



**“APPOINTMENT OF MARKETING CONSULTANTS FOR  
GENERATING REVENUE TO TNRDC/ ITEL BY  
ADVERTISING / SELLING ADVERTISEMENT SPACE IN  
EAST COAST ROAD AND RAJIV GANDHI SALAI,  
CHENNAI”**

**BID DOCUMENT**

- Section I : Instruction to Bidders  
Section II : Forms of Bids & Forms of Securities  
Section III : Conditions of Contract  
Section IV : Contract Data

**November, 2013**

***TNRDC/ ITEL***

Tamil Nadu Road Development Company Ltd./IT Expressway Limited,  
Sindur Panthion Plaza, 2<sup>nd</sup> Floor, 346, Pantheon Road,  
Egmore, Chennai- 600 008  
Phone: 044 - 2819 4800, 044 - 2819 4900  
Fax : 91- 44 - 2819 5800

**TAMIL NADU ROAD DEVELOPMENT  
COMPANY LTD (TNRDC) /  
IT EXPRESSWAY LIMITED (ITEL)**

**SINGLE COVER TENDER**

**“APPOINTMENT OF MARKETING CONSULTANTS FOR  
GENERATING REVENUE TO TNRDC/ ITEL BY  
ADVERTISING / SELLING ADVERTISEMENT SPACE IN  
EAST COAST ROAD AND RAJIV GANDHI SALAI,  
CHENNAI”**

**SCHEDULE OF BIDDING PROCESS**

Period of Issue of Tender Document	<b>01<sup>st</sup> November, 2013 to 18<sup>th</sup> November, 2013</b>
Bid Document Price	<b>Rs.9,000/- DD in Favour of M/s. Tamil Nadu Road Development Company Limited (TNRDC),payable at Chennai</b>
Earnest Money Deposit (EMD) / Bid Security	<b>Rs 7,50,000/- DD in Favour of M/s. Tamil Nadu Road Development Company Limited (TNRDC, payable at Chennai</b>
Last Date and Time for Receipt of Bids	<b>20<sup>th</sup> November, 2013 at 15.00 Hrs</b>
Bid . Opening Date and Time	<b>20<sup>th</sup> November,, 2013 at 15.30 Hrs</b>

# **TAMIL NADU ROAD DEVELOPMENT COMPANY LTD (TNRDC) / IT EXPRESSWAY LIMITED (ITEL)**

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GENERATING REVENUE TO TNRDC/ ITEL BY  
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<b>Invitation for Bids</b>	
Section I	Instruction to Bidders
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## **INVITATION FOR BIDS**

### **SINGLE COVER TENDER**

#### **“APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI”**

Bids are invited by **M/s. Tamil Nadu Road Development Company Limited (TNRDC) / M/s. IT Expressway Ltd. (ITEL)** for implementation of the following works in **East Coast Road and Rajiv Gandhi Salai (IT Corridor) Chennai, respectively.**

<b>Description of Works</b>	<b>*Minimum Annual Revenue (Rs)</b>	<b>EMD / Bid Security value (Rs)</b>	<b>Period of Engagement</b>
Appointment Of Marketing Consultants For Generating Revenue To TNRDC/ ITEL By Advertising / Selling Advertisement Space In East Coast Road And Rajiv Gandhi Salai, Chennai	<b>7.50 Crores</b>	<b>7,50,000/-</b>	<b>3 Years</b>

*\*The Bidder shall show proportionate quarterly realisation of the quoted minimum annual revenue to TNRDC and also to ITEL in the form of DD directly from the client as per the concerned contract agreement between TNRDC/ITEL with the client.*

Bid document can be obtained between **10.00 hrs and 17.00 hrs** on all working days from **01<sup>st</sup> November, 2013 to 18<sup>th</sup> November, 2013** at the address for communication mentioned below on payment of Non-refundable fee of **Rs.9,000/- (Rupees Nine Thousand Only)** by way of a crossed Demand Draft drawn in favour of **M/s. Tamil Nadu Road Development Company Limited (TNRDC)** payable on any scheduled bank in **Chennai**. Alternatively, the Bid document can also be downloaded from the website [www.tnrdc.com](http://www.tnrdc.com) and in such cases, the bidders will be required to pay the non-refundable fee as mentioned above, at the time of submission of Bids. The proposals shall be submitted through **Single-Cover System**.

Sealed proposals should reach at the following address not later than **15.00 hrs on 20<sup>th</sup> November, 2013** .

#### **ADDRESS FOR COMMUNICATION**

##### **Chief General Manager**

**Tamil Nadu Road Development Company Limited (TNRDC) / IT Expressway Ltd.( ITEL),**

Regd. Office: Sindhur Panthion Plaza, 2<sup>nd</sup> Floor,

No. 346, Pantheon Road, Egmore,

Chennai . 600 008, Tamil Nadu, India

**Phone No.:** 091-44-2819 4800 / 4900

**Fax No.:** 091-44-2819 5800

**E-Mail:** [tenders@tnrdc.com](mailto:tenders@tnrdc.com)

**Web :** [www.tnrdc.com](http://www.tnrdc.com)

# **Section I**

# **Instructions to Bidders**

## SECTION 1: INSTRUCTIONS TO BIDDERS

### A: GENERAL

#### 1. Scope of Bid

##### 1.1 Background

- (a) M/s. Tamil Nadu Road Development Company Ltd. (TNRDC) is promoted by Tamil Nadu Industrial Development Corporation Ltd. (TIDCO) and TIDEL Park Ltd. to maintain the East Coast Road and Rajiv Gandhi Salai.
- (b) The existing ECR between Km 22/300 (Kudimiyandithopu) and Km 135/500 (up to Tamil Nadu State Border) is maintained as a Toll road by TNRDC. TNRDC has also proposed to upgrade the road as a dual two lane facility with improved geometrics.

and

- (c) Rajiv Gandhi Salai (IT Corridor) commences from km 0/000 at Madhya Kailash Temple Junction and extends up to Siruseri. The Rajiv Gandhi Salai is an important road in Chennai, as a number of IT Companies, Engineering Colleges/Institutions and the prestigious TIDEL Park are situated along the Road and this road is a major hub for most of the IT and BPO companies in Chennai, Tamil Nadu. M/s. IT Expressway Ltd. (ITEL) is the SPV formed by Tamil Nadu Road Development Company Ltd (TNRDC) for the purpose of implementing IT Corridor Project in Rajiv Gandhi Salai (IT Corridor) under the Improvement & Maintenance Scheme as per long term Agreement between GoTN & ITEL

Bids are invited by Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd (ITEL), for **“APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI ”**

The expected **Minimum Annual Revenue to be generated from selling Advertisement space by the consultant** is as follows:-

**1. TNRDC      1.50 Crores**

**2. ITEL      -      6 Crores**

- a. The quote for TNRDC&ITEL should be separate
- b. The successful bidder will have to show proportionate realisation of the quoted Annual Revenue on quarterly basis separately for both TNRDC/ITEL and identify clients to advertise in the assets of TNRDC/ITEL.
- c. The successful bidder shall provide all kind of assistance and co operation for the execution of Contract Agreement between the client and TNRDC/ITEL as appropriate.
- d. The payment should be made directly receivable by TNRDC/ITEL from the client through the selected agency as per the concerned contract agreement between TNRDC/ITEL with the client

- 1.1.2 The successful bidder will be engaged as a consultant for the purpose of this tender for a period of **3 Years** from the date of execution of the Contract Agreement with the escalation on the Minimum Annual Revenue to be generated @ 5% per annum separately for TNRDC and ITEL.

