also be liable to pay to the Authority such cost of infrastructural facilities, equipment and all other articles as are not in good condition or may be fixed by the Project Director, PIU/CMU ____of the Authority whose decision in the matter shall be final.

11. 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 Project Director, 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 shall be provided by the Authority.
- (b) The Contractor shall also (i) display, a copy of Notification in Schedule I, appended to this Contract at a conspicuous place of the Fee Plaza(s) for the information of the road users and the general public and (ii) provide a copy of same to road user on demand.

12. **REQUIREMENT OF PERSONNEL FOR FEE COLLECTION:**

For the purpose of discharging its obligations under this Contract, the Contractor shall deploy adequate number of personnel of such qualification and having undergone such training as may be relevant and considered necessary from time to time by the Authority to ensure efficient management of entire operations, including free flow of traffic, in or around the plaza including in the fee collection booths.

However, the Authority reserves the right to serve directions for any change in the number of personal to be deployed by the Contractor, for the purpose of Fee Collection for ensuring free flow of traffic.

13. **DEPLOYMENT OF PERSONNEL:**

- (a) The Contractor 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.
- (b) The Contractor 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 undergone, experience, personal residential addresses and recent photographs.

- (c) The uniform of the personnel deployed shall necessarily bear the name of the individual and the name of the Contractor. The uniform shall be such, as may be approved by the Project Director of the Authority.
- (d) The Authority reserves its right to object to the deployment of any personnel for any reason in which case, such person or persons being objected by the Authority shall be removed by the Contractor forthwith and replaced within a day from such removal.
- (e) The personnel deployed by the Contractor shall not misconduct/misbehave with the members of public and shall observe strict discipline and decency in their behavior.
- (f) The Authority shall not be liable for any misconduct or misdeeds or any act or incident involving the Contractor or any of its personnel in any criminal or civil case and the Contractor alone shall be responsible for consequences and if any such incident takes place, the Contractor shall forthwith intimate the said incident to the Project Director.
- (g) The Contractor specifically agrees that the personnel deployed by it, will not in any way claim employment with the Authority. The Contractor shall be solely responsible for any dispute raised by the personnel deployed either during the term of the Contract or thereafter.

14. INTER SE RELATIONS:

- (a) In all circumstances it is clearly understood by the parties that the personnel deployed by the Contractor shall have no connection whatsoever with the Authority and the relationship of master and servant or employer and employee shall be only between the Contractor 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 Contractor, whether all the statutory dues like ESI, EPF, Minimum Wages, Weekly offs, Bonus, Medical Leave, Workmen Compensation and any other entitlements for which the Contractor 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 Contractor in the payment of such statutory dues not necessarily pertaining to its personnel/employees, the Authority shall be entitled to adjust the same from the Performance Security and pay such statutory dues to the appropriate Authority. The Contractor shall replenish the Performance Security within 7 days of the notice by the

Authority. The decisions of the Authority in this regard shall be final and binding on the Contractor.

15. PROVISION OF INFRASTRUCTURE:

- (a) In order to enable the Contractor to discharge its duties of fee collection efficiently and uninterruptedly, the Authority may provide such infrastructural facilities including Computer hardware and software as considered appropriate, failing which the Contractor will make its own arrangement for collection of user fee. The Authority will also provide hoardings, signages and road markings as considered appropriate.
- (b) The repair and maintenance of such facilities once provided by the Authority shall be the responsibility of the Contractor including but not limited to payment of electricity bill, fuel, consumables like electricity bulbs. The Authority will once provide consumables at the time of handing over of the fee collection plazas/booths only, thereafter all consumables shall be arranged by the Contractor at its own cost.
- (c) All expenses for printing receipts or passes to be issued to users shall be borne by the Contractor. The contractor shall abide by the instruction of the Authority in the matter of its format or size or language.
- (d) An inventory (along with the condition) of entire infrastructural facility /equipment, and all other articles shall be prepared and duly signed by both the parties at the time of handing over or taking over of the Fee Plaza(s).
- (d) The Contractor shall abide by all the instructions issued by the Authority from time to time. The Contractor also undertakes to abide by such instructions in order 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 fee collection.
- (e) The Contractor shall make necessary arrangements for power/lighting to ensure proper working of the fee plaza(s) including various office equipment installed, maintaining and running all electric arrangements and stand-by generator along with electric lighting and bearing all expenses thereon during the entire period of this Contract and paying punctually electricity and water charges in respect of the Fee plaza(s)/collection booths as they become due and payable during period of this Contract.

