33.4 Testing

This Sub Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any). The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with Independent Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

Independent Engineer may, under Clause 45. (Variations and Adjustments), vary the location or details of specified tests, or instruct the Contractor to carry out additional tests, if these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

Independent Engineer shall give the Contractor not less than 24 hours notice of Independent Engineer's intention to attend the tests. If Independent Engineer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by Independent Engineer and the tests shall then be deemed to have been made in Independent Engineer's presence.

The Contractor shall promptly forward to Independent Engineer duly certified reports of the tests. When the specified tests have been passed, Independent Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If Independent Engineer has not attended the tests, he shall be deemed to have accepted the reading as accurate.

For Birla Reed Builders Pvt. Ltd.

Director

Contractor

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Competent Officer
33.5 If the Contractor suffers delay and/or incurs cost from complying with these instructions or as a result of a delay for which the MSRDC is responsible, the Contractor shall give notice to Independent Engineer and shall be entitled to compensation.

33.6 Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, Independent Engineer may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

If Independent Engineer requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions, if the rejection and retesting cause the MSRDC to incur additional costs, the Contractor shall pay these costs to the MSRDC.

33.7 Remedial Work

Notwithstanding any previous test or certification, Independent Engineer may instruct the Contractor to:

(a) remove from the site and replace any Plant or Materials which is not in accordance with the Contract.
(b) remove and re-execute any other work which is not in accordance with the Contract, and
(c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

[Signature]
Contractor

[Signature]
Director

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[Signature]
Competent Officer
SECTION – I

CONDITIONS OF CONTRACT
MAHARASHTRA STATE ROAD DEVELOPMENT CORPORATION LIMITED, MUMBAI

BID DOCUMENT

FOR

FOUR LANING AND IMPROVEMENTS TO MUMBAI - PUNE SECTION OF NH-4 (K.M. 131/200 TO K.M. 20/400) ON SELF-FINANCE ALONGWITH TOLL COLLECTION AND OPERATION AND MAINTENANCE ON MUMBAI-PUNE SECTION OF N. 4 AND EXISTING MUMBAI-PUNE EXPRESSWAY

VOLUME - III
CONDITIONS OF CONTRACT

ISSUED TO (NAME OF BIDDER)

ON DATE 02-01-04

ACCOUNTANT

For Ideal Road Builders Pvt. Ltd.

Signature and designation of

Director

EXECUTIVE

MAHARASHTRA STATE ROAD DEVELOPMENT CORPORATION LIMITED

MUMBAI 36.
SECTION - I
CONDITIONS OF CONTRACT

CLAUSE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Conditions of Contract, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Accounting Year" means the financial year commencing from 1st April of any calendar year and ending on 31st March of the next calendar year.

"Applicable Laws" means all laws, promulgated or brought into force and effect by any Government Authority including regulations, by laws, notifications and rules made there under, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of the Contract.

"Applicable Permits" means all clearances, permits, authorizations, consents, approvals and licenses required to be obtained or maintained under Applicable Laws in connection with the investigation, design, engineering, financing, procurement, construction, operation, maintenance and toll collection of the Project Facility during the subsistence of this Contract.

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof as in force from time to time.
"Associates" means in relation to either Party and/or Consortium Members, a person who controls, is controlled by, or is under the common control with such Party or Consortium Member. As used in this definition, the expression "control" means with respect to a person which is a MSRDC, the ownership, directly or indirectly, of more than 50% of the voting shares of such person, and with respect to a person which is not a MSRDC, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise.

"Bank" means Nationalized Banks, State Bank of India, or its group associated banks, financial institutions (including HDFC) and banks promoted by financial institutions.

"Bid" means the documents in their entirety comprised in the bid submitted by the Bidder in response to the Bid Notice in accordance with the provisions thereof.

"Bid Security" / "Earnest Money" means the security provided by the Bidder to MSRDC along with the Bid in the sum of Rs.10,00,00,000/- (Rupees Ten Crores Only) in accordance with the Bid Notice and which is to remain in force until substituted by the Performance Security in case of successful bidder.

"Bidder" means the party submitting the proper and valid bid.

"COD" means the commercial operations date of the Project Facility in whole or part as specified and shall be the date on which the Independent Engineer has issued the completion Certificate or the Provisional Certificate upon completion of the Construction Works. Project facility in whole or part as specified in accordance with the Contract.

"Change in Law" means the occurrence of any of the following after the date of bid submission.

For \textbf{Ideal Road Builders Pvt. Ltd.}

\underline{\text{Director}} \hspace{2cm} \underline{\text{Competent Officer}}

\underline{Contractor}
i. the enactment of any new applicable law
ii. the repeal, modification or re-enactment of any existing applicable law;
iii. the commencement of any applicable law which has not entered into effect until the date of Commencement of this Contract;
iv. a change in the interpretation or application of any applicable law by a court of record as compared to such interpretation or application by a court of record prior to the date of commencement of this contract.
v. any change in the rates of any of the Taxes.

"Change of Scope" shall have the meaning ascribed thereto in Clause 45

"Chief Engineer" means the Chief Engineer of MSRDC for the time being in charge of the work.

"Commencement Order" means order to start the work, which includes construction, operation as well as collection of toll on Mumbai-Pune Expressway.

"Company" means the Company acting as the Contractor under this Contract.

"Compensation" means such relief to the Contractor due under various conditions of the contract to compensate the contractor for losses suffered by him and may be in the form of a) Extension of time for completion of construction work, b) Extension of contract period c) Payment of sums d) granting any other rights either single or combination a) deemed fit and appropriate and sanctioned by the Competent Authority.

"Competent officer" means any officer authorized by the MSRDC to act on behalf of the MSRDC and to administer the contract.

"Completion Certificate" means the Certificate issued by the Independent Engineer pursuant to Clause 41.

For Bhuban Steel Buildings Pvt. Ltd.

Competent Officer

Director
"Conditions of Contract" means these Conditions of Contract, the Annexure, Sections and Volumes hereto and any amendments thereto made in accordance with the provisions contained in these Conditions of Contract.

"Contract" means the contract agreement, the letter of acceptance, the bid, including the conditions, the specifications, the drawings, the Annexures, and further documents (if any) which are listed in the contract agreement or in letter of acceptance.

"Contract Period" means the period for which the contractor is to carry out his obligations.

"Contractor" means person named as contractor in letter of acceptance to carry out the obligations as per the terms and conditions of the contract and its successors and substitutes expressly approved in writing by MSRDC.

"Construction Period" means the period beginning from the Commencement Date and ending on the COD.

"Construction Works" means all works and things necessary to complete the Project Facility in part or whole for use of the traffic and other users thereof in accordance with this Contract.

"MSRDC / MSRDC" shall mean Maharashtra State Road Development MSRDC Ltd, Mumbai, a Government of Maharashtra undertaking incorporated under the Companies Act 1956.

"Cure Period" means the period specified in these Conditions of Contract for curing any breach or default of any provision of these Conditions of Contract by the Party responsible for such breach or default and upon failing of which the Conditions of Contract may be terminated by the other Party.

Contractor

Director

Competent Officer
"Construction Documents" means all drawings, calculations, computer software (programs). Samples, patterns, models, operation and maintenance manuals and other information of a similar nature to be submitted by the Contractor.

"Damages" shall have the meaning ascribed thereto in Clause 1.2.P.

"Debt Due" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding and payable to the Senior Lenders under the Financing Documents:

(i) the principal amount of the debt provided by the Senior Lenders under the Financing Documents for financing the Project (the "principal") which is outstanding as on the Termination Date but excluding any part of the principal that had fallen due for repayment one year prior to the Termination Date, unless such repayment had been rescheduled with the prior consent of MSRDC; and

(ii) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-Clause (i) above up to the date preceding the Termination Date but excluding (a) any interest, fees or charges that had fallen due one year prior to the Termination Date, and (b) penal interest or charges, payable under the Financing Documents to any Senior Lender.

"Debt Service Payments" means the sum of all principal and interest payments due and payable in an Accounting Year to the Senior Lenders under the Financing Documents.

For Issuing Bankers Ltd.

[Signature]

Contractor

[Signature]

Director

[Signature]

Competent Officer
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For Ideal Road Builders Pvt. Ltd.

Director
"Drawings" means all the drawings, calculations and documents pertaining to the Project Facility as set forth in Clause 10 and Volume 5 and shall include "as built" drawings of the Project Facility.

"Emergency" means a condition or situation that is likely to endanger the security of the individuals on or about the Project Facility including users thereof or which poses an immediate threat of material damage to any of the Project Assets.

"Encumbrances" means any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project Facility, physical encumbrances and encroachments on the Site where applicable herein.

"Executive Engineer" means the Executive Engineer of MSRDC for the time being in charge of the work.

"Fee/Toll" means the charge levied on and payable for a vehicle using the Project Facility in accordance with the Fee/Toll Notification and Toll Policy.

"Financing Documents" means the documents executed by the Contractor in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Project and includes amendments or modifications made in accordance with Clause 5.1 x x ill

For Ideal Road Builders & Pte Ltd,

[Signature]

Contractor

[Signature]

Director

- 6 -

Competent Officer
"Financing Package" means the financing package of the Project furnished by the Contractor along with its Bid indicating the Total Project Cost and the means of financing thereof and shall be deemed to have been modified to the extent as submitted to the Senior Lenders and as approved by the Senior Lenders for the purposes of funding of the Project.

"Force Majeure" or "Force Majeure Event" shall mean an act, event, condition or occurrence specified in Clause 46.

"GOM" means the Government of the State of Maharashtra.

"Governmental Authority " means Government Of Jrdia, GOM or any ministry, department, commission, board, authority, instrumentality, local government, local municipal authority or agency, under the control of GOI or GOM having jurisdiction over all or any part of the Project Facility or the performance of all or any of the services or obligations of the Contractor under or pursuant to these Conditions of Contract.