#### 1.2 Scope of works

- 1.2.1 The broad scope of Works to be carried out by the selected bidder includes the following components, but is not limited to:

**To be engaged as Marketing Consultants For Generating Revenue To TNRDC/ ITEL By Advertising / Selling Advertisement Space In Rajiv Gandhi Salai And East Coast Road, Chennai”** the details of the work are as follows:

Description of Works	Minimum Annual Revenue to be generated (Rs)		Period of Engagement
	TNRDC	ITEL	
Marketing Consultants For Generating Revenue To TNRDC/ ITEL By Advertising / Selling Advertisement Space In Rajiv Gandhi Salai And East Coast Road, Chennai	1.50 Crores	6 Crores	3 Years

- The above mentioned minimum annual revenue value may be relaxed/reduced to the extent of the existing advertisement agreement value till the date of expiry of those agreements for the first year. However, the bidder shall quote for the entire list of assets specified in Appendix -IV
- The bidder shall quote only for the existing assets as specified in Appendix . IV and any additional asset shall be created by the successful bidder only on approval of the Employer and will be considered for additional income not included in this contract. The additional revenue for the newly created assets (if any) in future, shall be fixed by the employer on mutual agreement basis with the agency.
- The Bidder shall collect and deposit the revenue to TNRDC and also to ITEL by way of DD from the concerned clients as per the terms of the concerned Contract Agreement between TNRDC/ITEL with the client .
- If the selected bidder fails to generate/ show realisation/ collect the above revenue to TNRDC and ITEL, the differential shortfall should be remitted by the bidder on quarterly basis.
- Other works and services as may be indicated in the contract.

The Non Refundable Bid Document Cost for the work is **Rs.9,000/- (Rupees Nine Thousand Only)** as indicated in Clause 4.1. EMD should be attached for the work as given in Clause 15.

Any bid not accompanied by the Bid Document and acceptable Bid document Cost & EMD, shall be Summarily rejected by the Employer as **Non- Responsive**.

Throughout this Bidding document, the term ~~bid~~and ~~tender~~and their derivatives (bidder/ tenderer, bid/ tender, bidding/ tendering, etc.) are synonymous.

## 2. Eligibility Criteria

To be qualified for award of the contract, the Bidder should have been actively engaged in executing advertising agency business /related work during the last five years. The bidder must provide proof of experience from the client and shall provide satisfactory evidence to the Employer of their capability and adequacy of resources to carry out the contract effectively.

- 2.1 Bidders shall not be under a declaration of ineligibility or blacklisted for corrupt and fraudulent practices or poor quality/ delayed implementation of any work by the Government of India (GoI), Government of Tamil Nadu (GoTN), other State Governments or any other agencies and/ or Statutory Authorities.

The Prospective bidder shall place the bid for both TNRDC & ITEL. But, the quarterly/ annual realisation of revenue from the client shall be separate for TNRDC and separate for ITEL

The selected advertising agency is expected to maintain high level of professional ethics & will not act in any manner, which is detrimental to TNRDC/ITEL's interest. Agency shall maintain confidentiality on matters disclosed till proper instruction is issued. TNRDC/ITEL reserves the right to impose penalty in case of any violation of the above.

## 3 Qualification Criteria and Information

The bidder shall furnish the following details in addition to the information furnished as specified in clause 2 above to satisfy the qualification criteria:-

### 3.1 Litigation History

The bidder as on date should not have been debarred from taking up any advertisement agency or project related works and shall not be under a declaration of ineligibility for corrupt and fraudulent practices by the Government of India, Government of Tamil Nadu or any other agency. The bidder should provide accurate information about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of awards against the bidder will result in rejection of the bid. Suppression of any information or material in this regard would be construed as a fundamental breach and TNRDC/ITEL reserves its right to take appropriate action including cancellation of the bid, forfeiture of EMD etc, as may be deemed fit and proper by TNRDC/ITEL at any time without requiring giving any notice to the applicant in this regard.

3.2 Bids shall include the following relevant information & particulars in the prescribed forms attached in Section . II: Forms of bid & Forms of securities.

- (a) Copies of original documents defining the constitution or legal status, place of registration and principal places of business; written Power of Attorney of the signatory of the Bid to commit the bidder;
- (b) Total Annual Turnover in the project related business expressed as total of payment certificates for work performed for the last three years;
- (c) Performance on works of similar nature and complexity over the last three years
- (d) Reports on the financial standing of the bidder including profit and loss statements, balance sheets and auditor's reports for the past three years
- (e) Authority to seek references from the bidder's bankers;
- (f) Information regarding any litigation or arbitration resulting from contracts executed by the bidder in the last three years or currently under execution. The information shall include the names of the parties concerned, the disputed amount, cause of litigation, and matter in dispute;

3.3 The Qualification will be based on the bidder / joint venture /Lead Partners of consortiums who meet the following criteria with respect to general and particular experience, financial position, personnel, and equipment capabilities and other relevant information as given by the applicant in the required format.

The following criteria must be fulfilled by the Bidder / joint venture / Lead Partners of consortiums and the same shall be duly certified by auditors/ clients, as applicable. The Bidder / joint venture /Lead Partners of consortiums shall note that the criteria set out hereunder shall be satisfied by the Bidder.

### 3.4 Experience and Turn Over

The bidder shall provide documentary evidence of having been actively engaged as Marketing consultants/ agents of similar nature during the last three years.

The bidder shall have generated a minimum billing for commission of **Rs.50 Lakhs** on an average during the last 3 years commencing from the year 2010-2011, 2011-2012 & 2012-2013.

## 4 Cost of Bid document and Bidding

4.1 The Bid document cost for the work is **Rs.9,000/- (Rupees Nine Thousand Only)** as indicated in the Invitation for bids. Any bid not accompanied by the bid document and the acceptable Bid document cost shall be rejected by the Employer as a **Non-Responsive Bid**.

4.2 The bidder shall bear all costs associated with the preparation and submission of his Bid and the Employer will in no case be responsible and liable for such costs, regardless of the conduct or outcome of the tendering process.



## 5 Site Visit

The Bidder shall prior to submitting the Bid for the work, at his own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the work. The costs of visiting the Site shall be at the Bidder's own expense.

## B. BIDDING DOCUMENT

### 6 Content of Bidding Document

6.1 The Bidding Document comprises the documents listed below and should be read in conjunction with any addenda/amendment issued in accordance with Clause 9.

- |     |             |                                    |
|-----|-------------|------------------------------------|
| (a) | Section I   | Instructions to Bidders            |
| (b) | Section II  | Forms of Bid & Forms of Securities |
| (c) | Section III | Conditions of Contract             |
| (d) | Section IV  | Contract Data                      |

6.2 The Bidder is expected to examine carefully all instructions, qualification information, Conditions of Contract, Contract Data, Technical specifications, forms, BoQ in the Bid Document. Failure to comply with the requirements of Bid Document shall be at Bidder's own risk. Pursuant to Clause 25.2, bids which are not substantially responsive to the requirements of the Bid Document shall be rejected.

### ~~7&8 Deleted~~

### 9 Amendment/Addendum of Bidding Document

- 9.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.
- 9.2 Any addendum thus issued shall form part of the bidding documents and shall be communicated in writing or by post or fax or e-mail to all the purchasers of the bidding documents and it will also be uploaded in the website. It is the bidder's responsibility (those who download from the website) to keep track of the website specified in the NIT (Notice Inviting Tender) for any addendum. The addendum of the bidding document will not be notified in the newspaper. Prospective bidders shall acknowledge receipt of each addendum by post or fax to the Employer.
- 9.3 To give the prospective bidders reasonable time to take an addendum into account in preparing their bids, the Employer may, at his discretion, extend the deadline for submission of bids, in accordance with Sub-Clause 19.2.

## C. Preparation of Bids

### 10. Language of the Bid

10.1 The Bid and all correspondence and document related to the bid exchanged between the Bidder and the Employer shall be written in **English** language.

### 11. Documents Comprising the Bid

11.1 The bid shall be prepared and complete in accordance with the provisions of Bid Document and shall be submitted properly filled in, signed and initialled as appropriate.