- (f) The Contractor 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.

16. INSURANCE:

- (a) If required under the law for the time being in force, the Contractor shall arrange adequate insurance to cover each of its personnel deployed against any type of accidents, for all the assets owned by the Contractor and cash in booth, cash in chest, and cash in transit. The expenditure incurred for procuring such insurance shall be borne by the Contractor alone.
- (b) As per the instruction of Authority the Contractor shall also arrange Insurance cover at its own cost favouring the Authority, for all the properties handed over by the Authority for comprehensive risk.

17. PERFORMANCE SECURITY:

- (a) The Contractor has furnished a security deposit towards Performance Security consisting of (a) a crossed account payee demand draft/pay order drawn on any Public Sector Bank of India amounting to Rs./- lakhs (an amount equal to first six (6) months' agreed remittance) in favour of "National Highways Authority of India", payable at..... Bank Draft/Pay Order No..... dated.....from....., a Public Sector Bank of India, payable at submitted as Bid Security and adjusted as per the request of the Contractor and (b) a bank guarantee as per the format prescribed by National Highway Authority of India from any Public Sector Bank of India for Rs./- lakhs (an amount equal to first six (6) months' agreed remittance), valid for a period of 24 months.
- (b) The said Performance Security including the Bid Security, shall not bear any interest except when the collection is not started within 120 days of signing of the contract for the reasons not attributable to the contractor. In such a case, interest @8% p.a. shall be paid for the period beyond the 120 days. Performance Security shall be refunded within 90 days after settlement of all the accounts by the Contractor and upon issuance of no due certificate by the Project Director. No Objection Certificate shall be issued not later and within 7 days immediately after settlement of accounts.
- (c) (i) The Authority shall also be competent to utilize the said Performance Security

against any loss or damage caused to the property of the Authority by any act of omission and/or commission by the Contractor or its agents and servants or adjust it towards any claim of the Authority.

(ii) The Contractor undertakes that, in case of any default on its part to perform and observe any of the covenants, conditions or provisions contained in this Contract, it shall be lawful for the Authority in its absolute discretion to forfeit the whole or any part the said Performance Security, without prejudice to any other remedy that the Authority may have against the Contractor under this Contract or under general law for such breach.

(d) The amounts lying with the Authority towards the performance security shall not be adjusted towards instalments due to the Authority from the Contractor including the instalment for the last month of the initial period of one year or extended period.

18. **PENALTY FOR CHARGING EXCESS FEE:**

(a) In case, it is observed and/or established to the satisfaction of the Authority that the Contractor has charged fee in excess of the prescribed rate, 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 fee receivable by the Authority, which ever is higher and may provide the Contractor another opportunity of continuing the Fee Collection. However, in no case, the Authority shall afford more than one opportunity to the Contractor.

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

{c} The termination under this clause shall make the Contractor liable for unconditional forfeiture of the Performance Security.

19. **PENALTY FOR FAILURE TO PAY INSTALMENTS:**

In case of delay in payment of the amount of the monthly instalment due under this Contract to the Authority beyond 5th of the following month, the Authority shall levy penalty @ 0.5% of the delayed amount per day for the delay beyond the due date without prejudice to the any other rights of the Authority under this Contract. Such right would, inter-alia, include unconditional right of the Authority to terminate the Contract forthwith, without assigning any reasons

whatsoever and take over possession of the Fee Plaza(s) for fee collection in any manner the Authority may deem fit.