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Clause 52

"Independent Engineer " shall have the meaning ascribed thereto in Clause 9

"Joint Managing Director " means the Joint Managing Director of MSRDC for the time being in charge of the work

"Lenders' Representative" means the person(s) duly authorized by the Senior Lenders to deal with the Parties to the Contract with regard to the issues arising out of and contained in these Conditions of Contract.

For (Signature)
"Local Commercial Traffic" means any commercial vehicle including buses, trucks, light motor vehicles or taxis engaged in carrying goods and passengers registered with the Contractor as plying routinely on the Project Facility without crossing more than one of the Toll Plazas.

"Local Personal Traffic" means and includes a personal vehicle which is registered with the Contractor by any person who normally resides or works at a place that can normally be approached only by using a part of the Project Facility and such person is, therefore, required to use such vehicle for commuting on a part of the Project Facility, without crossing more than one of the Toll Plazas, in the course of normal travel to and from his place of work or residence.

"Managing Director" means Vice Chairman and Managing Director of the MSRDC and shall include his successors and assigns.

"Material Adverse Effect" means material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of these Conditions of Contract.

"Material Breach" means a breach by either Party of any of its obligations in these Conditions of Contract which shall be deemed to have a Material Adverse Effect on the Project and which it shall have failed to cure within the Cure Period.

"MPEW" means Mumbai-Pune Expressway.

"MSRDC" means Maharashtra State Road Development MSRDC Ltd

"Net Cash Flow" means in any Accounting Year revenue income less tax payments, O&M Expense, Concession Fee, Negative Grant and Debt Service Payments to Senior Lenders.

Contractor: 

- S -

Competent Officer
"N.H.4" means National Highway Number 4 or section thereof.

"O & M Works" means all works necessary to keep the Project Facility in operation at the required service level during the Contract Period.

"Operations Period" means the period commencing from COD and ending on the Termination Date in connection of NH4 and the period commencing from Commencement date and ending on Termination Date in connection of MPEW.

"Parties" means the parties to this Contract collectively and "Party" shall mean any of the Parties to this Contract individually.

"Performance Security" shall have the meaning ascribed thereto in Clause – 7.

"Permanent Works" means the permanent works to be executed by the contractor under the contract.

"Plant" means apparatus, machinery and vehicles intended to form or forming part of the permanent works.

"Temporary Works" means all temporary works of every kind (other than contractors equipment) required on site for the execution of and completion of the permanent works andremedying of any defects.

"Project" means the investigation, development, design, financing, procurement, engineering and construction, operation and maintenance of the Project Facility in accordance with the provisions of this Contract and shall include all works relating to or in respect of the Project Facility including collection of toll at notified locations and lumpsum upfront payment to MSRDC as described in Vol. II & III of the bid documents.
"Project Assets" means all physical and other assets relating to and forming part of the Project Facility including but not limited to: (i) rights over the Site in the form of lease, right of way or otherwise, (ii) tangible assets such as civil works including the foundation, embankments, pavements, road surface, interchanges, bridges, approaches to bridges and flyovers, road over bridges, drainage works, lighting facilities, traffic signals, sign boards, milestones, toll plazas, equipment for the collection of tolls or relating to regulation of traffic, electrical works for lighting on the Project Facility, telephone and other communication systems and equipment for the Project, rest areas, administration and maintenance depots, relief centers, service facilities etc. (iii) Project Facilities situated on the Site (iv) the rights of the Contractor under the Conditions of Contracts, (v) financial assets, such as security deposits for electricity supply, telephone etc. (vi) insurance proceeds and (vii) Applicable Permits and authorizations relating to or in respect of the Project Facility, but does not include Additional Facilities.

"Project Completion" shall have the meaning ascribed thereto in Clause 37.

"Project Completion Schedule" means the progressive Project milestone set forth in Clause 53 for the realization of the Project Facility complete in all respects by the Scheduled Project Completion Date.

"Project Facility" shall mean Mumbai – Pune Section of N. H. - 4 from km. 131/200 to 20/400 from Shilphata in Thane district to Nigadi in Pune district including all ascending and descending ramps in Bor ghat but excluding way side amenities, Mumbai Pune Expressway from Kalamboli flyover in Thane district to Kivale junction on Westerly bypass on NH 4 in Pune district including all the bridges, flyovers, tunnels, under passes, overpasses, CD works, toll stations, control rooms, administrative and other buildings constructed for the purpose of maintenance and

[Signature]

Contractor

- 10 -

Competent Officer
operation of Expressway and all other structures along the Expressway but excluding the structures of way side amenities. All the structures across Expressway including their approaches, Shedung, Khalapur, Urs, Somatne connectors as per the provisions of the contract and to be maintained and operated as per the stipulations made in this contract.

"Provisional Certificate" shall have the meaning ascribed to it in Clause 41.

"Scheduled Project Completion Date" shall have the meaning set forth in Clause 53.

"Senior Lenders" means the financial institutions, banks, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Contractor under any of the Financing Documents for meeting costs of all or any part of the Project and who hold pari passu charge on the Concession granted by these Conditions of Contract.

"Site" means the real estate licensed by MSRDC to the Contractor under and in accordance with these Conditions of Contract on which the Project Facility is situated and other places as may be specified in the Contract forming part of the site.

"Specifications and Standards" means the specifications and standards relating to the quality, capacity and other requirements for the Project Facility as set forth in Volume IV and any modifications thereof, or additions as included in the design and engineering for the Project Facility submitted by the Contractor to MSRDC and expressly approved by MSRDC.

"Substitution Agreement" means the Agreement referred to in Annexure 'E' and to be entered into among the Contractor, MSRDC and the Senior Lenders in the form set forth

For Ideal Road Builders Ltd.

[Signature]

Director

Contractor

For MSRDC

[Signature]

Competent Officer
in Annexure 'E' providing, inter alia, for the substitution of the Contractor by any other person subject to and in accordance with the provisions of these Conditions of Contract and the Substitution Agreement.

"Superintending Engineer" means the Superintending Engineer of MSRDC for the time being incharge of the work.

"Termination" means the expiry or termination of this Contract

"Termination Date" means the date on which this Contract expires pursuant to the provisions of this Contract or is terminated by a Termination Notice.

"Termination Notice" means the communication issued in accordance with these Conditions of Contract by any one Party to the other Party terminating this Contract.

"Termination Payment" means the amounts payable by MSRDC to the Contractor under these Conditions of Contract upon the Termination of this Contract and shall consist of payments relating to Debt Due, Subordinated Debt and Equity, as the case may be, and such other amounts as are expressly provided for under this Contract. Provided, however, that for purposes of determining Termination Payments to be made by MSRDC under this Contract, the capital cost of the Project Facility shall at all times be reckoned as an amount not exceeding the Total Project Cost and the liability of MSRDC to make such Termination Payments relating to Debt Due, Subordinated Debt and Equity shall be determined as if such capital cost was restricted to Total Project Cost.

"Toll Plaza" means the structures and barriers erected on the Project Facility for the purpose of regulating the entry/exit of vehicles in accordance with the provisions of these Conditions of Contract.

[Signature]

Contractor

[Signature]

Competent Officer
"WPI" means the wholesale price index published by the Ministry of Industry, GOI and shall include any index, which substitutes the WPI.

"Works" means the permanent works and temporary works or either of them as appropriate.

1.2 In these Conditions of Contract, unless the context otherwise requires,

(a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;

(b) references to Indian law shall include the laws, acts, ordinances, rules, regulations, or bye laws which have the force of law in any State or Union Territory forming part of the Union of India;

(c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, MSRDCs, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);

(d) the headings are for convenience of reference only and shall not be used in and shall not affect the construction or interpretation of these conditions of contract;

(e) terms and words beginning with capital letters and defined in this Contract shall have the meaning ascribed thereto herein and the terms and words defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules;

For Ideal Road Builders

Contractor

Director

Competent Officer
the words "include" and "including" are to be construed without limitation;

references to "construction" include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportational, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;

any reference to any period of time shall mean a reference to that according to Indian Standard Time;

any reference to day shall mean a reference to a calendar day;

any reference to month shall mean a reference to a calendar month;

the Annexure to these Conditions of Contract form an integral part of these Conditions of Contract and will be in full force and effect as though they were expressly set out in the body of these Conditions of Contract;

any reference at any time to any Contract, deed, instrument, licence or document of any description shall be construed as reference to that Contract, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Clause shall not operate so as to increase liabilities or obligations of MSRDC hereunder or pursuant hereto in any manner whatsoever;
(m) references to Recitals, Clauses, Sub-Clauses, Paragraphs, or annexures in these Conditions of Contract shall, except where the context otherwise requires, be deemed to be references to Recitals, Clauses, Sub-Clauses, paragraphs, and Schedules of or to these conditions of contract;

(n) any consent, approval, authorization, notice, communication, information or report required under or pursuant to these Conditions of Contract from or by any Party or the Independent Engineer shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Independent Engineer, as the case may be, in this behalf and not otherwise;

(o) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;

(p) the liquidated damages payable by either Party to the other of them as set forth in these Conditions of Contract, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty and

(q) unless otherwise expressly provided in these Conditions of Contract any Documentation required to be provided or furnished by the Contractor to MSRDC and/or the Independent Engineer shall be provided free of cost and in three copies and if MSRDC and/or the Independent Engineer are required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

For Ideal Road Builders Ltd.

Contractor

Director

Competent Officer
1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

1.4 Priority of contract documents and errors/discrepancies

1.4.1 The several documents forming these Conditions of Contract are to be taken as mutually explanatory to one another and, unless otherwise expressly provided elsewhere in these Conditions of Contract, the priority of the following documents shall in the event of any conflict between them be in the order they are set out:

The Commencement Order
The Contract Agreement
The letter of acceptance
The bid
The terms and conditions of contract
Any other document forming the contract

1.4.2 In case of ambiguities or discrepancies within these Conditions of Contract, the following shall apply:

(i) between two Clauses of these Conditions of Contract, the provisions of the specific Clause relevant to the issue under consideration shall prevail over those in other clause;

(ii) Between the Clauses and the Annexures, the Clauses shall prevail save as otherwise expressly set forth in Clause 1.4.1.
(iii) Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(iv) Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;

(v) Between any value written in numerals and that in words, the latter shall prevail.