- (i) Bidder's qualification, other information and supporting documents of Clause 4 as per formats given in Section-II of Bid Document.
- (ii) Earnest Money Deposit (EMD) as per Clause 15.1.
- (iii) Bid Document and its cost as per clause 4.
- (iv) Letter of Application and Letter of Financial Bid according to Section-II of Bid Document and

11.2 The bid must be in a bound form with pages numbered serially and by giving an index of submissions. The forms and schedules given in Section-II, and Section-V shall be filled in without exception and without any variation, both in respect of form and contents. **No bid shall be submitted un bound and in loose papers.**

11.3 All the addenda issued should be properly incorporated.

## **12. Bid Prices**

12.1 Unless stated otherwise in the bidding documents, the contract shall be for the whole work.

12.4 The rates and prices quoted by the Bidder shall be fixed for the duration of the Contract and shall not be subject to adjustment on any account.

## **13. Currencies of Bid and Payment**

The rates and the prices shall be quoted by the bidder entirely in Indian Rupees only for both TNRDC and ITEL.

**All payments shall be paid in Indian Rupees only.**

## **14. Bid Validity**

14.1 Bids shall remain valid for a period of **90 days (Ninety days)** after the deadline date for Bid submission as specified in Clause 19. A bid valid for a shorter period shall be rejected by the Employer as **Non-Responsive**.

14.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request the bidders to extend the period of validity for a specified additional period. The request and the bidders responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to extend the validity of his bid security for the period of the extension, and in compliance with clause 19.2 in all respects.

## **15 Earnest Money Deposit (EMD) / Bid Security**

15.1 The proposals duly filled in the required format must reach the Office of **M/s. Tamil Nadu Road Development Company Limited (TNRDC)/ IT Expressway Ltd (ITEL)**, Egmore, Chennai . 600 008 on or before 15.00 hrs, on **20<sup>th</sup> November, 2013** along with EMD/ Bid security DD for an amount of **Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only)** in the form Of Demand Draft drawn in favour of **M/s. Tamil Nadu Road Development Company Limited (TNRDC)**, payable on any scheduled bank in Chennai as indicated in the bid document.

15.2 **Any bid not accompanied by the acceptable EMD DD and Bid Document and its cost DD shall be rejected by the Employer as Non- Responsive.**

## **16 Alternative Proposals by Bidders**

Bidders shall only submit offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the specifications.

**Alternate proposals will not be considered.**

## **17 Format and Signing of Bid**

17.1 Only relevant supporting documents shall be submitted along with the Bid. Documents furnishing additional information other than that is required as per Bid Document, if any, shall be submitted separately under separate heading, which may not be considered for evaluation.

17.2 The entire Bid including covering letter, Bid Document and supporting documents shall be duly page numbered and shall contain a detailed table of contents with page references.

17.3 The person or persons signing the Bids shall initial all pages of the Bids.

17.4 The Bidder shall prepare and submit the bid comprising the Bid Document and other relevant document bound as described in Clause 11.

- 17.5 The Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. All pages of the bid where entries or amendments have been made shall be initialled by the person or persons signing the bid.
- 17.6 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder, in which case such corrections shall be initialled by the person or persons signing the bid.
- 17.7 The Bidder shall furnish information as described in the Form of Bid and Qualification on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.
- 17.8 All witnesses and sureties shall be persons of status and probity and their full names, occupation and addresses shall be printed below their dated signatures.

## **D. SUBMISSION OF BIDS**

### **18. Sealing and Marking of Bids**

- 18.1 (a) The Bid and other supporting documents shall be addressed to the Employer at the following address:

**Chief General Manager**

**M/s. Tamil Nadu Road Development Company Limited (TNRDC), /  
IT Expressway Ltd (ITEL),  
346, Sindur Panthion Plaza,  
2<sup>nd</sup> Floor, Pantheon Road,  
Egmore, Chennai- 600 008** and

- (b) bear the following identification:

**Bid for “Appointment Of Marketing Consultants For Generating Revenue To TNRDC/ITEL By Advertising / Selling Advertisement Space In Rajiv Gandhi Salai And East Coast Road, Chennai ”**

- 18.2 If the envelopes are not sealed and marked as above, the Employer will assume no responsibility for misplacement or premature opening of the bid and the bid will be treated as a **Substantially Non Responsive** bid and will be subsequently rejected.

### **19. Deadline for Submission of the Bids**

- 19.1 Bids must be received by the Employer at the address specified above not later than **15.00 Hours on 20<sup>th</sup> November, 2013** . In the event of the specified date for the submission of bids declared a holiday for the Employer, the Bids will be received up to the appointed time on the next working day.
- 19.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 9, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

**20. Late Submission of Bids**

Any Bid received by the Employer after the deadline prescribed in Clause 19 will be returned unopened to the bidder.

**21. Modification and Withdrawal of Bids**

- 21.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in Clause 19.
- 21.2 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with Clause 18 & 19, with the outer and inner envelopes additionally marked "**MODIFICATION**" or "**WITHDRAWAL**" as appropriate.
- 21.3 No bid may be modified after the deadline for submission of Bids failing of which shall result in rejection of the bid and forfeiture of the Bid Security / EMD.

**E. BID OPENING AND EVALUATION****22. Bid Opening**

- 22.1 The Employer will open all the Bids received (except those received late), including modifications made pursuant to Clause 19, in the presence of the Bidders or their authorised representatives who choose to be present at 15:30 Hrs on 20<sup>th</sup> November, 2013 at the office of the TNRDC/ITEL, Egmore, Chennai.
- 22.2 In the event of the specified date of Bid opening being declared a holiday, the Bids will be opened at the appointed time and location on the next working day by the employer.
- 22.3 Envelopes marked "**WITHDRAWAL**" shall be returned first. Subsequently, all envelopes marked "**MODIFICATION**" shall be opened and the submissions therein will be read out in appropriate detail at the time of opening of Financial Bid or on the same day of bid opening for single cover bids.
- 22.4 Deleted
- 22.5 No bid shall be rejected at Bid opening except for late bids pursuant to Clause 20 and conditional bids. Bids [and modifications pursuant to Clause 21] that are not opened and read out at Bid opening will not be considered for further evaluation regardless of the circumstances. Late and withdrawn bids will be returned unopened to Bidders.

**23. Process to be Confidential**

Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any effort by a Bidder to influence the Employer's processing of Bids or award decisions may result in the rejection of his Bid.

**24. Clarification of Bids**

- 24.1 To assist in the examination, evaluation, and comparison of Bids, the Employer may, at his discretion, ask any Bidder for clarification of his Bid. The request for clarification and the response shall be in writing or by cable, but no change in the price or correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 27. Provided however, the employer shall seek the rectification of price with the bidder who quoted lowest in total;
- 24.2 Subject to sub-clause 24.1, no Bidder shall contact the Employer/ its representatives on any matter relating to its bid from the time of the bid opening to the time the contract is awarded.
- 24.3 Any effort by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidder's bid.

**25. Preliminary Examination of Bids and Determination of Responsiveness**

- 25.1 Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid (a) has been properly signed; (b) is accompanied by the required securities and; (c) is substantially responsive to the requirements of the Bidding documents; and (d) provides any clarification and/ or substantiation that the Employer may require pursuant to Clause 24.
- 25.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Bidding documents, the Employer's rights or the Bidder's obligations under the Contract; (c) not confirming to the requirement at Clause 18 or (d) whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.
- 25.3 If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

**26. Correction of Errors**

- 26.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer, where there is a discrepancy between the rates in figures and in words, the lesser of the two will prevail.
- 26.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder in accordance with Sub-Clause 17.6. If the Bidder does not accept the corrected amount the Bid will be rejected, and the Bid security may be forfeited.