20. OPERATIONAL TRANSPARENCY:

The Contractor shall be solely responsible for efficient and transparent working and management of fee collection at all points of time.

21. 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 charge the Project Director from time to time.
- (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 Contractor with a view to ensure that collection of fee is carried out smoothly, efficiently and without any hindrance or harassment to the users of National Highway.
- (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 Contractor.
- (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 Contractor.
- (e) The Contractor shall keep records of all the complaints received and replied directly or otherwise by it and forward a copy on fortnightly basis to the Project Director.

22. OBLIGATIONS OF THE CONTRACTOR:

- a) The Contractor undertakes the responsibility of the complete job of fee collection, maintenance of all records, maintenance of fee collection account, maintenance of vehicle type wise Traffic Data on shift to shift basis, maintaining the cleanliness of fee plazas/fee collection booths and surrounding area etc. and any other duty as may be assigned by the Authority from time to time.

- b) The Contractor 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 for the purpose of paying fee. All the lanes shall be kept open at all times irrespective of peak or off peak hours.
- c) The Contractor specifically undertakes to abide by all the instructions issued by the Authority from time to time on operational matters and further agrees not to raise any dispute against the same including any additional cost that the Contractor may be required to bear to comply with such instructions.
- d) The Contractor shall also submit such information in such format which would enable the Authority to submit information to appropriate prescribed authorities under the various laws applicable.
- (e) The Contractor also agrees to unconditionally abide by such other direction of the Authority issued by the Project Director on all operational matters including on deployment of the personnel for the purpose of this Contract.

23. RIGHT OF INSPECTION:

- (a) The Authority reserves the right to conduct checks including surprise checks at any time, to check/observe/witness the activities of the Contractor including the fee collection Plaza(s) and to monitor or to ensure that any or all the activities including fee collection enunciated by this Contract are being carried out properly by the personnel deployed by the Contractor.
- (b) The Authority may exercise any check/control to ensure discharge of various obligations by the Contractor under the Contract not limited to following:
 - i) Correctness of the fee charges recovered from users, as prescribed;
 - ii) Issue of proper Receipts to all Vehicles;
 - iii) Maintenance of proper registers including those relating to collection of fee from different type of vehicles ;
 - iv) Monthly remittance of amount due from the Contractor by the prescribed date;
 - v) Checking of data in electronic/soft form;

- vi) Maintain Fee Plaza(s) and its appurtenances by the Contractor at his cost and ensure that they are in good running condition;
- vii) Arrangement for lighting and water are in order; and
- viii) There is no delay to the traffic due to procedure of collection of fee and also there is no traffic jam at the Fee Plaza(s).
- ix) Any other check or control as considered appropriate by the Authority including through its authorised representative.

24. **FORCE MAJEURE:**

(a) **NON-FORCE MAJEURE EVENT:**

An event (i) which involves diversion of traffic of any kind, including but not limited to any diversion ordered/implemented by local Authority or any State/Central Government for a period not exceeding 15 days in continuation or (ii) where the road users opt to access/travel through the existing alternate fee (toll) free roads. This may result into bypassing of Fee Plaza/ Fee Collection Booths and use of any part of the said Section of the National Highway/said bridge by the users.

(b) **FORCE MAJEURE EVENT:**

Except as stated in Clause (a) above, Force Majeure event means an event or circumstances or a combination of events and circumstances referred to in this clause which are beyond the reasonable control of the Party or parties to this Contract and which party could not have prevented or reasonably overcome with the exercise of its reasonable skill and care in relation to performance of its obligations pursuant to this Contract and which are of the nature, without limitation of those described below:

- i) Transporters' strike
- ii) Earthquake
- iii) Act of war, invasion, armed conflict or act of foreign enemy, unexpected call up of armed forces, blockade, embargo, revolution, riot, sabotage, terrorism or act of such threat, or any other political or social event having material adverse impact on the performance of obligations of the parties thereof.
- iv) Expropriation, acquisition, confiscation or nationalisation of the Fee collection

- v) Any change in law which has a material adverse effect on the obligation of the parties hereto:
- vi) Any decision or order of a court or tribunal, which has a material adverse effect on the performance of obligations of the parties to this Contract.
- vii) Suspension of traffic on the said section of National Highway/said bridge or any part thereof, exceeding 15 (fifteen) days at a stretch.
- viii) Any event or circumstances of a nature analogous to the foregoing.