CLAUSE 2

PROJECT SITE AND SCOPE OF WORK

2.1 Scope of Project.

The project shall be executed on the site which is described in Volume II of this Contract. The scope of project shall include performance and execution by the Contractor of all investigation, design, engineering, financing, procurement, construction, completion, operation, maintenance of the Project Facility (NH4 and MPEW) as described in Volume II of these Conditions of Contract, making lumpsum upfront payment of toll collection against contract rights of 15 years. It shall include but not limited to widening, strengthening, improvement of NH4 including carriageway, bridges, C.D works (as specified in detailed scope of work), additional works on Mumbai Pune Expressway (as detailed in scope of works) and operation and maintenance thereof of NH4, MPEW, Connectors and structures across MPEW in accordance with Volume II. It shall also include the payment of lumpsum upfront money to MSRDC against the toll collection rights granted by MSRDC to the Contractor for Contract period (15 years) as per the

For Ideal Road Builders Pvt. Ltd.

Contractor

Director

Competent Officer
rates specified for NH4 and MPEW and other payments to MSRDC as specified in "Payment Schedule". The Contractor shall undertake all his obligations at its own risk and cost.

2.2 Project Site

(a) MSRDC shall handover to the Contractor physical possession of the Project Site (National Highway 4, Mumbai Pune Expressway) including toll plazas, and other assets required to be maintained and operated as per the scope and as per the handing over schedule free from Encumbrance together with the necessary rights of way/way leaves for the purpose of implementing the Project in accordance with these conditions of contract.

(b) MSRDC confirms that upon the Project Site being handed over pursuant to the preceding sub-clause (a) the Contractor shall have the exclusive right to enter upon, occupy and use the Project Site and to make at its costs, charges and expenses such development and improvements in the Project Site as may be necessary or appropriate to implement the Project and to provide Project Facility subject to and in accordance with the provisions of these conditions of Contract.

2.3 Use of the Project Site

The Contractor shall not without prior written consent or approval of MSRDC use the Project Site for any purpose other than for the purposes of the Project/Project Facility and purposes incidental thereto as permitted under this Contract or as may otherwise be approved by MSRDC. The contractor is entitled to generate revenue only from the Toll/fee collection and no other right to generate revenue is granted to the contractor.

[Signatures]
Contractor
Director
Competent Officer
2.4 Information about the Project Site

The information about the Project Site set out in Volume II is provided by MSRDC in good faith and with due regard to the matters for which such information is required by the Contractor. MSRDC may provide to the Contractor, upon a reasonable request, any further information relating to the Project Site, which MSRDC may now possess or may hereafter come to possess. Subject to this MSRDC makes no representation and gives no warranty to the Contractor in respect of the condition of the Project Site.

2.5 Peaceful Possession

MSRDC warrants that:

(a) the Project Site together with the necessary right of way/way leaves having been acquired through the due process of law and invested in MSRDC, and that MSRDC has full powers to hold, and deal with the same consistent, interalia, with the provisions of these conditions of Contract;

(b) the Contractor shall have no obligation/liability as to payment of any compensation whatsoever to or the rehabilitation and resettlement of any Person from whom the Project Site or any part thereof had been acquired and that the same shall be the sole responsibility of MSRDC; and

(c) the Contractor shall, subject to complying with the terms and conditions of these conditions of Contract, remain in peaceful possession and enjoyment of the Project Site during the Contract Period. In the event the Contractor is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action

For check and signature: 

Contractor

Competent Officer
including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest, charge on the Project Site or any part thereof, MSRDC shall, if called upon by the Contractor, defend such claims and proceedings and also keep the Contractor indemnified against any direct or consequential loss or damages which the Contractor may suffer, on account of any such right, title, interest or charge.

2.6 Rights and Title over the Project Site

(a) The Contractor shall have exclusive rights to the use of the Project Site in accordance with the provisions of these conditions of Contract and for this purpose it may regulate the entry and use of the same by third parties to the extent permissible under the Contract.

(b) The Contractor shall allow access to, and use of the Project Site/Project Facility for telegraph lines, electric lines, fiber optic cables, ducts or such other public purposes as MSRDC may specify, provided that such access or use does not result in a Material Adverse Effect or closure of Project Facility for a period exceeding 120 days and that MSRDC undertakes to ensure that the Project Facility is restored at the cost and expenses of MSRDC as per the Specifications and Standards. Where such access or use causes any loss of Fee/Toll to the Contractor, MSRDC shall compensate the Contractor suitably for such loss of Fee.

(c) The Contractor shall not part with or create any Encumbrance on the whole or any part of the Project Site save and except as set forth and permitted under these conditions of Contract provided however that nothing contained herein shall be construed or interpreted as restriction on the right of the Contractor to appoint any Sub Contractor for the

For Ideal Road Builders Pte Ltd.

Contractor

Director

Competent Officer

- 20 -
performance of its obligations hereunder including for operation and maintenance of all or any part of the Project / Project Facility.

2.7 Environmental Clearance

The Contractor shall, apply for and obtain Applicable Permits related to environmental matters that may be necessary or required for the Project under any Applicable Laws.

CLAUSE 3

3.1 Contractor's Entitlements

Subject to and in accordance with the terms and conditions set forth in this contract MSRDC shall grant the contractor various rights / approvals for a period of 15 years commencing from the Commencement date including exclusive right, license and authority during the subsistence of this contract to implement the Project / Work and to collect Fee/Toll as per the fee /Toll notification and the Conditions of Contract. The toll collection rights for MPEW shall be for a period from Commencement date till termination and toll collection rights for NH4 shall be for a period from COD till the date of termination.

3.2 Subject to and in accordance with the terms and conditions set forth in this contract the rights hereby granted shall entitle the contractor to enjoy and oblige the contractor to undertake following in accordance with the provisions of this contract, the Applicable Laws and the Applicable Permits.

For Ideal Road Builders Pvt. Ltd.

[Signature]

Contractor

[Signature]

Director

-21-

Competent Officer
(i) to investigate, survey, develop, engineer, finance, procure, construct, operate, maintain the Project Facility during the contract period.

(ii) to maintain and operate the Mumbai Pune Expressway part of project Facility from the Commencement Date.

(iii) to collect toll on the existing Mumbai Pune Expressway from Commencement date as per the toll notification of MPEW.

(iv) to maintain the existing NH4 during construction period and upon completion of NH4 Part of Project Facility and during the contract period to manage, operate and maintain the NH4, Connectors and structures across MPEW.

(v) Levy, demand; collect, appropriate, the Fees/Tolls from vehicles and persons liable to payment of fees/Toll for using the Project Facility (Both NH4 and MPEW) or any part thereof and refuse entry of any vehicles to the project site if the fee is not paid except for the vehicles exempted as per Fee/Toll notifications and as specified in the contract.

(vi) perform and fulfill all of the contractor's obligations under this contract.

(vii) bear and pay all expenses, costs and charges incurred in fulfillment of all the contractor's obligations under this contract.

(viii) not to assign, create any lien or encumbrances on the whole or any part of the Project Facility or rights granted under the contract nor transfer, lease, part possession therewith same and except as expressly permitted by this contract or the Substitution / Replacement Agreement.

CLAUSE 4

4.1 Contract Period

The Contract is for a period of 15 years commencing from the Commencement Date during which the Contractor is authorized to implement the Project and to operate Project Facility including collection of fee/toll in accordance with the provisions hereof.

For Ideal Projects Ltd.

[Signature]

Competent Officer
Provided that:

in the event of the Contract being extended by MSRDC beyond the said period of 15 years in accordance with the provisions of these conditions of Contract, the Contract Period shall include the period/aggregate period by which the Contract is so extended, and

in the event of Termination, the Contract Period shall mean and be limited to the period commencing from the Commencement Date and ending with the Termination.

The Contract period includes the period of construction for National Highway 4 as well as period of construction for value addition works on Mumbai Pune Expressway and Connectors. The construction period is 2 years from the date of order to commence the work.

The contract period includes the period of operation, maintenance and Fee/Toll collection on both NH4 is period starting from COD and ending on the date of termination and period for toll collection in case of MPEW shall be starting from commencement order and ending on the date of termination.

CLAUSE 5

GENERAL OBLIGATIONS

In addition to and not in derogation or substitution of any of the obligations set out elsewhere in these conditions of Contract, the Parties agree and undertake as under

For Icord Road Builders Pvt. Ltd.

[Signature]
Contractor

[Signature]
Director

-23-

Competent Officer
5.1 Contractor’s Obligations

(i) make, or cause to be made, necessary applications to the relevant governmental Agencies with such particulars and details, as may be necessary for obtaining all Applicable Permits, and obtain such Applicable Permits in conformity with the Applicable Laws:

(ii) remove promptly from the Project Facility all surplus construction machinery and materials, waste materials (including without limitations, hazardous materials and waste water), rubbish and other debris (including without limitations accident debris) and shall keep the site in neat and clean condition and in conformity with the Applicable Laws and Applicable Permits.

(iii) investigate, study, design, construct, operate, and maintain the Project Assets/Project Facility in accordance with the provisions of these conditions of Contract, Good Industry Practice and Applicable Laws;

(iv) obtain all Applicable Permits in conformity with the Applicable Laws and be in compliance with thereof at all times during the Contract Period;

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

(vi) ensure and procure that each Project Agreement contains provisions that would entitle MSRDC or a nominee of MSRDC to step into such Agreement at MSRDC’s discretion, in place and substitution of the

Contractor Director
Competent Officer
Contractor in the event of Termination pursuant to the provisions of these conditions of Contract;

(vii) provide all assistance to the Independent Engineer / Competent Officer of MSRDC as he may reasonably require for the performance of his duties and services under these conditions of Contract;

(viii) provide to the MSRDC reports on a regular basis during the Implementation Period and the Operations Period in accordance with the provisions of these conditions of Contract;

(ix) not to claim or demand possession or control of any roads, structures or real estate which do not form part of the Project Facility.

