operate, monitor and maintain the Project at all times in conformity with this Agreement including but not limited to Schedule-D [Specifications & Standards], Schedule-K [Maintenance Requirements] and Schedule-L [Safety Requirements];

implement the Quality Management System in line with Schedule-D [Specification and Standards];

obtain and keep in force all Applicable Permits in conformity with the Applicable Laws and be in compliance with thereof at all times during the Concession Period;

achieve Financial Closure as per Article-24 [Financial Close] and notify to MSRDC/IC forthwith the occurrence of Financial Close;

the Concessionaire shall give MSRDC/IC not less than 30 (thirty) days written notice prior to entering into, amending or modifying or replacing any Project Agreement. The Concessionaire shall submit to MSRDC/IC the drafts of the Project Agreements including in particular the EPC Contract, the Financing Documents, the OM&M Contract and the Tolling Contract for its review and in case of any amendment, modification or replacement the drafts of the proposed amendment and/or modification or replacement so as to enable MSRDC/IC to provide its consent or offer its comments, if any, in respect thereof. MSRDC/IC shall have the right but not the obligation to provide its comments and observations within 30 (thirty) days of the receipt thereof by MSRDC/IC. If any comments or observations are made by MSRDC/IC, the Concessionaire shall duly consider and give effect to all such comments or observations. Notwithstanding anything contained herein, any such comments/observations by MSRDC/IC on any Project Agreements or the proposed amendment or modification or the failure to provide such comments shall not relieve or absolve in any manner whatsoever the Concessionaire of its obligations, duties and liabilities under this Agreement nor shall it make MSRDC/IC and/or Independent Consultant liable to the Concessionaire in any manner whatsoever and shall be without prejudice to the rights of MSRDC/IC hereunder. Further, if any such execution, amendment, modification or replacement has the effect of increasing the Total Project Cost or the OM&M Expenses beyond the maximum limit set forth in this Agreement or has the effect of binding MSRDC/IC in any way or manner, such execution, amendment, modification or replacement shall not be binding on MSRDC/IC nor shall it be considered or taken into account in any way or manner for the
purposes of either Party's rights and obligations under this Agreement unless expressly agreed to by MSRDC/IC.

(8) ensure that performance security is kept always in full force during entire period of concession.

(9) ensure and procure that each Project Agreement contains provisions that entitle MSRDC/IC to step into such agreement in its discretion in place and substitution of the Concessionaire in the event of Termination of this Agreement on account of default or breach by the Concessionaire;

(10) remove promptly from the Project all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials and waste water), rubbish and other debris (including without limitation, accident debris) and shall keep the Site of the Project in a neat and clean condition and in conformity with the Applicable Laws and Applicable Permits;

(11) procure and maintain in full force, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods processes and systems used or incorporated into the Project;

(12) provide all assistance to the Independent Consultant as it may require for the performance of its duties and services;

(13) provide to MSRDC/IC all reports on regular basis during the Construction Period and the Operations Period in the form and manner set forth in this Agreement and Schedule-D [Specifications and Standards];

(14) obtain and maintain in force on and from the Appointed Date all insurance in accordance with the provisions of this Agreement and Good Industry Practice;

(15) acquire such land, as the Concessionaire may deem at his risk and cost appropriate for the Additional Facilities and to indemnify and save harmless and defend, MSRDC/IC, and GOM from and against all proceedings, claims, demands, costs, expenses, losses and damages arising out of or relating to the securing of rights to use such land by the Concessionaire or any person claiming through or under the Concessionaire;

(16) undertake Debt Service Payments in accordance with the Financing Documents;

(17) levy and collect Toll from users of the Project at the rates set forth in the Toll Notification and in accordance with this Agreement and regulate the traffic on the Project in accordance with the Applicable Laws;

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(18) appoint, supervise, monitor and control the activities of Contractors under their respective Project Agreements as may be necessary;

(19) take all reasonable precautions for the prevention of accidents on or about the Project and provide all reasonable assistance and emergency medical aid to accident victims;

(20) make its own arrangements for quarrying, and observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits at Concessionaire’s own cost and expense;

(21) not claim or demand possession or control of any roads, structures or land which do not form part of the Project;

(22) after receiving vacant possession of the Site or part thereof, ensure that such Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;

(23) make payment to Police department or any Government Agency, if required, for provision of such services as are not provided in the normal course or are available on payment;

(24) indemnify MSRDC/IC against all actions, suits, claims, demands and proceedings and any loss or damage or cost or expense that may be suffered by them on account of anything done or omitted to be done by the Concessionaire in connection with the performance of its obligations under this Agreement; and

(25) comply with the Divestment Requirements and hand over the Project to MSRDC/IC upon Termination of the Agreement;

(26) ensure free and smooth flow of traffic along Project;

(27) during the Concession Period, the Concessionaire shall be responsible for maintaining the Site at its own cost and expense.