Either party to this Contract shall be entitled to suspend or excuse performance of his obligations, including remittance of instalments by the Contractor to the Authority for the period of continuance of the Force Majeure event, under this Contract to the extent that such performance is impeded by an event of Force Majeure prevailing continuously for more than 7 (seven) days at a time.

(c) **PROCEDURE FOR FORCE MAJEURE:**

(i) **NOTICE:**

- (1) If a party claims relief on account of a Force Majeure event, then 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, with necessary supporting documents and data.
- (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.

(IV) **The Project Director on behalf of the Authority is authorised specifically to settle claims for force majeure events.**

25. **MATTERS NON-ARBITRABLE:**

Any disputes or differences between the parties in regard to the matters covered under Clauses 3, 7, 8, 10, 14, 18 and 19 shall be referred to the Project Director of the Authority, Project Implementation Unit / Corridor Management Unit whose decision shall be final.

26. **ARBITRATION:**

- (a) All disputes and/or difference except those which are mentioned in the matters non-arbitrable under Clause 25 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.
- (c) Pending resolution of any dispute pursuant to Arbitration, under all circumstances the Contractor shall continue to remit the agreed instalments of money to the Authority as prescribed in this Contract including when the dispute is about the amount to be remitted.

27. **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 and effect to the fullest extent possible as if such prohibited, illegal or invalid provision had never constituted a part thereof.

28. **BREACH:**

Any breach of the terms and conditions herein contained in this Contract, which may or may not, cause any financial loss to the Authority shall attract immediate unilateral termination of this Contract by the Authority, notwithstanding anything contrary contained in any of the Clauses in this Contract.

29. **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.

30. ASSIGNMENT:

The Contractor undertakes not to assign any right and/or obligation of this Contract to any other person without prior consent of the Authority in writing.

31. DEATH/WINDING UP:

If the Contractor being a natural person dies or being a partnership firm is dissolved or insolvent or commits any act of insolvency or being a Cooperative Society/a 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.

32. ABANDONMENT:

In the event of abandonment of the Fee collection by the Contractor, due to his fault or due to bankruptcy or default or for any other reason, the Authority shall be entitled to take over the Fee plaza, and terminate this Contract and 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 Contractor to adjust any dues or claims or damages without prejudice to its other rights.

33. INDEMNITY:

The Contractor 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 Contractor including its agents, survivors and personnel.

34. TERMINATION:

(1) The Authority shall be entitled to terminate this Contract at any time without assigning any reason(s) after giving notice to the Contractor as under in writing and in that event, the Contractor 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 Contractor 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 Contractor or his employee/staff/personnel or for overcharging of fee from a user, or for harassment of any user.

35. **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 for the time being the officer-in-charge 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.

36. **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 (including pre-bid meeting/s) or conference(s) and correspondence between the Parties or bid documents.

37. **STAMPING AND ENGROSSING:**

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 Contractor shall have the Contract engrossed, 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. It would be the sole responsibility of the Contractor and the Contractor's failure to do so, may result into termination of the Contract by the Authority, forfeiture of the performance security, without prejudice to any other right of the Authority.

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
1. Signature:
Name:
Address:

In the presence of
1. Signature:
Name:
Address:

2. Signature:
Name:
Address:

2. Signature:
Name:
Address:

* Contractor must affix its seal.

SCHEDULE - 1

NOTIFICATION NO. DATED
PUBLISHED IN OFFICIAL GAZETTE ON

FORM OF TECHNICAL BID

From: _____ Sr. No _____
 Full Name: _____
 Status : Individual/Sole Proprietor/Reg. Partnership Firm/Cooperative Society /
 Limited Company
 Address: _____

(i) E-mail _____
 (ii) Telephone Number _____

Project Director
 National Highways Authority of India

.....