(x) 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.

(xi) indemnify MSRDC against all actions, suits, claims, demands and proceedings any loss or damage or cost of expense that may be suffered by them on account of anything done or omitted to be done by the Contractor in connection with the performance of its obligations under these conditions of contract,

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

"P"
Contractor

Director

- 25 -

Competent Officer
(xiii) make efforts to maintain harmony and good industrial relations among
the personnel employed in connection with the performance of the
Contractor's obligations under these conditions of Contract;

(xiv) develop, implement and administer a surveillance and safety program
for the Project/Project Facility and the users thereof and the
Contractors personnel engaged in the provision of any services under any
of the Project Agreements including correction of safety violations and
deficiencies, and taking of all other actions necessary to provide a safe
environment in accordance with Applicable Laws and Good Industry
Practice;

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

(xvi) not to place or create nor to permit any Contractor or other
person claiming through or under the Contractor to create or
place any Encumbrance over all or any part of the Project
Assets, or on any rights of the Contractor therein, save and
except as expressly set forth in these conditions of Contract;

(xvii) make its own arrangements for quarrying, if necessary, and
observe and fulfill the environmental and other requirements
under the Applicable Laws and Applicable Permits;

(xviii) be responsible for safety, soundness and durability of the
Project Facility including all structures forming part thereof
and their compliance with the Specifications and Standards;

For Ideal Land Build (P.)

Contractor

Director

Competent Officer
(xix) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;

(xx) 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 only on payment;

(xxii) operate and maintain the Project at all times during the Operations Period in conformity with these conditions of Contract including but not limited to the Specifications and Standards, the Maintenance Programme and Good Industry Practice;

(xxii) remove promptly according to Good Industry Practice, from the Project Site, 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 keep the Project Site in a neat and clean condition and in conformity with the Applicable Laws and Applicable Permits.

(xxiv) Not to make any replacement, amendment or modification for any of the Project agreements without the prior written consent of MSRDC, where such replacement, amendment or modification has the effect of increasing or imposing any financial liability or obligation on MSRDC in any manner and where such amendments or modifications are made without any such consent, not to enforce such amendments or modifications nor permit enforcement therefore against MSRDC in any manner whatsoever.

5.2 Obligations of the Contractor during Implementation Period

For Ideal Road Builders Pvt. Ltd.

[Signature]

Contractor

[Signature]

Director

- 27 -

Competent Officer
(a) The Contractor shall, before commencement of construction of the Project;

(i) undertake the investigation design, engineering, procurement and construction and financing of the Project Facilities in accordance with these conditions.

(ii) operate and maintain the Project Facility at all times in conformity with this condition including but not limited to the Specifications and Standards set forth in Volume IV as per Maintenance and operation requirements and Good Industry Practice.

(iii) submit to the Independent Engineer with due regard to Project Completion Schedule and Scheduled Project Completion Date, its design, engineering 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) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project and to deal with the Independent Engineer and to be responsible for all necessary exchange of information required pursuant to these conditions of Contract;

(v) undertake, do and perform all such acts, deeds and things as may be necessary or required to adhere to the Project Completion Schedule and to achieve Project Completion under and in accordance with these conditions of Contract;

Director

Competent Officer
(vi) construct, provide and maintain a furnished site office accommodation for the Independent Engineer at the Project Site; and

(vii) provide and maintain an adequately equipped field laboratory as required for the Project Site control on the quality of materials and the Construction Works.

(b) The Contractor shall, at all times, afford access to the Project Site, to the authorized representatives of MSRDC, the Independent Engineer and officer of any Government 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 their authority and upon reasonable notice, the Contractor shall provide to such persons reasonable assistance necessary to carry out their respective duties and function.

(c) The Contractor 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.

(d) The Contractor shall bear all costs and charges for special or temporary rights of way required by it in connection with access to the Project Facility. The Contractor 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 Contract.

5.3 Contractor’s obligation for construction of Road Over Bridge and railway related works.

(a) apply for and obtain all necessary clearances and/or approvals for the construction of Road Over Bridge (ROB) from the Ministry of Railways;

[Signature]

Contractor

Director

- 29 -

Competent Officer
shall apply for and obtain all necessary approvals of the General Arrangement Drawing (GAD), detailed designs and all construction drawings for the construction of ROB from the concerned zone of Railways;

(c) the contractor shall prepare all designs compatible with the GAD approved by railways.

(d) obtain all necessary approvals to the structural design of structures within control of railways from competent railway authorities including complying with railways requirements of peer checking from railways approved consultants and construct all structures as per the specifications approved by railways and under the supervision of Railway Authority.

(e) obtain all permissions from railways for construction / erection in accordance with the Agreement Railway

(f) obtain all permissions from railway safety commissioner.

(g) Comply with railways requirements of safety.

(h) make payments, if any, to Railways for (a) for approval of designs, (b) shifting of utilities, (c) safety features, (d) supervision of construction and (e) maintenance during the Contract Period

5.4 Contractor's obligations for collection of Fee/toll on Mumbai Pune Expressways and NH4

(i) to demand and collect fee / toll only from specified Motor vehicles and trailers drawn by such vehicles that pass over the said project facility or part at the prescribed rates of toll stipulated in the contract.

For Ideal Road Builders Pvt. Ltd.

Contractor

Director

Competent Officer
(ii) to issue receipt for the amount of toll collected to vehicle operator in the form prescribed by the MSRDC.

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

(iv) to use the toll station only for the purpose of collection of toll 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 the MSRDC on request of the MSRDC.

(vi) upon expiration or termination of this Contract to return the toll stations to the MSRDC in the same condition in which it was handed over to the Contractor subject to reasonable wear and tear.

(vii) to pay to MSRDC cost of making good the damage caused to the said toll station forthwith on demand.

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

(ix) to make provision of own electric arrangement and electric lighting / lanterns etc. In sufficient numbers including all expenses required therefore for the entire period of the agreement.

(x) to pay punctually the electricity charges payable in respect of consumption of electricity at the toll station.

For Ideal Road Builders Pvt. Ltd.

[Signature]

Director

- 31 -

Competent Officer
(xi) to replace at his cost bulbs and tubes in the toll station.

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

(xiii) 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.

(xiv) to permit the officers duly authorized by the MSRDC on its behalf any time or times during the subsistence of this Contract to enter upon any part of the toll station for the purpose of inspection.

(xv) to give all required information and inspection of records to the Competent officer of MSRDC regarding the collection of toll, if asked for.

(xvi) in all respect to carry out and observe the directions that may from time to time be given to him by the Competent Officer.

(xvii) to exhibit at a place to be indicated by the MSRDC in the vicinity of the said project, boards of such size and design as may be prescribed in the Contract by the MSRDC on which the rates at which tolls have been levied on the said sections of roads and conditions of levy are written and to preserve and take care of such boards at this cost.

(xviii) to comply with provisions of the Bombay Motor Vehicles Tax Act 1958 (Bom LXV of 1958) and rules made there under and any other law/rules applicable to comply with National Highways act and rules applicable.
(xix) to maintain all electronic and electric equipments and computers in good working condition till the entire period of agreement.

(L) to replace spare parts of electrical and electronic equipments at his own cost for the equipments supplied by the MSRDC.

(L1) to provide such uniform, to the persons engaged in toll collection work at toll plazas as approved by the MSRDC.

5.5 Contractor's obligations for Maintenance of Mumbai Pune Expressways

(i) To carryout all command and control functions including control and monitoring of all subordinate organizations, development of maintenance programme for the contract period, study the relevance of activities that are being carried out, preparation of proposal for road safety.

(ii) Monitor road inspection programme

(iii) Prepare programme for repairs of damages

(iv) Make payment of all electricity, water and other charges and specially in respect of tunnels

(v) Prepare daily work reports

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

(vii) To take special precautions during the night operations and to maintain adequate lights, reflectors as specified,

(xviii) To maintain cleanliness as specified.

[Signature]

Contractor

Director

- 33 -

Competent Officer
(ix) To report promptly such damages which need urgent attention of
the independent engineer and which are potential threat to the traffic

(x) To maintain security on the project facility

(xi) To carry out any other repair works in case of emergency

(xii) To maintain adequate number of equipments, machinery, plant, vehicles
for the activity

5.6 In respect of Contractors obligation towards providing facilities to
Client.

The contractor shall provide following facilities to MSRDC for co-ordination of
project for entire period of contract.

5.6.1 Mobile Phones:

The Contractor shall supply 6 nos. of mobile / cell phones of standard make with
national roaming facility. The Contractor shall punctually pay the deposits and
monthly bills and other charges payable in respect of these cell phones. The
monthly bills shall be paid limited to Rs. 3,000/- per month per instrument by the
Contractor. The Contractor shall replace these instruments after every 5th year.

5.6.2 Inspection Vehicles:

The contractor shall provide 3 Nos. of Inspection Vehicles of make Sumo / Qualis / Bollero of 2004 make, 3 Nos. of Inspection Vehicles of Esteem or
equivalent to the MSRDC for entire contract period. The Contractor shall bear,
operational and maintenance charges of these vehicles limited to 3000 km. per
vehicle per month. The Contractor shall replace above vehicles by similar or
superior make after every 5th year during the currency of the contract.