(28) the Concessionaire shall, at all times, afford access to the Site to the authorized representatives of MSRDC/IC, Senior Lenders, and the Independent Consultant and to the persons duly authorized by any Governmental Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project and to investigate any matter within MSRDC and upon reasonable notice, the Concessionaire shall provide to such persons reasonable
assistance necessary to carry out their respective duties and functions with minimum disruption to the construction, operation and maintenance of the Project consistent with the purpose for which such persons have gained such access to the Site.

(29) hand over properly the Project to MSRDC at the Termination Date

5.6 Obligations of the Concessionaire During Pre-Construction Period

The Concessionaire shall, before commencement of construction of the Project:

i. submit its design and construction time schedule and shall formulate and provide CPM/PERT charts to achieve Project Completion on or before the Scheduled Project Completion Date to MSRDC within 15 (Fifteen) days of the date of this Agreement with due regard Schedule-G [Project Completion Schedule];

ii. finalise the design and detailed engineering basis;

iii. have requisite organization and designate and appoint a Project Manager, Quality Manager and such other managers, officers and representatives as it may deem appropriate to supervise the Project and to deal with MSRDC Representative and be responsible for all necessary exchanges of information required pursuant to this Agreement; and

iv. undertake, do and perform such acts, deeds and things as may be necessary or required to adhere to the Project Completion Schedule for construction of the Project and to achieve Project completion under and in accordance with this Agreement.

v. provide and maintain an adequately equipped field laboratory as required for the Site control or, the quality of materials and the Construction Works.

vi. the Concessionaire shall prepare and submit with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, three copies each of all Drawings to MSRDC and the Independent Consultant for review and comments.

vii. by forwarding the Drawings for review and comment to Independent Consultant, the Concessionaire represents that it has determined and verified that the design including field construction criteria related thereto is in conformity with the Specifications & Standards and quality set forth in this Agreement for and in respect of the Project.
viii. within 30 (thirty) days of the receipt of the Drawings, Independent Consultant shall review the same and convey its comments/observations to the Concessionaire with particular reference to the conformity or otherwise with the Specifications and Standards set forth in this Agreement. It is expressly agreed that notwithstanding any review and comment/observations of Independent Consultant on any Drawings or failure of Independent Consultant to provide comments/observations thereon, Independent Consultant/MSRDC shall not be liable for the same in any manner whatsoever and the Concessionaire shall remain solely responsible for and shall not be relieved or absolved in any manner whatsoever of its obligations, duties and liabilities as set forth in this Agreement. The Concessionaire shall not be obliged to await the comments/observations of Independent Consultant on the Drawings submitted pursuant hereto beyond the period set forth hereinafore.

ix. If the comments/observations of Independent Consultant indicate that the Drawings are not in conformity with the Specifications and Standards set forth in this Agreement, such Drawings shall be revised by the Concessionaire to the extent necessary and resubmitted to Independent Consultant for review, observations and comments. Independent Consultant shall give its observations and comments, if any, within 15 (fifteen) days of the receipt of such revised Drawings provided, however, that any observations or comments of Independent Consultant or failure of Independent Consultant to give any observations or comments on such revised drawings shall not relieve or absolve the Concessionaire of its obligation to conform to such Specifications and Standards.

x. The Concessionaire shall be responsible for delays in Project Completion Schedule caused by reasons of any Drawings not being in conformity with the Specifications and Standards, and the Concession Period shall not be extended in any manner whatsoever on account of submission or revision of any Drawings.

5.7 Obligations of the Concessionaire during Construction Period

The Concessionaire shall,

i. Undertake Geotechnical Investigation as per IRC codal requirements, to provide the pavement design before construction.

ii. Operate and maintain the Project Facility at desired Level of Service appropriate to traffic volume at all times in conformity with this condition including but not limited to the Specifications and Standards set forth in this agreement and as per Maintenance and operation requirements and Good Industry Practice.
iii. submit to MSRDC/IC with due regard to Project Completion Schedule and Scheduled Project Completion Date its design, and construction time schedule and shall formulate and provide Critical Path Method (CPM)/ Project Evaluation and Review Technique (PERT) charts for the completion of the said activities.

iv. construct, provide and maintain a furnished (with electric equipments, computer, etc.) accommodation, with communication for MSRDC/IC for the management of the project;

v. shall be responsible for ensuring that any existing utility on, under or above the Project Site is kept in continuous satisfactory use, if necessary by the use of suitable temporary or permanent diversions.

vi. various utility agencies carryout repair work. During the repair work or emergencies such as damages to chambers or covers etc, which becomes a traffic hazard, the Concessionaire shall promptly undertake to provide safer measures such as temporary barricades, warning signs, lights, cones etc and maintain these till such hazard is removed.

vii. to maintain the areas affected by leakages as well restore the surfaces and maintain the road till shifting of water pipe line is done.

viii. To carry out all restoration work due to shifting without any extra cost before strengthening / concreting work.

ix. shall be responsible for providing additional works and services on or about the Project and within the jurisdiction of the Project which are beyond the Scope of the Project as contemplated by this Agreement under Change of Scope at his cost.