.....

Pin

Sub: Bid for appointment as Contractor for fee collection at Km _____ for Km _____ to Km _____
 (also mention the name of place of fee collection booths) on _____ Section of the National
 Highway No _____ (hereinafter referred to as "said Section of the National Highway") or at Km
 _____ (also mention the name, if any) for the bridge located at _____ Km on
 _____ Section of the National Highway No. _____ (hereinafter referred to as "said Bridge").

Sir,

Pursuant to the Notice inviting bids issued by the Project Director, National Highways Authority of India,
Pin-..... (hereinafter referred to as "the Authority").

1. I / We hereby submit my / our bid for being appointed as your Contractor for a period of
 months/year and extended period at the sole discretion of the Authority as the case may be, from
 the date of authorisation by the Authority for collection of fee for the said section of the National
 Highway or the said Bridge.
2. I / We have thoroughly read and understood the terms and conditions of bid invitation for being
 appointed as Contractor of the Authority for the aforesaid purpose and the terms and conditions of
 the Contract and I / We hereby agree to duly abide by them.
3. I / We herewith enclose an amount of Rs. _____ (Rupees _____ only) towards
 Bid Security as per Clause 8 of the Bidders Instructions.
4. As per Clause 7.1 of the Instructions to Bidders, I / We hereby submit the following:
 - (i) Certified copy of Income Tax Clearance Certificate valid on the date of opening
 of the bids.

- (ii) A statement showing of Annual turnover of the entity, for not less than Rs.#_____ lakhs during the last financial year, certified by a firm of Chartered Accountants.
- iii) Certified copy of solvency certificate issued after the date of bid Invitation Notice by any Public Sector Bank of India for not less than Rs._____ lakhs#. In case of a partnership firm, value mentioned in the solvency certificate of the partnership firm and not of individual partners only shall be taken into account.

#(Sum equivalent of 12 months' expected fees collection)

- (iv) Character Certificate from concerned Asst. Commissioner of Police to be submitted, in case of an individual. In case of a Partnership Firm, certificates for all the partners in the firm will be required. In case of a Company/Cooperative Society, such certificate is required for the Chief Executive by whatsoever names called.
- (v) (a)* An affidavit from the bidder, that the bidder is not involved in any litigation with the Authority, except any litigation pertaining to this bid.
(b)* In case of partnership firm an affidavit from the partners, that the bidder or its partners are not involved in any litigation with the Authority, except any litigation pertaining to this bid.
- * Strike out whichever is not applicable.
- (vi) A Power of Attorney favouring the authorised representative from the individual/all the partners/Chief Executive/Secretary in case of any Society/Company, as the case may be, showing the authority delegated to the representative to submit/participate in the bid/bidding and to sign the Contract, in case of appointment.
- (vii) Bid security of ** Rs /- lakhs (Rupeesonly) in the form of an account payee Demand Draft drawn on any Public Sector Bank of India drawn in favour of "National Highways Authority of India", payable at New Delhi.

**amount of bid security shall be worked out on the basis of latest traffic census data and expected fee collection in three months.
- (viii)*** In case the bidder is a Partnership Firm, attested copies of partnership deed with certificate of registration.
- (ix)*** In case of a Cooperative Society, an attested copy of Bye-laws and Registration Certificate.
- (x)*** In case of a Company, an attested copy of the Memorandum and Articles of Association enclosed with attested copy of the Certificate of Incorporation.

***Strike out , whichever is not applicable.

- 4. I / We hereby state that the documents and information contained in the said documents referred in Para 3 above are true.

Yours faithfully,

Signature.