For Ideal Road Bulder

Director

Contractor

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Competent Officer
5.6.3 Laptop / Note Book:

The Contractor shall provide 2 nos. of HP Compaq business notebook NX 9008, 6 business note book or equivalent as per following configuration:

- MS Windows Xp Professional
- Processor Intel 2.80 GHz
- 256 MB shared DDR SDRAM (1 DIMM)
- 80 GB hard drive (4200 RPM)
- 14.1 inch XGA display
- 32 MB standard shared video memory including floppy drive, DVD - Rom
- CD Writer
- V-92 K 56 Modem
- 10/100 NIC (Network card)
- 1 year worldwide limited warranty

5.6.4 To provide Competent Officer of MSRDC / Independent Engineer, site office of as specified in drawing with furniture and maintain electric, water supply and other amenities for entire period of contract.

5.7 Obligations of MSRDC.

MSRDC shall:
(i) hand over the physical possession of Project Site together with necessary right of way/way leaves to the Contractor as per the handing over schedule, free from any Encumbrance;

For Local Road Building

Director

Contractor

Competent Officer
(ii) grant or where appropriate provide necessary assistance to the Contractor in securing Applicable Permits;

(iii) grant in a timely manner all such approvals, permissions and authorizations which the Contractor may require or is obliged to seek from MSRDC in connection with implementation of the Project and the performance of the Contractor's obligations under these conditions of Contract;

(iv) subscribe to the Substitution Agreement within 30 days of intimation by the Contractor regarding Financial Close;

(v) ensure peaceful use of the Project Site by the Contractor under and in accordance with the provisions of these conditions of Contract without any let or hindrance from MSRDC or persons claiming through or under it;

(vi) upon written request from the Contractor, assist the Contractor in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favorable to the Contractor than those generally available to commercial customers receiving substantially equivalent facilities/utilities;

(vii) assure that no barriers are erected or placed by MSRDC or any Governmental Agency on the Project Facility/Project Site, except on account of any law and order situation or upon national security considerations;

(viii) assist the Contractor in obtaining necessary authority to regulate traffic at the toll plaza subject to and in accordance with the Applicable Laws;

For Ideal Road Builders Pvt Ltd,

Contractor

Director

- 36 -

Competent Officer
(ix) assist the Contractor in obtaining police assistance against payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Site/Project Facility and implementing these conditions of Contract in accordance with the provisions hereof;

(x) observe and comply with all its obligations set forth in these conditions of Contract.

CLAUSE - 6

FINANCING ARRANGEMENT

6.1 Financing Arrangement

(a) The Contractor shall at its cost, expenses and risk make such financing arrangement as would be necessary to finance the Project and to meet its obligations under these conditions of Contract in a timely manner.

(b) The Contractor shall provide to MSRDC a copy of financing package furnished by it to the prospective senior lenders. As and when such financing package is approved by the Senior lender with or without modification a copy of the same shall be furnished by the Contractor to the MSRDC.

(c) Notwithstanding anything to the contrary in this contract the Contractor shall achieve financial closure within 60 days from the date of issue of acceptance. If the Contractor fails to achieve the financial closure within the same period of 60 days MSRDC shall be entitled to terminate the contract without being liable in any manner whatsoever.

For Ideal Reo Builders Ltd.

Director

Competent Officer
(d) Financial Close:
In the event of the Contractor employing the funds borrowed from the Lenders to finance the Project, the provisions relating to Lenders including those relating to Financial Close and Substitution Agreement shall apply.

6.2 Amendments to Financing Documents
For the avoidance of doubt the Parties agree that no amendment made to the Financing Documents without express consent of MSRDC shall have the effect of enlarging in any manner, the obligation of MSRDC in respect of Termination Payment under these conditions of Contract.

CLAUSE 7.0

7.1 PERFORMANCE SECURITY
The Contractor shall submit performance security of Rs. 30,00,00,000/- (Rupees Thirty Crores only) in the form of Bank Guarantee/s from the banks as defined in Clause ------

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<th>Amount</th>
<th>Validity</th>
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<td>1.</td>
<td>Rs 2,00,00,000/-</td>
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For Ideal Road Builders Pvt. Ltd.

Contractor

Director

Competent Officer
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<th>Sr. No.</th>
<th>Amount</th>
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<td>15</td>
<td>Rs 2,00,00,000/-</td>
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for the balance period of 10 years the Contractor shall pay bank guarantee in the above series for a sum of Rs.10.00 crores as performance security which shall be refunded to the Contractor within 2 months of the expiry of the Contract Period upon full and satisfactory compliance by the Contractor with all obligations and requirements under the Contract provided there is no claim of the MSRDC against the Contractor after a specific written request is received from the Contractor.

7.2 CLAIMS UNDER PERFORMANCE SECURITY:

7.2.1 The claims under performance security shall be made by the MSRDC after notifying the Contractor stating the nature of the default in which respect the claim is made.

7.2.2 In the event of the Contractor being in default in the due and faithful performance of its obligations under this Contract and failing to remedy such default within the period, the MSRDC shall without prejudice to its other rights and remedies hereunder be entitled to encash and appropriate the Performance Security as Damages for such default. Upon such encashment and appropriation of the Performance Security, MSRDC shall grant a period of 15 (fifteen) days to the Contractor.
Contractor to provide fresh Performance Security and the Contractor shall within the time so granted furnish to MSRDC such Performance Security failing which MSRDC shall be entitled to terminate this Contract under clause 47. The provision set forth in Clause 7.2.1 and this Clause 7.2.2 shall apply mutatis-mutandis to such fresh performance security.

7.2.3 Notwithstanding anything to the contrary contained in clause 7.2.2, upon furnishing of fresh Performance Security in accordance with clause 7.2.2, the Contractor shall be granted an additional period of 60 (Sixty) days as Cure Period for remedying the defaults and complying with his obligations under this Contract. In the event of the Contractor continuing to be in breach of the provisions of this Contract after such Cure Period, MSRDC shall be entitled to terminate this Contract under the provisions of Clause 47.

CLAUSE - 8.0

COLLECTION AND APPROPRIATION OF FEE/TOLL

8.1 The Contractor shall be entitled during the contract period to levy and collect the Fee/Toll from the users of Project Facility pursuant to in accordance with the Fee/Toll notification set forth in Section III & IV of this Volume. It is specifically stated here that the toll on users of Mumbai Pune Expressway and Fee on users of National Highway 4 is different and is in accordance with separate notifications issued by Government of Maharashtra and Government of India respectively. The Contractor shall be deemed to have acquainted himself with the Toll/Fee structures, the travel route, the exemptions and the concessions.

For Ideal Road Builders Pvt. Ltd.

[Signature]

DIRECTOR

Competent Officer
8.2 The Fee/Toll notifications, interalia provides for revision in fees / toll and same and except as provided in the Fee/Toll notification the contractor is not entitled and shall not seek any relief whatsoever from MSRDC on any other account except in accordance with express provisions of this agreement.

8.3 Subject to the Fee Notification, the Contractor may formulate, publish and implement appropriate scheme(s) for frequent users as may reasonably be required by local circumstances from time to time.

8.4 The Contractor shall not levy and collect any Fee on National Highway 4 until it has received Completion Certificate or the Provisional Certificate for the desired milestones on N.H.4 (As per the mile stones prescribed) In case of Mumbai Pune Expressway the contractor shall start the toll collection work from the commencement date. The Contractor shall not be allowed to start toll collection on completing the last mile stone of N.H.4 unless he has achieved the completion of works on MPEW and connectors.

8.5 The Contractor shall not collect any Fee/Toll in relation to Exempted Vehicles.

8.6 The Contractor shall pay MSRDC Lumpsum Upfront Payment against the Fee/Toll collection rights granted to the contractor for the contract period (in case of MPEW for contract period and in case of NH 4 Contract period minus construction period : as per the mile stones) after the acceptance Letter is issued. The Lumpsum front payment shall be paid within 60 days of the date of issue of acceptance letter by the MSRDC.

8.7 The total payment to MSRDC offered by the contractor in his bid against toll collection rights granted to the Contractor for toll to be collected at nine toll locations shall be deemed to be offered for each toll location as per following proportions in cases where toll stations are opened in future the proportions will be

Contractor

Director

Competent Officer
modified considering the volume of traffic at such toll stations/plazas

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<th>S. No.</th>
<th>Toll Station</th>
<th>Proportion of bid payment deemed to be offered</th>
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<tr>
<td>1</td>
<td>Khalapur main on MPEW</td>
<td>26%</td>
</tr>
<tr>
<td>2</td>
<td>Khalapur connector on MPEW</td>
<td>2%</td>
</tr>
<tr>
<td>3</td>
<td>Shedung I on MPEW</td>
<td>3%</td>
</tr>
<tr>
<td>4</td>
<td>Kusgaon connector on MPEW</td>
<td>3%</td>
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<tr>
<td>5</td>
<td>Talegaon main on MPEW</td>
<td>26%</td>
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<tr>
<td>6</td>
<td>Shil phata on NH4</td>
<td>18%</td>
</tr>
<tr>
<td>7</td>
<td>Shedung II on NH4</td>
<td>4%</td>
</tr>
<tr>
<td>8</td>
<td>Kusgaon II on NH4</td>
<td>4%</td>
</tr>
<tr>
<td>9</td>
<td>Dehu road on NH4</td>
<td>14%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100.00</td>
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</table>

8.8 New Entry/Exits:
MSRDC shall have authority to open new exits or entries on the Mumbai-Pune Expressway. The Contractor if found necessary shall be asked to levy the toll as per the direction of the MSRDC. The Contractor shall keep separate account of toll income from the additional toll booths. The net income generated shall be shared in the ratio of 90:10 by the MSRDC and Contractor respectively. The expenditure towards construction of toll plazas, providing toll booths, equipment, etc. for smooth functioning of toll plazas shall be borne by the Contractor.

8.9 The Contractor shall submit the traffic projections as well as revenue projections he has considered for computation of bid price, for entire contract period along with his bid.

For Ideal Road Builders & P. Ltd.

[Signature]

Contractor

[Signature]

Competent Officer
8.10 Any increase in toll income due to increase of toll rates due to change in toll policy of MPEW or MORT&H shall be passed on by the Contractor to MSRDC in weekly installments.

CLAUSE - 9

INDEPENDENT ENGINEER

9.1 For the purpose of the contract MSRDC shall appoint Independent engineer vested with such authority specified in or necessarily implied from the contract provided that the Independent Engineer shall obtain specific approval of MSRDC before exercising any such authority in respect of following acts:
1) Granting extension to Construction Period.
2) Granting extension to Contract Period
3) Approving sub lettings of the work.
4) Approving compensation to be paid to the Contractor.

Except as expressly stated in the contract, the Independent Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract.

9.2 APPOINTMENT OF INDEPENDENT ENGINEER

(a) After issue of Letter of Acceptance the MSRDC shall forward a Panel of 5 short listed Consultants (out of the Consultants mentioned in the Annexure)
(b) The Contractor shall within 15 days from the date of receipt of panel submit to MSRDC 3 names out of the short listed 5 Consultants for appointment of the Independent Engineer, to undertake, perform, carry out the duties, responsibilities, services and activities specified in or necessarily implied from the Contract.

For

Contractor
Director

Competent Officer
(c) MSRDC shall within 15 days from the date of receipt of such request, appoint the Independent Engineer out of the panel, and communicate the same to the Contractor. The tenure of the Independent Engineer shall be initially for a period of 3 years from the date of Commencement of the contract. After 3 years both the parties considering the performance of the Independent Engineer decide on extending the term or appoint fresh Independent Engineer by following the procedure as set forth in (a) above.

(d) The Independent Engineer shall submit to the MSRDC reports at least once every month or more frequently as the situation may warrant on the progress of implementation of the Project. Such reports of Independent Engineer shall include but not be limited to the matters and things set forth in Volume II of the bid-document.

(e) The Independent Engineer shall submit bills for periodic payment in accordance with terms of its appointment to MSRDC. Upon certification of such bills being intimated in writing by MSRDC, the Contractor shall within 15 days of such intimation, pay to MSRDC 100% of the amount of bills certified by MSRDC. The total fee payable payable to the Independent Engineer shall be maximum up to Rs. 15.00 Lacs per month during the construction period and Rs. 5.00 Lacs per month during the maintenance period.

(f) If either party disputes any advice, instruction or decision of the Independent Engineer, the same shall be resolved in accordance with the Dispute Resolution Procedure.

9.3 TERMINATION AND FRESH APPOINTMENT

If MSRDC or the Contractor have reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, MSRDC may terminate the appointment of the independent Engineer and
appoint another Independent Engineer in accordance with the preceding sub-
articles (a) and (b) of clause 9 above.

CLAUSE - 10

DRAWINGS

10.1 Preparation of Drawings and Designs

The Contractor shall, at its cost, charges and expenses, cause Designs and
Drawings to be prepared in accordance with the Specification and Standards,
Design criteria and surveys and other data collected by the contractor required
for the purpose of design in sufficient details and the design calculations required
for the preparation of the drawings. Design shall be prepared by qualified
designers who are engineers or other professionals. For each part of the Works,
prior consent of the Independent Engineer shall be obtained to the designer and
design consultant, if they are not named as such in the Contract. Nothing
contained in the Contract shall create any contractual relations or professional
obligations between any designer, or a design consultant.

The Contractor holds himself, his designers and design consultants as having
the experience and capability necessary for the design. The Contractor
undertake that the designers shall be available to attend discussion with the
Independent Engineer at all reasonable times during the Contract Period.

10.2 Construction Document

The Contractor shall prepare Construction Documents in sufficient detail to
satisfy all regulatory approvals, to provide suppliers and construction personnel
sufficient instruction to execute the Works, and to describe the

For Ideal Road Bu

Director - 45 -
Competent Officer
operation of the completed Works. The Independent Engineer shall have the
eright to review and inspect the preparation of Construction Documents, wherever
they are being prepared.

Each of the Construction Documents shall, when considered ready for use, be
submitted to the Independent Engineer for pre-construction review. In this Sub
Clause, "review period" means the period required by the Independent Engineer,
which (unless otherwise stated in the scope) shall not exceed 21 days,
calculated from the date on which the Independent Engineer receives a
Construction Document and the Contractor's notice that it is considered ready,
both for a pre-construction review in accordance with this Sub Clause, and for
use. If the Independent Engineer within such review period, notifies the
Contractor that such Construction Document fails (to the extent
stated) to comply with the Specifications and Standards it shall be rectified,
resubmitted and reviewed in accordance with this Sub Clause, at the
Contractor's cost.

For each part of the works, and except to the extent that the prior consent of the
Independent Engineer shall have been obtained:

(a) construction shall not commence prior to the expiry of the review period
for the Construction Document which are relevant to the design and
construction of such part;

(b) construction shall be in accordance with such Construction Documents;
and

(c) if the Contractor wishes to modify any design or document which has
previously been submitted for such pre-construction review, the
Contractor shall immediately notify the Independent Engineer, and

Contractor Director

Competent Officer
shall subsequently submit revised documents to the Independent Engineer for pre-construction review.

If the Independent Engineer instructs that further Construction Documents are necessary for carrying out the Works, the Contractor shall upon receiving the Independent Engineer's instructions prepare such Construction Document.

Errors, omissions, ambiguities, inconsistencies, inadequacies and other defects shall be rectified by the Contractor at his cost.

10.3 Contractor's Undertaking

The Contractor undertakes that, if legally and physically possible, the design, the Construction Documents, the execution and the completed works will be in accordance with the following, in order of priority:

(a) the law in the India, and
(b) the document forming the Contract, as altered or modified by Variations.

10.4 Technical Standards and Regulations

The design, the Construction Documents, the execution and the completed works shall comply with the technical standards, construction and environmental regulations, regulations application to the product being produced from the Works, and the standard stipulations and specifications in the Contract applicable to the Contractor's Proposal, annexures and Scope, or defined by law. References in the Contract to such specifications and other matters shall be understood to be references to the latest edition applicable on the Bid Date, unless stated otherwise. If substantially changed or new

For Ideal Road Build. & P. Ltd.

Contractor   Director   Competent Officer
applicable national specifications, technical standards or regulations come into force after the Bid Date, the Contractor shall submit proposals for compliance to the Independent Engineer. In the event that the Independent Engineer determines that such proposal constitute a variation, he shall then initiate a Variation in accordance with Clause 45.

10.5 Samples

The Contractor shall submit the following samples and relevant information to the Independent Engineer for pre-construction review in accordance with the procedure for Construction Documents described in Sub-Clause 10.2

(a) manufacturer's standard samples of Materials
(b) samples (if any) specified in the Standards and Specifications, and
(c) additional samples instructed by the Independent Engineer.

Each sample shall be labeled as to origin and intended use in the Works.

10.6 As-Built Drawings

The Contractor shall prepare, and keep up to date, a complete set of "as built" records of the execution of the Works, showing the exact "as built" locations, sizes and details of the work as executed, with cross references to relevant specifications and data sheets. These records shall be kept on the site and shall be used exclusively for the purposes of this Sub Clause. Two copies shall be submitted to the Independent Engineer prior to the commencement of the Test on Completion.

For Ideal Road Builders Pvt. Ltd.

[Signature]

Director

Contractor

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Competent Officer
In addition, the Contractor shall prepare and submit to the Independent Engineer "as-built drawings" of the works, showing all Works as executed. The drawings shall be prepared as the works proceed, and shall be submitted to the Independent Engineer for his inspection. The Contractor shall obtain the consent of the Independent Engineer as to their size, the referring system and other patent details.

Prior to the issue of any Completion Certificate, the Contractor shall submit to the Independent Engineer one CD, one full size original copy and six printed copies of the relevant "as-built drawing", and any further Construction Documents specified by the Independent Engineer. The Works shall not be considered to be completed for the purpose of commercial operation until such documents have been submitted to the Independent Engineer.

10.7 Operation and Maintenance Manuals

Prior to commencement of the Tests on Completion, the Contractor shall prepare, and submit to the Independent Engineer operation and maintenance manuals in accordance with the specifications and standards in sufficient detail for the MSRDC to operate, maintain, dismantle, reassemble, adjust and repair the works. The works shall not be considered to be completed for the purposes of commercial operation until such operation and maintenance manual have been submitted to the Independent Engineer.

10.8 If errors are found in the Construction Documents, they and the works shall be corrected at the Contractor's cost.

10.9 The Contractor shall indemnify the MSRDC against all claims of infringement
(a) of any patent, registered design, copyright, trademark or trade name, or other intellectual property, right, if any;

(b) The claim or proceedings arise out of the design, construction, manufacture or use of the works;

(c) The infringement (or allegation of infringement) was not the result of part (or all) of the works being used for a purpose other than that indicated by, or reasonably to be inferred from, the Contract;

(d) The infringement (or allegation of infringement) was not the result of part (or all) of the works being used in association or combination with anything not supplied by the Contractor, unless such association or combination was disclosed to the Contractor prior to the Base date or is stated in the Contract; and

(e) The infringement (or allegation of infringement) was not the unavoidable result of the Contractors compliance with the Standards and Specifications.

CLAUSE - 11

11.1 Contractors Representative

The contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Independent Engineer for

For Ideal Road Builders Pvt. Ltd.

Contractor Director

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consent the name and particulars of the person the Contractor proposes to appoint as Contractor’s Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractors Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of Independent Engineer, revoke the appointment to the Contractor’s Representative or appoint a replacement.

The whole time of the Contractor’s Representative shall be given to directing the Contractor’s performance of the Contract. If the Contractor’s Representative is to be temporarily absent from the Site during the execution of the works, a suitable replacement person shall be appointed, subject to Independent Engineer’s prior consent, and Independent Engineer shall be notified accordingly.

The Contractor’s Representative shall, on behalf of the Contractor, receive instructions as per the Contract.

The Contractor’s Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until Independent Engineer has received prior notice signed by the Contractor’s Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor’s Representative and all these persons shall be fluent in the language for communications defined in 52.4 & 52.5 (Law and Language)

Contractor

Competent Officer
11.2 Subcontractors

The contractor shall not subcontract the whole of the works.

The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Contract.

a) the Contractor shall not be required to obtain consent to suppliers of Materials or to a subcontract for which the Subcontractor is named in the contract;

b) the prior consent of Independent Engineer shall be obtained to other proposed Subcontractors;

c) the Contractor shall give Independent Engineer not less than 20 days notice of the intended date of commencement of each Subcontractor’s work, and of the commencement of such work on the site;

11.4 Co-operation

The contractor shall, as specified in the contract or as instructed by Independent Engineer, allow appropriate opportunities for carrying out work to:

(a) the Independent Engineer,
(b) any other contractors employed by the MSRDC, and
(c) the personnel of any legally constituted public authorities

who may be employed in the execution on or near the site of any work not included in the Contract.

Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to incur Unforeseeable Cost. Services of these personnel and
other contractors may include the use of Contractor's Equipment. Temporary Works or access arrangements which are the responsibility of the Contractor.

If, under the Contract, the MSRDC is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Construction Documents, the Contractor shall submit such documents to Independent Engineer in the time and manner stated in the specification.

CLAUSE - 12

12.1 Setting Out

The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract as per Scope, Standards Specified in the Contract or notified by the Independent Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

If the Contractor suffers delay and/or incurs cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or cost, the Contractor shall give notice to Independent Engineer and shall be entitled such compensation as Independent Engineer may decide.

CLAUSE - 13

13.1 Safety Procedures:

The Contractor shall:

[Signature]
Contractor

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Director

Competent Officer
(a) comply with all applicable safety regulations,

(b) take care of the safety of all persons entitled to be on the Project Facility

(c) use reasonable efforts to keep the Project Facility and works clear of unnecessary obstruction so as to avoid danger to these persons.

(d) Provide fencing, lighting, guarding and watching of the Works until completion of construction and during operation and maintenance.

(e) Provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary because of the execution of the works, for the use and protection of the public and of owners and occupiers of adjacent land.

(f) Provide at all times in operation all signals, lights at the toll plaza for the safety of moving traffic as well as persons engaged in toll collection work

(g) Provide at all times all safety equipments such as barricades, hazard markers, signs, lights, fences during maintenance operation for the safety of moving traffic as well as workers engaged in operation,

CLAUSE - 14

14.1 Quality Assurance

The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in

For Ideal Road Builders Pvt. Ltd.

Contractor: Director: Competent Officer:
accordance with the details stated in the Contract. Independent Engineer shall be entitled to audit any aspect of the system.

Details of all procedures and compliance documents shall be submitted to Independent Engineer for information before each design and execution stage is commenced. When any document of a technical nature is issued to Independent Engineer, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

CLAUSE - 15

15.1 Site Data

The MSRDC shall have made available to the Contractor for his information, prior to the bidding all relevant data in the MSRDC’s possession at the Project Facility including environmental aspects. The MSRDC shall similarly make available to the Contractor all such data which come into the MSRDC’s possession after the Contract. The Contractor shall be responsible for interpreting all such data. For the purpose of work of NH4 including construction and maintenance, the Contractor shall be responsible for collection of all site data necessary to carry out his obligations under the contract including subsoil investigation, data on existing current pavement conditions etc. In respect of toll collection work the Contractor shall carry out his own traffic survey, exempted vehicles, local traffic, travel pattern and all such relevant data likely to affect the toll / fee revenues. In respect of maintenance of MPEW the contractor shall obtain all information about the assets to be maintained, security requirements, conditions of assets, arboriculture etc., that affect the costing.
15.2 To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Bid or works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Bid as to all relevant matter, including (without limitations)

(a) the form and nature of the site, including subsurface conditions,
(b) conditions of existing structures, pavement
(c) existing MPEW assets.
(d) the hydrological and climatic conditions
(e) the extent and nature of the work and goods necessary for the execution and completion of the Works and the remedying of any defects and operation and maintenance
(f) the Laws, procedures and labour practices, and
(g) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other service.
(h) The traffic data necessary for evaluation of toll revenues.

CLAUSE - 16

16.1 Sufficiency of the Contract

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract amount, and have based the Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub Clause 15.2. Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the...
contractor's obligations under the Contract and all things necessary for the proper execution and completion of the Works including operation, maintenance of the project facility, fee/Toll collection and upfront payments to MSRDC and the remedying of any defects.

CLAUSE - 17

17.0 Unforeseeable Physical Conditions
In this Sub-Clause "physical conditions" means natural physical conditions and man made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the works, including sub-surface and hydrological conditions but excluding climatic conditions.

17.1 If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to Independent Engineer as soon as practicable.

17.2 The notice shall describe the physical conditions, so that they can be inspected by Independent Engineer, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which Independent Engineer may give. If an instruction constitutes a variation, Clause 4.5 (Variations and change of scope) shall apply.

If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs cost or suffers loss in Fee/Toll revenues due to these conditions, the Contractor entitled...
(b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;

(c) the MSRDC shall not be responsible for any claims which may arise from the use or otherwise of any access route.

(d) the MSRDC does not guarantee the suitability or availability of particular access routes, and

(e) Costs due to non suitably or non availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

CLAUSE - 21

Transport of Goods

Unless otherwise stated in the Contract:

(a) the Contractor shall give Independent Engineer not less than 21 days notice of the date on which any plant or a major item of other goods will be delivered to the site;

(b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all goods and other things required for the works; and

(c) the Contractor shall indemnify and hold the MSRDC harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods and shall negotiate and pay all claims arising from their transport.

Contractor

Competent Officer
Contractor's Equipments

The Contractor shall be responsible for all Contractor's Equipment. When brought on to the site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the site any major items of Contractor's Equipment without the consent of Independent Engineer. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off site.

Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values indicated in the Specification, and shall not exceed the values prescribed by applicable Laws.

Electricity, Water and Fuel

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may required.

Contractor

Competent Officer
The Contractor shall be entitled to use for the purpose of the Works such supplies of electricity, water, gas and other services as may be available on the site and of which details and prices are given in the Specification. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by Independent Engineer.

CLAUSE 25

UTILITIES

The contractor shall be responsible for payment towards shifting of utilities required for execution of works to the extent of Rs 5,00,00,000 (Rs five crores) during Construction period. The payment shall be made by the contractor to the utility department on recommendation of competent officer of MSRDC. If additional sum is required towards shifting of utilities the contractor shall also pay such sums for which the Contractor shall be compensated. If total of payment towards shifting of utilities is less than Rs. 5.00 crores then the balance amount out of Rs. 5.00 Crores shall be paid by the contractor to MSRDC before 30 days of COD. This shall be in addition to requirement set forth in Clause 5.34 (b).

The Contractor shall be responsible for payment towards street lighting and electrification at various junctions on N.H.4 including village approaches. The Contractor liability shall be limited to Rs. 2,00,00,000/- (Rupees Two Crores Only) during construction period. The payment shall be made by the contractor to the utility department on recommendation of competent officer of MSRDC/
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Independent Engineer. If total payment on account of street lighting and electrification exceeds Rs. 2.00 crores the contractor shall also pay such sums but Contractor shall be compensated. If total of payment towards street lighting and electrification is less than Rs. 2.00 crores then the balance amount out of Rs. 2.00 Crs. shall be paid by the contractor to MSRDC before 30 days of COD.

CLAUSE 26

BEAUTIFICATION

The Contractor shall be responsible for payment towards beautification / landscaping and other such works to the extent of Rs 10 crores under taken by MSRDC on the project facility .MSRDC under the guidance of committee of experts carry out the work by appointing specialized agencies for this purpose. The Contractor shall make payments to these specialized agencies on the recommendation of Independent Engineer/Competent Officer.

CLAUSE 27

DISMANTLED MATERIAL

All the dismantled materials obtained during construction, operation, maintenance of the Project Facility shall be the property of Contractor and the Contractor shall dispose off the material in suitable manner at suitable place in accordance with the applicable laws.

CLAUSE - 28

28.1 Progress Reports

For Ideal Road Builders Pvt. Ltd.

Contractor

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Competent Officer
Unless otherwise stated in the Contract, monthly progress reports shall be prepared by the Contractor and submitted to Independent Engineer in the prescribed formats approved by the Independent Engineer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Completion Certificate for the works.

28.2 Each report shall include but not limited to:

(a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, manufacture, delivery to site, construction, erection and testing, and including these stages for work by each nominated Subcontractor.

(b) Photographs showing the status of manufacture and of progress on the site;

(c) For the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress and the actual or expected dates of:

(i) Commencement of manufacture.
(ii) Contractor's inspections
(iii) Tests, and
(iv) Shipment and arrival at the site.
(d) The details described in Sub-Clause 32.9 and 32.10 (Records of Contractor’s Personnel and Equipment);

(e) Copies of quality assurance documents, test results and certificates of materials;

(f) Safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and

(g) Comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract and the measures being (or to be) adopted to overcome delays.

CLAUSE - 29

29.1 Security of the Site

Unless otherwise stated in the Particular Conditions:

(a) the Contractor shall be responsible for keeping unauthorized persons off the site and

(b) authorized persons shall be limited to the Contractor’s Personnel and to any other personnel notified to the Contractor, by the MSRDC or Independent Engineer, as authorized personnel of the MSRDC’s other contractors on the site.

CLAUSE - 30

30.1 Contractor’s Operations on Site

For Ideal Road Build Ltd.

[Signature]

Contractor

[Signature] Director

[Signature] Competent Officer
The Contractor shall ensure that site is cleared by Independent Engineer and take all necessary precautions to keep Contractor's Personnel within the site and the adjacent land.

During the execution of Works, the Contractor shall clear away and remove any Contractor's Equipment which are no longer required.

Upon the Issuance of the Completion Certificate, the Contractor shall clear away and remove, for Site and the Works in a clean and efficient manner, all furniture, rubbish and shall not retain on Site, any materials or items of equipment except for any materials, tools or equipment required for the completion of the Works.

CLAUSE 31

31.1 Fossils

All fossils, bones and other remains or items of geology on the site shall be placed under the care of a Competent Officer. The Contractor shall take reasonable steps to prevent other persons from removing the same.
CLAUSE - 32

32.1 Staff and Labour

Engagement of Staff and Labour

Except as otherwise stated in the Specifications, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

32.2 Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages and observe conditions of labour which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers' whose trade or industry is similar to that of the Contractor.

32.3 Persons in the Service of MSRDC

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the MSRDC.

32.4 Labour Laws

The Contractor shall comply with all the relevant labour laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration and shall allow them all their legal rights.

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Competent Officer
32.5 Working Hours

No construction work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the contract. The Fee / toll collection work is round the clock activity for all the days during contract period as per condition of the contract.

(a) otherwise stated in the Contract,
(b) Independent Engineer gives consent, or
(c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise Independent Engineer.

32.6 Facilities for Staff and Labour

Except as otherwise stated in the Specifications, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Competent Officer of the MSRDC as well as Independent Engineer, as stated in the Conditions of Contract.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

32.7 Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel, in collaboration with local health For Ideal Road Builders Pvt. Ltd.

Contractor

Director

Competent Officer
authorities the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the site and at any accommodation for Contractor's and Independent Engineer and that suitable arrangements are made for all necessary welfare and hygienic requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise the responsibility and authority.

The Contractor shall send, to Independent Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as Independent Engineer may reasonably require.

32.8 Contractor's Superintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfill the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in sub-Clause 52.4 and 52.5 Law and Language) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

[Signature]
Contractor

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Competent Officer
32.9 Contractor's Personnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. Independent Engineer may require the Contractor to remove (or cause to be removed) any person employed on the site or works including the Contractor's Representative, who in the opinion of the Independent Engineer:

(a) persists in any misconduct or lack of care
(b) carried out duties incompetently or negligently.
(c) Falls to conform with any provisions of the Contract, or
(d) Persists in any conduct which is prejudicial to safety, health or the protection of the environment.
(e) Misbehaves with the travelers during Fee/Toll collection operation
(f) Neglects safety precautions

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

32.10 Records of Contractor's Personnel and Equipment

The Contractor shall submit, to Independent Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the site during the Contract Period. Details shall be submitted each calendar month, in a form approved by Independent Engineer.

32.11 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent unlawful, violent or disorderly conduct by or amongst the Contractor's
(b) additional samples instructed by Independent Engineer as a Variation.

Each sample shall be labeled as to origin and intended use in the Works.

33.3 Inspection

The Independent Engineer shall at all reasonable times:

(a) have full access to all parts of the site and to all places from which natural materials are being obtained, and

(b) during production, manufacture and construction (at the site and elsewhere) be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of plant and production and manufacture of materials.

The Contractor shall give the Independent Engineer full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

The Contractor shall give notice to Independent Engineer whenever any work is ready and before it is cover up, put out of sight, or packaged for storage or transport. Independent Engineer shall then either carry out the examination, inspection, measurement of testing without unreasonable delay, or promptly give notice to the Contractor that Independent Engineer does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by Independent Engineer, uncover the work and thereafter reinstate and make good, all at the Contractor’s cost.

For Ideal Road Builders Pvt. Ltd.

[Signature]

Contractor

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Competent Officer
Personnel, and to preserve peace and protection of persons and property on and near the site.

32.12 The Contractor shall provide such uniform to persons engaged in operation and toll collection work as approved by MSRDC so as to distinguish them from general public or persons not connected with such operation.

CLAUSE - 33

Plant, Materials and Workmanship

33.1 Manner of Execution

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works.

(a) in the manner (if any) specified in the Contract
(b) in a proper workmanlike and careful manner, in accordance with recognized good practice, and
(c) with properly equipped facilities and non-hazardous materials, except as otherwise specified in the Contract.

33.2 The Contractor shall submit the following samples of Materials, and relevant information, to Independent Engineer for consent prior to using the Materials in or for the Works:

(a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost and

For Ideal Road Builders Pvt. Ltd.

Director

Competent Officer
33.4 Testing

This Sub Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any). The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with Independent Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

Independent Engineer may, under Clause 45 (Variations and Adjustments), vary the location or details of specified tests, or instruct the Contractor to carry out additional tests, if these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

Independent Engineer shall give the Contractor not less than 24 hours notice of Independent Engineer's intention to attend the tests. If Independent Engineer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by Independent Engineer and the tests shall then be deemed to have been made in Independent Engineer's presence.

The Contractor shall promptly forward to Independent Engineer duly certified reports of the tests. When the specified tests have been passed, Independent Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If Independent Engineer has not attended the tests, he shall be deemed to have accepted the reading as accurate.

For West Road Builders Pvt. Ltd.

[Signature]

Director

Contractor

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Competent Officer
33.5 If the Contractor suffers delay and/or incurs cost from complying with these instructions or as a result of a delay for which the MSRDC is responsible, the Contractor shall give notice to Independent Engineer and shall be entitled to compensation.

33.6 Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, Independent Engineer may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

If Independent Engineer requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions, if the rejection and retesting cause the MSRDC to incur additional costs, the Contractor shall pay these costs to the MSRDC.

33.7 Remedial Work

Notwithstanding any previous test or certification, Independent Engineer may instruct the Contractor to:

(a) remove from the site and replace any Plant or Materials which is not in accordance with the Contract.
(b) remove and re-execute any other work which is not in accordance with the Contract, and
(c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

For Instruction

[Signatures]
Contractor
Director
Competent Officer
The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

If the Contractor fails to comply with the instruction, the MSRDC shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall pay to the MSRDC all costs arising from this failure.

CLAUSE -34

Royalties

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

(a) natural Materials obtained from outside the site, and

(b) the disposal of material from demolitions and excavations and of other surplus material (whether natural or man made) except to the extent that disposal areas within the site are specified in the Contract.

CLAUSE -35

COMMENCEMENT, DELAYS AND SUSPENSION

35.0 Commencement of work.

Unless otherwise stated in the Contract, the Commencement Date shall be the } 
For ] 75 - 
Director 
Competent Officer
date 7 days after the Contractor has paid the lumpsum upfront payment as specified in clause. The toll collection work on MPEW as well as construction work of NH4 and MPEW and operation and maintenance of MPEW and existing of NH4 shall begin on this date.

35.1 **Time for Completion**

The Contractor shall complete the whole of the construction works and each part (if any), within the Time for Completion for the Works or part (as the case may be) specified in Clause 35 including:

(a) achieving the passing of the Tests on Completion, and
(b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes operation.

35.2. The Contractor shall submit a detailed time programme to Independent Engineer within 28 days after receiving the notice under Sub Clause 35.0 (Commencement of Works). The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

(a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to site, construction, erection and testing.

(b) each of these stages for work by each nominated Subcontractor (as defined in Clause 5(Nominated Subcontractors))

Contractor

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(c) the sequence and timing of inspections and tests specified in the Contract, and

(d) a supporting report which includes:

(i) a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and

(ii) details showing the Contractor's Personnel and of each type of Contractor's Equipment, required on the site for each major stage.

35.3 Unless Independent Engineer, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Independent Engineer shall be entitled to rely upon the programme when planning their activities.

35.4 The Contractor shall promptly give notice to Independent Engineer of specific probable future events or circumstances which may adversely affect the work, delay the execution of the Works. Independent Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause ---- (Variation Procedure).

35.5 If, at any time, Independent Engineer gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to Independent Engineer in accordance with this Sub Clause.

For Ideal Road Builders Pvt. Ltd.

Director Competent Officer
35.6 Extension of Time for Completion

The Contractor shall be entitled to an extension of the Time for Completion of construction work to the extent that completion is or will be delayed by any of the following causes:

(a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub Clause 45.0 (Variation Procedure)).

(b) a cause of delay giving an entitlement to extension of time under a Sub Clause of these conditions.

(c) exceptionally adverse climatic conditions.

(d) unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or

(e) any delay, impediment or prevention caused by or attributable to the MSRDC, the Independent Engineer, or other contractors on the site.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to Independent Engineer when determining each extension of time the Independent Engineer shall review previous determinations and may increase but shall not decrease the total extension of time.

35.7 Delays caused by Authorities

If the following conditions apply, namely:

For Ideal Road Builders Pvt Ltd,

[Signature]
Contractor

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Director

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Competent Officer
(a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities.
(b) These authorities delay or disrupt the Contractor's work, and
(c) The delay or disruption was Unforseeable,

then the delay or disruption will be considered as a cause of delay under sub-paragraph (b) of sub Clause 35.6 (Extension of Time for Completion).

35.8 Rate of Progress

If, at any time:
(a) actual progress is too slow to complete within the Time for Completion, and/or
(b) progress has fallen (or will fall) behind the current programme under Sub Clause 53.2 (Programme)

other than as a result of a cause listed in Sub Clause 35.6 (Extension of Time for Completion), then Independent Engineer may instruct the Contractor to submit, under Sub Clause 35.2 (Programme), a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for completion.

Unless Independent Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the MSRDC to incur additional costs, the Contractor shall pay these costs to the MSRDC.
35.9 Suspension of Work

Independent Engineer may at any time instruct the Contractor to suspend progress of part or all of the works. During such suspension, the Contractor shall protect, store and secure such part or the works against any deterioration, loss or damage.

Independent Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 35.10 to 35.13 shall not apply.

35.10 Consequences of Suspension

If the Contractor suffers delay and/or incurs cost from complying with Independent Engineers instructions under Sub Clause 35.9 (Suspension of Work) and/or from resuming the work, the Contractor shall give notice to Independent Engineer and shall be entitled for compensation.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub Clause 35.9 (Suspension of Work).

35.11 Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to site, if,

(a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days, and

[Signature]
Contractor

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Director

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Competent Officer