x. shall bear all costs and charges for special of temporary rights of way required by it in connection with access to the Project Facility. The Concessionaire shall obtain at its cost such facilities on or outside the Project Site as may be required by it for the purposes of the Project and the performance of its obligations under these Conditions of Concession Agreement.

xi. shall be responsible for identifying and shifting all the utilities along or across the Project at his risk and cost with the supervision and to the standards of the concerned departments / authorities

xii. Within 90 (ninety) days of the COD, the Concessionaire shall furnish MSRDC/IC with "as built" Drawings reflecting the Project as actually designed, and constructed, including without limitation an "as built" survey illustrating the

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layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facilities.

xiii. During the Construction Period, the Concessionaire shall be responsible for maintaining the Site including the existing lanes of the Project Roads at its own cost and expense. During this period, the Concessionaire shall modify, repair or otherwise make improvements to the existing lanes before expiry of six months from the Appointed Date so that the existing lanes comply with requirements provided in Schedule 'L' and at least 2 (two) lanes of the Project Roads are ordinarily open to traffic at all times. The Concessionaire shall promptly undertake all such repairs and maintenance works as may be necessary to keep the Project Roads traffic-worthy and safe during the Construction Period.

5.8 Concessionaire's Obligation during Maintenance Period

The Concessionaire shall,

i. carry out all command and control functions including control and monitoring of all subordinate organizations, development of maintenance programme for the Concession period, study the relevance of activities that are being carried out, preparation of proposal for safety,

ii. monitor inspection programme

iii. prepare programme for repairs of damages

iv. make payment of all electricity, water used by the Concessionaire and other charges (except energy consumed by street lights, high masts, garden lamps and decorative lamps illumination).

v. prepare daily work reports

vi. maintain at all times during the maintenance activities safety of the moving traffic, workers engaged in the operation

vii. take special precaution during the night operations and to maintain adequate lights, reflectors as specified,

viii. maintain cleanliness as specified,

ix. report promptly such damages which needs urgent attention of MSRDC/IC and which are potential threat to the traffic and to take necessary steps for traffic safety.

x. maintain security on the project facility.

xi. carry out any other repair works in case of emergency

xii. maintain adequate number of equipments, machinery, plant, vehicles for the activity

xiii. maintain the existing structures of the Project and to repair / replace / reconstruct the structures if required during the Concession Period

xiv. observe and comply with its all obligations set forth in this Agreement

xv. replace electric bulbs when fused, on all electric poles erected on the project roads.
5.9 Concessionaire’s obligations for collection of Toll

i. to construct toll plaza of standard specified in Vol III.

ii. to issue receipt for the amount of toll collected to vehicle operator in the form prescribed by MSRDC/IC.

iii. to arrange collection of toll efficiently in such a manner that the traffic at the site is not unreasonably detained resulting in blocking up of traffic and there shall be no complaints from travellers about undue waste of time or detention of vehicles for more time than due or exertion.

iv. to use the toll station for the purpose of collection of toll only and for no other purpose whatsoever and to protect, preserve and maintain it.

v. to collect and submit data of exempted vehicles in the form prescribed by MSRDC/IC on request of MSRDC/IC.

vi. upon expiration or termination of Concession to hand over peaceful possession of the toll stations including all machinery and toll collection equipments, fixture & fittings etc to MSRDC/IC in the same condition in which it was used during concession period by the Concessionaire.

vii. to make the necessary arrangement for lighting to ensure proper working of the toll station and traffic near by it.

viii. to make provision of own electric arrangement and electric lighting etc. in sufficient numbers including all expenses required therefore for the entire period of the Concession for Toll Plazas.

ix. to pay punctually the electricity charges payable in respect of consumption of electricity at the toll station.

x. to replace at his cost bulbs and tubes in the toll station.

xi. to make his own arrangement for water supply and sanitary arrangements required for his staff etc. at his own cost.

xii. not to make or retain any secret profit or margin during collection of toll. To return balance, if any, in the form of currency notes, coins and not to retain it at all.
ARTICLE 6

OBLIGATIONS OF MSRDC

6.1 Obligations of MSRDC

6.1.1 MSRDC shall at its own cost and expenses undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 MSRDC agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

a) upon written request from the Concessionaire, and subject to the Concessionaire complying with the Applicable Laws, provide all reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Instrumentality for Implementation and Operation of the Project.

b) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;

c) procure that no barriers are erected or placed on the Project by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security, law and order or collection of inter-state taxes;

d) make best endeavours to procure that no local tax, toll or charge is levied or imposed on the use of whole or any part of the Project; (except on the property developed for commercial use on the land leased as specified in Schedule-W)

e) subject to and in accordance with the Applicable Laws, grant to the Concessionaire the authority to regulate traffic on the Project;

f) assist the Concessionaire in procuring Police assistance for regulation of traffic, removal of trespassers and security of Project;

g) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement; and