Name:

Name of Sole Proprietorship / Regd. Partnership Firm / Cooperative Society / Ltd. Company (if applicable)

Designation:

Address:

Date:

Place:

SCHEDULE – IV

FORM OF FINANCIAL BID

From: _____ Sr. No _____

Full Name: _____

Status : Individual/Sole Proprietor/Reg. Partnership Firm/Cooperative Society /
Limited Company

Address: _____

(iii) E-mail _____

(iv) Telephone Number _____

Project Director
National Highways Authority of India
.....
.....
Pin.....

Sub: Bid for appointment as Contractor for fee collection at Km _____ for Km _____ to Km _____
(also mention the name of place of fee collection booths) on _____ Section of the National
Highway No _____ (hereinafter referred to as "said Section of the National Highway") or at Km
_____ (also mention the name, if any) for the bridge located at _____ Km on
_____ Section of the National Highway No. _____ (hereinafter referred to as "said Bridge").

Sir,

Pursuant to the Notice inviting bids issued by the Project Director, National Highways Authority of India.
.....(hereinafter referred to as "the Authority").

1. I / We hereby submit my / our bid for being appointed as your Contractor for an initial period of one year and at the sole discretion of the Authority, extendable upto another one year in phases of three months each from the date of authorisation by the Authority for collection of fee for the said section of the National Highway or the said bridge.
2. As per Clause 7.2 of the Instructions to bidders, I / We offer to pay the Authority, the following sums as and by way of our offer as your Contractor for collection of fee on the said section of National Highway or the said bridge during the aforesaid period and extended period at the sole discretion of the Authority as the case may be.

S. No.	Period	Total Amount Payable by the Bidder to the Authority for the period mentioned in column B	Amount to be paid per month
A.	B.	C.	D.
a)	Initial One year (From DD/MM/YYYY 00.00 hrs to DD/MM/YYYY 24.00 hrs)	Rs. _____/- (_____ in words)	Rs. _____/- (_____ in words)
*b)	Extended period of another one year in phases of three months each (From DD/MM/YYYY 00.00 hrs to DD/MM/YYYY 24.00 hrs)	10% above the amount mentioned in column C of this table	10% above the amount mentioned in column D of this table

* The amounts payable will be applicable only if, the Authority, at its sole discretion, extends the Contract.

In case of any conflict (i) in amount at C & D, amount at D will be corrected in accordance with amount at C, and (ii) in words and figures, the amount stated in the words shall prevail.

3. I/We understand that Authority has the right to hand over the Fee Plaza(s)/Fee booth(s) prior to 00.00 hrs on (DD/MM/YYYY) after 00.00 hrs on (DD/MM/YYYY) in which event the initial contract will commence from date of such handling over. Accordingly, I/We understand that dates mentioned above are indicative only.
4. I /We understand that this offer is based on location of fee collection booths stated in the Bid Invitation Notice and collection can not be asked for from any other place/s, under any circumstance.
5. I/We have thoroughly read and understood the terms and conditions of bid invitation for being appointed as Contractor of the Authority for the aforesaid purpose and the terms and conditions of the Contract, which in token thereof have been signed by me/us and are enclosed herewith. I/We hereby agree to duly abide by same.
6. In the event of my/our bid being accepted by you, I/We agree to furnish within ____ days the performance security of an amount equal to 6 months agreed remittance i.e. Rs. _____ lakhs as per amount quoted at Clause 2 or an higher amount as agreed during the negotiations, in the form of Bank Draft payable at Delhi in favour of the National Highways Authority of India drawn on any Public Sector Bank of India, and a bank guarantee as per format prescribed by National Highways Authority of India from any public sector bank of India for Rs. _____ lacs (an amount equal to six months agreed remittance) or a crossed account payee demand draft/ pay order drawn on any public sector bank of India in view of the bank guarantee, execute the Contract and have the same engrossed, as per applicable law, within the period respectively prescribed there in the instructions to the bidders.

* To be mentioned by the Authority only in case of extension envisaged.

Yours faithfully,

Signature.

Name:

Name of sale Proprietorship / Regd. Partnership Firm / Cooperative Society / Ltd. Company (if applicable)

Designation:

Address:

(Please affix seal)

Date:

Place: