

(b) the Contractor has marked the Plant and/or Materials as the MSRDC's property in accordance with Independent Engineer's instructions.

### 35.12 Prolonged suspension

If the suspension under Sub Clause 35.9 (Suspension of Work) has continued for more than 84 days, the Contractor may request Independent Engineer's permission to proceed. If Independent Engineer does not give permission within 28 days after being requested to do so, the Contractor may by giving notice to Independent Engineer, treat the suspension as an omission under Clause 45 (Variations and Adjustments) of the affected part of the Works. If the suspension affects the whole of the works, the contractor may give notice of termination under Sub-Clause 47.4.2 (Termination by Contractor).

### 35.13 Resumption of work

After the permission or instruction to proceed is given, the Contractor and Independent Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials which has occurred during the suspension.

## CLAUSE - 36

### TESTS ON COMPLETION

#### 36.1 Contractor's Obligations

The Contractor shall carry out the Tests on Completion in accordance with this Clause and sub Clause 33.4 (Testing), after providing the documents in accordance with Sub-Clause 10.6 and of Sub Clause 10.7 (Contractor's General

Obligations) Builders Pvt. Ltd.

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The Contractor shall give to Independent Engineer not less than 21 days notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as Independent Engineer shall instruct.

In considering the results of the Tests on Completion, Independent Engineer shall make allowances for the effect of any use of the Works by the MSRDC on the performance of other characteristics of the Works. As soon as the Works, or a section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to Independent Engineer.

36.2 If the Tests on Completion are being unduly delayed by the Independent Engineer Sub Clause 32.4 (Testing) shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, Independent Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to Independent Engineer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Independent Engineer may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

For Ideal Road Builders Pvt. Ltd.



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### 36.3 Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Sub Clause 33.6 (Rejection) shall apply, and Independent Engineer or the Contractor may require the failed Tests and Tests on Completion on any related work, to be repeated under the same terms and conditions.

### 36.4 Failure to Pass Tests on Completions

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub Clause 33.6 (Retesting), Independent Engineer shall be entitled to:

- (a) order further repetition of Tests on Completion under Sub-Clause 33.6;
- (b) if the failure deprives the MSRDC of Substantially the whole benefit of the Works or Section for the purpose of operation reject the Works or Section (as the case may be), in which event the MSRDC shall have the same remedies as are provided in Clause 38.0 (Failure to Remedy Defects); or
- (c) issue a Completion Certificate, if the MSRDC so requests.

In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be adjusted by such amount as shall be appropriate to cover the reduced value to the MSRDC as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the MSRDC may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Completion Certificate is issued.

For [Signature] Pvt. Ltd.

[Signature]

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CLAUSE - 37

COMPLETION OF CONSTRUCTION

37.1 Operation of the works / Project Facility

Except as stated in Sub Clause 36.4 (Failure to Pass Tests on Completion), the Works shall be ready for operation and maintenance when (i) the construction Works have been completed in accordance with the Contract, including the matters described in Sub Clause 35.1 (Time for Completion) and except as allowed in Sub Paragraph (a) below, and (ii) a Completion Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub Clause.

The Contractor may apply by notice to Independent Engineer for a Completion Certificate not earlier than 14 days before the Works Project Facility will, in the Contractor's opinion, be complete and ready for operation. If the Works are divided into Sections, the Contractor may similarly apply for Completion Certificate for each section for each section for the purpose of operation.

Independent Engineer shall, within 28 days after receiving the Contractor's application :

- (a) issue the Completion Certificate to the Contractor, citing the date on which the Construction Works or Section were completed in accordance with the contract, except for any minor outstanding work and defects which will not substantially affect the operation of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or

  
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- (b) reject the application, giving reasons and specifying the required to be done by the Contractor to enable the Completion Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub Clause.

If Independent Engineer fails either to issue the Completion Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Sections (as the case may be) are substantially in accordance with the Contract, the Completion Certificate shall be deemed to have been issued on the last day of that period.

### 37.2 Interference with Tests on Completion

If the Contractor is prevented, for more than 14 days, from carrying out the Tests of Completion by cause for which the MSRDC is responsible, the Project Facility shall be deemed to be ready for operation on the date when the Tests on Completion would otherwise have been completed.

Independent Engineer shall then issue a Completion Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable before the expiry date of the Defects Notification Period, Independent Engineer shall require the Tests on completion to be carried out by giving 14 days notice and in accordance with the relevant provisions of the Contract.

If the Contractor suffers delay and/or incurs cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to Independent Engineer and shall be entitled for compensation.

For Mest Road Builders Pvt. Ltd.



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