**27. Evaluation and Comparison of Bids**

- 27.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause 25.
- 27.2 In evaluating the Bids, the Employer will determine for each Bid, the evaluated Bid Price by adjusting the Bid Price as follows:
- (a) Making any correction for errors pursuant to Clause 26;
  - (b) Excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities;
- 27.3 Towards evaluation, the employer will take into account the adjusted Bid Price for the works arrive at the lowest evaluated rate of bid.
- 27.4 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer and other factors which are in excess of the requirements of the Bidding document or otherwise result in the accrual of unsolicited benefits to the Employer shall not be taken into account in Bid evaluation.

**F. AWARD OF CONTRACT****28. Award Criteria**

Subject to Clause 27, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bidding documents and whose bids are evaluated to be the Highest. The **Highest (H1)** bidder will be called for negotiation on the higher side on their quote .If the highest bidder is not responding for further negotiations, the Employer reserves the right to negotiate with any of the eligible bidders who is willing to take up the work at the H1 price and to offer a further negotiated, High Quote.

Awarding the work to bidders or summarily reject all the proposals shall be the sole discretion of TNRDC/ ITEL, based on the capability of the Bidders.

Employer reserves the right to appoint other Consultants for “**Appointment Of Marketing Consultants For Generating Revenue To TNRDC/ ITEL By Advertising / Selling Advertisement Space In Rajiv Gandhi Salai And East Coast Road, Chennai** ” or part of this work / contract and any other works that the Employer may decide.

## **29. Employer's Right to accept any Bid and to reject any or all Bids**

- 29.1 Notwithstanding Clause 28, the Employer reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.

## **30. Notification of Award**

- 30.1 The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the *Conditions of Contract* called the "Letter of Award/ Work Order") will state the sum that the Consultant will pay the Employer in consideration as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

## **31. Performance Security**

- 31.1 Within 7 days of receipt of the Letter of Award, the successful Bidder shall deliver to the Employer
- a. Performance Security in the form of a Demand Draft in favour of **M/s. Tamil Nadu road Development Company Ltd. / M/s. IT Expressway Ltd.** (as the case may be) payable at Chennai (or) in the form of a Bank Guarantee from Nationalised Bank/ Scheduled Bank acceptable to the Employer in the form as given in Section 2 for an amount equivalent to **15 % of the quoted minimum annual revenue separately for TNRDC and ITEL** in accordance with Clause 48 of Conditions of Contract. The Performance Security for works shall be valid for a period of **13 Months** from date of appointment as the agency. The Bidder shall furnish fresh performance security for the escalated annual revenue for that particular year, valid for a period of **13 Months** from the date of renewal for that particular year. The bidder should maintain the facility in acceptable condition as stipulated in the Bid document.
- 31.2 Failure of the successful bidder to comply with the requirements of Clause 31.1 shall constitute a breach of contract, cause for annulment of the award, forfeiture of the bid security, and any such other remedy the Employer may take under the contract.

### **31.3 Retention Money**

In each Bill, @ **5 %** of the commission will be withheld and the withheld amount will be refunded to the agency along with the Final Bill. The maximum amount of Retention money to be with held is restricted up to 5% of the quoted annual revenue for both TNRDC and ITEL and will be refunded during the commission paid during the last quarter.

## **32. Signing of Agreement**

- 32.1 At the same time, the employer notifies to the successful Bidder that his Bid has been accepted, and the Employer will direct him to attend the Employer's office on a date determined by the Employer for signing the Contract Agreement as per the format provided in the Bidding Document incorporating all the agreements between the parties. The signing of the Contract Agreement shall take place only after the furnishing of the requisite performance security by the selected Bidder as per Clause 31.1

Two separate agreements shall be executed between the H1 Bidder and TNRDC and also between the same bidder and ITEL

- 32.2 The Agreement will incorporate all agreements / correspondences between the Employer and the successful Bidder. It will be kept ready for signature of the successful bidder in the office of employer within 15 days following the acceptance of the Letter of Award by the successful bidder; the successful Bidder will sign the Agreement upon furnishing of the requisite performance security and deliver it to the Employer.

- 32.3 Upon furnishing of the Performance Security by the successful Bidder, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful and refund the Bid Security of all the bidders.

**33. Corrupt or Fraudulent Practices**

- 33.1 The Employer requires that all the Bidders should observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Employer:

- (a) Defines, for the purposes of this provision, the terms set forth as follows :
  - i. **%Corrupt practice+** means the offering, giving, receiving or soliciting of anything of value to influence the action of Employer/ its representatives in the procurement process or in contract execution; and
  - ii. **%Fraudulent practice+** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial non-competitive levels and deprive the Employer of the benefits of free and open completion;
- (b) will reject a proposal for award if he determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract in question;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract in **TNRDC/ ITEL**, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing this Contract.

**34. Termination:-**

In case the selected agency fails to achieve the realisation of the quarterly income out of the quoted minimum annual revenue separately for both TNRDC and ITEL as per the conditions stipulated in the Bid Document , then the Employer, at its sole discretion is entitled to invoke the Bank Guarantee until the payment is made at the next quarter and the employer at its sole discretion is entitled to terminate this contract at the '**Risk and Cost**' of the selected agency and to employ such other agency /s to carry out the works for the remaining period of contract in case if the agency fails to achieve the minimum quoted revenue till the end of the fourth quarter. The loss incurred by the employer for that quarter of the contract period, will be recovered from the terminated agency at the time of termination of the contract. In case if the selected agency fails to pay the above loss, the same will be recovered by invoking the Bank Guarantees of the terminated agency.

# **Section II Forms of Bid & Forms of Securities**



**SECTION II**

**FORMS OF BID & FORMS OF SECURITIES**

**1. LETTER OF APPLICATION**

(Letterhead paper of the Bidder)

[Including full postal address, telephone, fax, cable and telex addresses]

[Date]

To:

**Chief General Manager**

Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd, (ITEL)  
Sindur Panthion Plaza, 2<sup>nd</sup> Floor, 346,  
Pantheon Road, Egmore,  
Chennai - 600 008

Sir,

1. Being duly authorised to represent and act on behalf of ----- (hereinafter "The Bidder"), and having reviewed and fully understood all the bid information provided, the undersigned hereby apply to be qualified by your agency as a bidder for the contract " **APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI** "
2. TNRDC/ITEL and its associates/ representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents and information submitted in connection with this application, and to seek clarification from our bankers and clients regarding any financial and technical aspects. This Letter of Application will also serve as authorization to any individual or authorised representative of any institution, to provide such information deemed necessary to verify statements and information provided in this application or with regard to the resources, experience and competence of the Bidder.
3. This application is made in the full understanding that:
  - (a) TNRDC/ITEL reserves the right, to reject or accept any application, cancel the bidding process and reject all applications; and
  - (b) TNRDC/ITEL shall not be liable for any such actions and shall be under no obligation to inform the Bidder of the grounds for them.
4. The undersigned declared that the statements made and the information provided in the duly completed application are complete, true and correct in every detail.

Authorised Signature

Name and Title of Signatory

**2. Declaration Statement**

**(Letterhead paper of the Bidder)**

[Date]

To

**Chief General Manager**

Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd, (ITEL)  
Sindur Panthion Plaza 2<sup>nd</sup> Floor,  
346, Pantheon Road,  
Egmore, Chennai - 600 008

**Dear Sir,**

1. I, the undersigned, do hereby certify that all the statements made in the application and attachments thereto are true and correct.
2. The undersigned also hereby certifies that neither our firms M/s \_\_\_\_\_ . nor any of its constituent partners have abandoned any work awarded to us by any Agency in India nor any contract awarded to us for such works has been rescinded, during last five years prior to the date of this application.
3. The undersigned also furnish undertaking that we are not declared by any court of law as proclaimed offenders also that we are not convicted under any law for the offences punishable under Indian Penal Code, Negotiable Instrument Act of any Labour/ employee beneficial legislations.
4. The undersigned hereby authorize(s) and request(s) any bank, person, firm or corporation to furnish pertinent information deemed necessary and requested to verify this statement or regarding my (our) competence and general reputation.
5. The undersigned understands and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of the TNRDC/ITEL.

\_\_\_\_\_  
Signed by an Authorised Officer of the Firm

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Date

**3. SPECIMEN FORMAT FROM BIDDER TO BANKERS AUTHORISING THEM TO PROVIDE INFORMATION TO TNRDC/ITEL/ ITS REPRESENTATIVES**

To  
Name of Bank/ Address/ city

Dear Sir,

We have recently submitted a Bid Proposal to Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd, (ITEL) for its project for \_\_\_\_\_ . We hereby authorise you to provide all information/ data readily about us and our credit status, as may be desired by TNRDC/ITEL and you need not seek any clearance/ opinion from us for providing the information/ data to TNRDC/ITEL.

Sincerely,

\_\_\_\_\_  
Authorised Signatory

**4. LETTER OF FINANCIAL BID**

(Letterhead of the Bidder)

[Date]

**Chief General Manager**

Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd, (ITEL)  
 Sindur Panthion Plaza,  
 2<sup>nd</sup> Floor, 346, Pantheon Road,  
 Egmore, Chennai - 600 008

Dear Sir:

Sub: “ **APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI ”**

Having examined the Bid Document including Notice Inviting Bids, Instructions to Bidders, forms, General Conditions of Contract, Special Conditions of Contract, Technical Specifications, Bill of Quantities, Schedules, Annexure and Addenda for the execution of the above named works, we, the undersigned, offer to execute and complete such works and remedy any defects therein in conformity with the said Bid Document at the prices indicated in the enclosed BoQ.

The Payment for:

The Minimum Quoted Annual revenue for TNRDC for the sum of **INR** \_\_\_\_\_ **(Indian Rupees in words)** \_\_\_\_\_) **excluding Service Tax** in accordance with the said Bid Document.

and

The Minimum Quoted Annual revenue for ITEL for the sum of **INR** \_\_\_\_\_ **(Indian Rupees in words)** \_\_\_\_\_) **excluding Service Tax** in accordance with the said Bid Document and shall show realisation of the quoted and accepted Minimum Annual Revenue separately for TNRDC/ ITEL / any short fall as listed below and pay within ten (10) days from the ending of the respective Quarters:

1st Quarter	25 % of the quoted and accepted Minimum Annual Revenue
2nd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
3rd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
4th Quarter	25 % of the quoted and accepted Minimum Annual Revenue

We undertake, if our Bid is accepted, to commence the works within seven (7) days of receipt of the Engineer's order to commence, and to complete and deliver the sections and whole of the works comprised in the Contract within the period stated in the Appendix to Bid/ Contract data hereto.

We agree to abide by this Bid for the period of 90 days (Ninety days) from the date of Bid opening, as prescribed in Clause 14.1 of the Instructions to Bidders (Section-I), and it shall remain binding upon us and may be accepted at any time before the expiry of that period.

We agree to generate the quoted Minimum Annual Revenue with an escalation @ 5% per annum during each subsequent year.

We confirm our agreement to treat the Bid Document and other records connected with the works as secret and confidential document and shall not communicate information contained therein to any other person other than the person authorized by Employer or use such information in any manner prejudicial to the safety and integrity of the works.

We undertake that, in completing for (and, if the award is made to us, in executing) the above Contract, we will observe the laws against fraud and corruption in force in India namely Prevention of Corruption Act 1988+

We confirm that our firm has valid VAT/PAN registrations along with ESI / Workmen Compensation Policy and EPF codes as stipulated under Appendix 2 and 3 of GCC.

We hereby confirm that this Bid complies with the Eligibility, Bid validity and Bid security required as stated in the Bidding documents.

Yours faithfully,

Authorised Signature:

Name and Title of Signatory:

Name of Bidder with official seal:

Address:

**5. Letter of Award / Work Order**

(Letterhead paper of the Employer)

[Date]

To: [Name and Address of the Contractor]

-----,  
-----,  
-----,  
-----

**Sub: "APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI " – LETTER OF AWARD / WORK ORDER – REG.**

-----  
Sir,

1. This is to notify that your Bid dated \_\_\_\_\_ and the Negotiated Offer for the value \_\_\_\_\_ of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) excluding Service Tax for TNRDC and Offer for the value of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) excluding Service Tax for ITEL is hereby accepted by TNRDC/ITEL (subject to escalation @5% per annum during each subsequent year) for the work of "APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATINGREVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI ".
2. Your firm shall not, without the prior consent of the Employer assign the contract or any part thereof or any benefit or interest therein or there under.
3. You are hereby requested to acknowledge the receipt of this Letter of Award (LoA) and its acceptance in writing through a Confirmation letter.
4. The Confirmation letter should be as per the format given in Section II . Forms of Bid & Forms of Securities of the Bid document **on or before** \_\_\_\_\_(date).
5. You are also requested to furnish Performance Security, in the form detailed in Clause 31 of ITB and Clause 48 of Conditions of Contract of Bid Document, for an amount equivalent to 15% of quoted minimum annual revenue i.e. Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ Only ) for TNRDC and 15% of quoted minimum annual revenue i.e. Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only ) for ITEL within 7 Days of receipt of this letter. The Performance security shall be valid for a period of **13 Months** from date of appointment as the agency. The Bidder shall furnish fresh Performance Security for the escalated annual revenue for that particular year, valid for a period of 13 Months from the date of renewal for that particular year. The bidder should maintain the facility in acceptable condition as stipulated in the Bid document.

6. Subsequent to the above para (5), you are further requested to execute the Contract Agreement within 15 days of acceptance of LoA.
7. You are further requested to furnish adequate details to conform to the contract provisions and is to be submitted along with the Confirmation letter **on or before \_\_\_\_\_(date)**.

Yours Sincerely,

**For Tamil Nadu Road Development Company Ltd, (TNRDC)/ IT Expressway Ltd,  
(ITEL)**

**Y R Balaji**

Chief General Manager . TNRDC/ITEL

Cc:

1. Managing Director - TNRDC/ITEL
2. Manager . Accounts
3. Contracts Department

**6. Confirmation Letter**

(Letterhead paper of the Contractor)

**To:**  
[Name and address of the Employer)

Dear Sir,

**Subject : "APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING  
REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING  
ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI  
SALAI, CHENNAI"**

We acknowledge the receipt of your Letter of Award, Ref No. \_\_\_\_\_  
dated \_\_\_\_\_ and unconditionally accept the offer to take up above captioned works  
at the price indicated in the Letter of Award.

We also confirm our acceptance to all the corrections and modifications made by the  
Employer in respect of our bid.

We undertake to provide you unconditional Bank Guarantee/ DD towards Performance  
Security and additional security for unbalanced bid as per the agreed format within the  
prescribed date as per the Instructions to Bidder and Conditions of Contract of the Bid  
Document.

Yours faithfully,

Authorized Signature:  
Name and Title of Signatory:  
Name of Agency:



**7. BANK GUARANTEE FOR PERFORMANCE SECURITY**  
**( Separate Bank Guarantee for TNRDC / ITEL )**

BG No \_\_\_\_\_ dated \_\_\_\_\_ 2013

To

**Tamil Nadu Road Development Company Ltd.,/ IT Expressway Ltd.,**  
Sindur Panthion Plaza,  
2<sup>nd</sup> Floor,346, Pantheon Road  
Egmore, Chennai . 600 008

Bank Guarantee No. \_\_\_\_\_ .dated \_\_\_\_\_ for **Rs. .... /-**  
**(Rupees .....only)**

WHEREAS vide the Letter of Award / Work Order No \_\_\_\_\_ .. dated \_\_\_\_\_ for **%APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI+** (hereinafter referred to as **“The Contract”**) **M/s \_\_\_\_\_**, a Company incorporated under the Companies Act, 1956, having its Registered Office at \_\_\_\_\_ ..(address) (hereinafter referred to as **%The Contractor”** which expression shall unless repugnant to or inconsistent with the context mean and include its successors and assigns) has been awarded by **Tamil Nadu Road Development Company Ltd /M/s IT Expressway Ltd.,** a company incorporated under the Companies Act, 1956, having its registered office at Sindur Panthion Plaza, 2<sup>nd</sup> Floor, 346, Pantheon Road, Egmore, Chennai - 600 008 (hereinafter referred to as **%The Employer+**which expression shall unless repugnant to or inconsistent with the context mean include its successors and assigns), the contract for **%APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI++**

AND WHEREAS it has been stipulated by you in the said contract that the Contractor shall furnish you a Performance Guarantee, within 7 days on receipt the Letter of Award/ work order by a specified Scheduled / Nationalised Bank, for the sum specified therein as security for compliance with the contractor’s obligations in accordance with the Contract and against any breach or non-performance of the terms and conditions contained in the contract.

AND WHEREAS we \_\_\_\_\_ .**BANK**, having its Head Office at \_\_\_\_\_ and amongst others, a branch office situated at \_\_\_\_\_ , have agreed to furnish a Performance Guarantee for a sum of **Rs. -----/- (Rupees -----Only)** (hereinafter referred as the Guaranteed amount) as security for compliance of the contractor’s obligations under the contract.

NOW THEREFORE we hereby affirm that we as the Guarantor are responsible to you on behalf of the Contractor, for the guaranteed amount and we irrevocably undertake to pay you upon your first written demand and without demur or argument, any sum or sums within the limits of the guaranteed amount as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified herein. The guaranteed

amount shall be payable merely on demand by the Employer. Any letter stating that the amount claimed in the demand notice/letter is due and payable, signed by a duly authorized official of the Employer to this effect, shall be final, binding or conclusive upon us.

We, hereby agree to pay on demand the guaranteed amount without demur by crediting to the Bank Account of the Employer, the details of which are to be informed to us by you during the validity of the guarantee.

Our liability under this Guarantee shall not be affected by any change in the constitution of the Contractor or of the Guarantor.

We hereby undertake that this Guarantee is absolute, irrevocable and unconditional and shall be enforceable against us notwithstanding any security or securities comprised in any instrument executed or to be executed by the contractor in favour of the Employer.

We hereby also agree that this guarantee shall not be wholly or partially satisfied or exhausted by any payments made to or settled with the Employer by the Contractor and shall be valid and binding on us and operative until the expiry of this Guarantee.

We, further agree that no change or addition to or other modification of the terms of the contract or of the works to be performed there under or of any of the contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

The jurisdiction in relation to this Guarantee shall be Courts at Chennai and Laws of India shall be applicable. This guarantee shall be valid up to -----20\_\_ (hereinafter referred to us as the "Expiry Date") which is a period of **13 Months** from the date of commencement of the works.

Notwithstanding anything contained herein.

- i) Our liability under this Guarantee shall not exceed the guaranteed amount **Rs \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only)**

This Bank Guarantee shall be valid up to -----20\_\_ (Expiry date) and

- ii) We shall be liable to pay the guaranteed amount under this guarantee only and if we receive a written claim or demand duly signed by a duly Authorised official of the Employer before the -----20\_\_ (Expiry date) as mentioned above.

IN WITNESS WHEREOF we have executed this guarantee on this 0 0 0 0 0 0 0 2013.

Signature of Authorised Representative of the Bank 0 0 0 0 0 0 0 0 0 0 ..

Name and Designation 0 0 0 0 0 0 0 0 0 0 0

Seal of the Bank 0 0 0 0 0 0 0 0 0 0 0

Signature of Witness 0 0 0 0 0 0 0 0 0 0 0

Name of Witness 0 0 0 0 0 0 0 0 0 0 0

**8. FORMAT FOR AGREEMENT****Separate Agreement for TNRDC&ITEL****Contract Agreement**

This Agreement, made the \_\_\_ day of \_\_\_\_\_, 2013 between **M/s. Tamil Nadu Road Development Company Ltd.,(TNRDC) / IT Expressway Ltd. (ITEL)**, a Special Purpose Vehicle, promoted by **Tamil Nadu Road Development Company Ltd. (TNRDC)**, a Company incorporated under Companies Act 1956, **having its Registered Office at Sindur Panthion Plaza, 2<sup>nd</sup> Floor, 346, Pantheon Road, Egmore, Chennai, Tamil Nadu, India**, (hereinafter called ~~the~~ Employer+) which expression shall unless the context otherwise requires, include its successors and assigns of the First Part  
And

**M/s.** \_\_\_\_\_ **having its Registered Office at** \_\_\_\_\_ (Hereinafter called ~~the~~ **Contractor**+) a Company incorporated under the Companies Act, 1956 which expression shall unless the context otherwise requires, include its successors and assigns of the Other Part.

**WHEREAS**

The Employer is desirous in executing certain works by the Contractor, viz. **“APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI**+ (hereinafter called ~~the~~ Works+) and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein, at a Minimum Quoted Annual Revenue of **Rs. -----/- (Rupees \_\_\_\_\_ Only)** for \_\_\_\_\_ **excluding Service Tax** (for the first year of the total 3 year contract period) **for a period of 3 years from the date of commencement of services** subject to escalation @5% per annum during each subsequent year).

**NOW THIS AGREEMENT WITNESSETH as follows:**

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - i) Letter of Award / Work Order, Confirmation Letter & Notice to proceed with the works
  - ii) Letter of Financial bid ; Priced Bill of Quantities
  - iii) Conditions of Contract (including Special Conditions of Contract);
  - iv) Instructions to Bidders
  - v) Performance Security
  - vi) Any other document listed in the Contract Data / Bid Document as forming part of the contract (addendum and clarifications).

3.The Agency agrees to show realisation of the quoted and accepted Minimum Annual Revenue directly from the clients separately for TNRDC/ ITEL / agrees to pay any short fall as listed below within ten (10) days from the ending of the respective Quarters:

1st Quarter	25 % of the quoted and accepted Minimum Annual Revenue
2nd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
3rd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
4th Quarter	25 % of the quoted and accepted Minimum Annual Revenue

4. The Agency agrees to generate the quoted Minimum Annual Revenue with an escalation @ 5% per annum during each subsequent year till the end of the total 3 year contract period.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first above written.

Signed, sealed, and delivered by the said Employer and the Contractor in the presence of:

**WITNESSES:**

On behalf of <b>M/s. Tamil Nadu Road Development                  Company Ltd.,(TNRDC)/ Ms. IT                  Expressway Ltd.</b> Egmore, Chennai	On behalf of the Contractor
1.	1.
2.	2.

**Binding Signature of the Employer:-**

\_\_\_\_\_

**Binding Signature of the Contractor:-**

\_\_\_\_\_

**9. Notice to Proceed with the Work**

(Letterhead paper of the Employer)  
(Separate for TNRDC & ITEL)

To: [Name and Address of the Contractor]

Dear Sir,

Subject: **“APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI”**

Pursuant to your furnishing of the requisite Performance Security as stipulated in ITB clause 31.1 and signing of the Contract Agreement on ----- (date) for the **APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ TNRDC/ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI**, you are hereby instructed to proceed with the execution of the said works in accordance with the Contract Documents with effect from ----- ( date).

Yours faithfully,

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

# **Section III**

# **Conditions of Contract**

## Section III: CONDITIONS OF CONTRACT

### A. GENERAL

#### 1. Definitions

- 1.1 Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but kept their defined meanings. Capital initials are used to identify defined terms.

**Compensation Events** are those defined in Clause 41 hereunder.

**Confirmation Letter** is the letter of the Selected agency dated accepting the Letter of Award/ Work Order issued by the Employer.

The **Contract Completion Date** is the date of completion of Selected agency's Obligations under this Contract as certified by the Engineer in accordance with Clause 50.2.

The **Contract** is the contract between the Employer and the Selected agency to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contract Data** defines the documents and other information which comprise the Contract.

The **Selected agency** is a person or firm or corporate body that's Bid to carry out the Works has been accepted by the Employer.

The **Selected agency's Bid** is the completed Bidding document submitted by the Selected agency to the Employer.

The **Minimum Annual Revenue** is the price stated in the Letter of Award / Work Order to be generated by the successful agency on quarterly basis directly to TNRDC/ITEL from the client (subject to escalation @5% per annum during each subsequent year) and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days: **Months** are calendar months.

A **Defect** is any part of the works not completed in accordance with the Contract.

The **Employer** is the party who will employ the Selected agency to carry out the Works and in this case the employer is TNRDC/ITEL, Egmore, and Chennai . 600008.

The **Engineer** is the person named in the Contract Data (or any other competent Person appointed and notified to the Selected agency by the Employer to act in replacement of the Engineer) who is responsible for supervising the execution of the works and administering the Contract and in this case it is Tamil Nadu Road Development Company Ltd (TNRDC)/ IT Expressway Ltd,( ITEL), Egmore, Chennai . 600 008.

**Engineer Representative** means a person appointed from time to time by the Engineer under Sub-clause 5.1.

**Works** means "APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI"

The **Initial Contract price** is the Minimum Annual Revenue stated in the Employer's Letter of Award/Work Order.

**Letter of Award / Work Order** is the letter issued by the Employer to the Selected agency containing the Initial Minimum Annual Revenue and other details.

**Project Facility** means the stretch of the Road as mentioned in Contract Data, all appurtenances thereto, including road furniture, Sign boards and other road components and all access roads upto 50 m from the edge of the road

The **Site** is the area defined as such in the Contract Data.

**Temporary Works** are works designed, constructed, installed and removed by the Selected agency which are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Engineer/ Employer in writing which varies the Works.

The **Works** are what the Contract requires the Selected agency to carry out as part of this Contract and shall refer to **Marketing Consultants For Generating Revenue To TNRDC/ ITEL By Advertising / Selling Advertisement Space In East Coast Road And Rajiv Gandhi Salai, Chennai** or any combination thereof.

The **Works Completion Date** is the actual period of contract.

## 2. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter and the other way around. Heading have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 If sectional completion is specified in the Contract data, reference in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the works (other than references to the Completion Date and Intended Completion date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
  - a. Letter Of Award/Work Order
  - b. Confirmation Letter
  - c. Notice to proceed with the works
  - d. Contract Data
  - e. Conditions of Contract
  - f. Instructions to Bidder
  - g. Any other document listed in the Contract Data/ Bid Document as forming part of the contract

## 3. Language and Law

- 3.1 The language of the Contract and the law governing the Contract are stated in the Contract Data.

## 4. Engineer's Decisions

- 4.1 Except where otherwise specifically stated, the Engineer will decide contractual matters between the Employer and the Selected agency in his role representing the Employer.

## 5. Delegation

- 5.1 The Engineer may delegate any of his duties and responsibilities to other person/organization after notifying the Selected agency.



## 6. Communications

- 6.1 Communication between parties which are referred to in the conditions is effective only when in writing. A notice shall be effective when it is delivered (in terms of Indian Contract Act).

## 7. Sub- Contracting

- 7.1 The selected agency shall not, with out the prior consent of the Employer assign the contract or any part thereof or any benefit or interest therein or there under.

The selected agency shall not sub contract the works. Except where otherwise provided by the contract, the selected agency shall not sub contract any part of the works, with out the prior consent of the Employer. Any such consent shall not relieve the selected agency from any liability or obligation under the contract and he shall be responsible for the acts, defaults and neglects of any Sub Selected agency, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the selected agency, his agents, servants or workmen.

Provided that the selected agency shall not be required to obtain such consent from the employer for:

- a. The provision of labour and
- b. The purchase of materials which are in accordance with the Specifications and quality standards specified in the Contract.

## 8. Other Selected agencies

- 8.1 The Selected agency shall cooperate and share with the other selected agencies, public authorities, utilities, and the Employer and his representative between the dates given in the Schedule of the other selected agencies. The Selected agency shall also provide facilities and services to them as may be necessary for smooth coordination. The Employer may modify the schedule of other selected agencies and shall notify the Selected agency of any such modification.

- 8.2 Pursuant to the above, the Selected agency hereby agrees and acknowledges that the Employer is well within their right to appoint other selected agency for **“APPOINTMENT OF MARKETING CONSULTANTS FOR GENERATING REVENUE TO TNRDC/ ITEL BY ADVERTISING / SELLING ADVERTISEMENT SPACE IN EAST COAST ROAD AND RAJIV GANDHI SALAI, CHENNAI ”** a part of this work / contract and any other works that the Employer may decide. The Selected agency acknowledges that the Employer has no liability whatsoever towards the Selected agency in this regard and that the Selected agency will, unconditionally and without any financial charge, extend all necessary assistance and cooperation to the Employer and other Selected agency(s), so as to ensure that the Works are completed in terms of the Milestones stipulated in the Contract Data.

- 8.3 Any default in the above regard shall be treated as a fundamental breach of the contract in terms of Clause 54.2

## 9. Personnel

- 9.1 The Selected agency shall employ required personnel to carry out the functions stated in the approved program in terms of Clause 25.

- 9.2 If the Engineer asks the Selected agency to remove a person who is a member of the Selected agency's staff or his work force stating reasons, the Selected agency shall ensure that the person leaves the site within seven days and has no further connection with the work in the Contract.

- 9.3 **Labour Statutory Requirement**

The Selected agency shall confirm to and comply with the regulations and By-Laws of the State or Central Government and other statutory Body the provisions contained in the various Acts specified in Appendix II of this section

**10. Employer's and Selected agency's Risks and liabilities**

- 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Selected agency carries the risks which this Contract states are Selected agency's risks.

**11. Employer's Risks**

- 11.1 The Employer is responsible for the expected risks which are in so far as they directly affect the execution of the Works in the Employer's country, the risks of war, hostilities, invasion, and act of foreign enemies, rebellion, and revolution. Insurrection or military or usurped power, civil war, (unless restricted to the Selected agency's employees), and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive.

**12. Selected agency's Risks and liabilities**

- 12.1 All risks of loss or damage to physical property or personal injury and death which arise during and in consequence of the performance of the Contract other than the expected Employer's risks are the responsibility of the Selected agency.
- 12.2 The employer will provide necessary assistance as far as possible to the agency in securing Applicable Permits, permissions and approvals required for implementation and operation of the project the use of the projects sites for advertisement purposes be impossible, in particular in the event these Permits would not be delivered, the parties agree to adjust the provisions of the Agreement so as to maintain the economic balance of the contract. However, the agency shall be liable to pay such fee or deposits to the concerned authorities as may be necessary. The agency shall at its own cost obtain necessary electricity connection in TNRDC / ITEL's name as and when required.

**13. Insurance**

- 13.1 The Selected agency shall provide, in the joint names of the Employer and the Selected agency, insurance cover from the start Date to the end of the Defects liability period, in the Amounts and deductibles stated in the Contract Data for the following events:
- a. loss of or damage to Works;
  - b. loss of or damage to Equipment;
  - c. loss of or damage of property (except the Works, Plant, Materials and Equipment) in connection with the Contract;
  - d. personal injury or death of employer/employee personal and third party persons;

However, it is for the selected agency to decide whether the minimum amount specified in the Contract data is sufficient, and if he considers it necessary, to insure for a greater amount. The policy should cover an unlimited number of claims.

- 13.2 Policies and certificates for insurance shall be delivered by the Selected agency to the Engineer for the Engineer's approval before the start Date. All such insurance shall provide for compensation to be payable in the type and proportions of currencies required to rectify the loss or damage incurred. The selected agency shall be responsible for effecting change to the policies and certificates as may be directed by the Engineer, within time period indicated by the Engineer.
- 13.3 If the Selected agency does not provide the policies and certificates as required, the Employer may effect the insurance which the Selected agency should have provided and recover the premiums the Employer has paid, from payments otherwise due to the Selected agency or, if no payment is due, the payment of the premiums shall be a debt due and if warranted, recovered by invoking Performance Security.
- 13.4 Alterations to the terms of insurance shall not be made without the approval of the Engineer.
- 13.5 Both parties shall comply with any conditions of the insurance policies.
- 13.6 The Selected agency shall be entitled to place all insurance relating to the Contract with insurers from India, which have been determined to be acceptable to the Employer.

**14. Queries about the Contract Data**

14.1 The Engineer will clarify queries on the Contract Data.

**15. Selected agency to undertake the Works**

15.1 The Selected agency shall undertake the Works in accordance with the Specifications, Conditions of Contract, etc and as per the instructions of the Engineer.

16. **Deleted.**

17. **Deleted.**

**18. Safety**

18.1 The selected agency shall be responsible for the safety of all activities on the Site. The proposed work site falls in High speed road Corridor. In addition to the safety of workmen in the project, the Selected agency is responsible for the safety of the road users. The Selected agency shall at his own cost formulate and implement an efficient traffic movement / regulation plan so as to achieve safe and efficient movement of vehicular traffic and pedestrians.

18.2 The selected agency shall make necessary safety arrangements and equipments specified in Appendix I of this section.

18.3 Any damage caused to the existing structure, the road surface and other appurtenances shall be remedied/restored/replaced to the original condition at the cost of the Selected agency and to the satisfaction of the Employer.

In case of default by the selected agency, the Employer has the option to carry out the required remedial/restoration/replacement works and deduct the expenditure incurred from the payments due to the Selected agency.

18.4 The Selected agency shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.

18.5 During continuance of the contract, the Selected agency shall abide at all times by all existing enactments on environments on environmental protection and rules, labour laws made there under, regulations, notifications and bye-laws of the State or Central Government, or local bodies/authorities and any other law, bye-law, regulations that may be passes or notification that may be issued in this respect in future by the State or Central Government or the local authority.

Salient features of some of the major laws that are applicable are given below:

The Water (Prevention and Control of Pollution) Act, 1974, provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water.

'Pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

The Air (Prevention and Control of Pollution) Act, 1981, provides for prevention, control and abatement of air pollution. 'Air Pollution' means the presence in the atmosphere of any 'air pollutant', which means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

The Environment (Protection) Act, 1986, provides for the protection and improvement of environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. 'Environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

The Public Liability Insurance Act, 1991, provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act 1986, and exceeding such quantity as may be specified by notification by the Central Government.

## **19. Discoveries**

- 19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Selected agency is to notify the Engineer/ Employer of such discoveries and carry out the Engineer's instructions for dealing with them.

## **20. Possession of the Site**

- 20.1 The Employer shall give possession of the site to the Selected agency in accordance with the Contract Data.
- 20.2 The Selected agency will co-ordinate with service provider / concerned authorities for shifting of utilities and removal of encroachments etc. and making the site unencumbered from the project construction area required for completion of work. This includes getting estimates, initial and frequent follow-up with concern authorities. However, the cost of shifting shall be borne by the employer. The selected agency will not be entitled for any additional compensation for delay in shifting of utilities and removal of encroachments by the service provider/ local bodies/concern authorities.
- 20.3 The Agency shall be entitled to the possession of list of assets mentioned in Appendix IV of the bid document and shall be able to sell the advertising space of the assets that are vacant right from the date of site possession and the agency will be entitled to possess the pre occupied advertising spaces on the expiry of the existing agreement period.

## **21. Access to the Site**

- 21.1 The Selected agency shall allow the Engineer and any person authorized by the Engineer access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured / fabricated / tested/ stored for the works.

## **22. Instructions**

- 22.1 The Selected agency shall carry out all instructions of the Engineer which comply with the applicable laws where the Site is located.

## **23. Disputes**

- 23.1 If either party believes that a decision taken by the Employer was either outside the authority given to the Employer by the contract or that the decision was wrongly taken, the objecting party may file written notice of dispute to the other party with a copy to the Engineer stating that it is giving the notice pursuant to this Clause while stating clearly the basis for the dispute.
- 23.2 The party receiving the dispute notice will consider it and reply in writing within 30 days of the receipt of the notice. If no reply is received or the reply is not acceptable to the other party, the affected party may refer only to the High Court of Madras (Chennai) for adjudication.
- 23.3 Further, in case of any dispute or difference between the parties to the contract either during the progress of the works or after the completion of the works or after the determination / abandonment of the contract or any other matter/s arising thereof shall be referred to or filed

with the High Court of Madras (Chennai) within a period of 18 Months. No other courts, persons, or bodies will have any jurisdiction over the dispute/s beyond such date.

**24. Deleted**

**B. Time Control**

**25. Deleted**

**26. Extension of the agreement period**

26.1 The Employer may extend the Agreement Period beyond the one year contract period at its sole discretion.

**27 & 28 Deleted**

**29. Early Warning**

29.1 The Selected agency is to warn the Engineer at the earliest opportunity of specific likely future events or circumstances that may adversely affect the generation of the requisite annual revenue.

29.2 The Selected agency shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instructions of the Engineer.

**C. 30,31,32 & 33 Deleted**

**D. Cost Control**

**34.0 Quote for Minimum Annual Revenue:-**

34.1 The Agency shall generate a Minimum Annual Revenue separately to TNRDC/ ITEL as follows:-

1. The Minimum Quoted Annual revenue for TNRDC for the sum of INR \_\_\_\_\_ (Indian Rupees in words) \_\_\_\_\_) **excluding Service Tax** in accordance with the said Bid Document (subject to escalation @5% per annum during each subsequent year).  
and
2. The Minimum Quoted Annual revenue for ITEL for the sum of INR \_\_\_\_\_ (Indian Rupees in words) \_\_\_\_\_) **excluding Service Tax** in accordance with the said Bid Document (subject to escalation @5% per annum during each subsequent year).

Per annum from the revenue earned by it by advertising / selling advertising space in TNRDC/ITEL Respectively as applicable.

The selected agency shall show realisation of the quoted and accepted Minimum Annual Revenue separately for TNRDC/ ITEL / any short fall as listed below and shall be payable within ten (10) days from the ending of the respective Quarters:

1st Quarter	25 % of the quoted and accepted Minimum Annual Revenue
2nd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
3rd Quarter	25 % of the quoted and accepted Minimum Annual Revenue
4th Quarter	25 % of the quoted and accepted Minimum Annual Revenue

(ii) The Minimum Quoted Annual revenue for TNRDC/ITEL should be **excluding Service Tax**

- (iii) The realisation of the revenue pursuant to clause 34.1 above, shall be generated to the Employer not later than the 10th day from the ending of the respective quarters for which it is due directly from the clients to TNRDC/ITEL as appropriate. Failure of the same / the differential short fall shall be recovered from the agency by invoking the Bank Guarantees for the first time of default by the selected agency. Repeated default on the part of the agency shall lead to the termination of the contract.

**For pre occupied assets of TNRDC/ITEL, the bidder shall quote the Minimum Annual revenue only for the balance period from the expiry of the existing agreement till the agreement period of the selected agency/ bidder**

- 34.2 **Quote for Minimum Annual Revenue for the work should also be submitted along with the bid in the single cover.**

**35 ,36,37 & 38 Deleted**

### **39. Payment / Commission to the successful Agency**

- 39.1 The payment / the Commission payable to the agency by the employer for both TNRDC/ITEL, will be paid monthly @ 7.5% (exclusive of applicable taxes )on the actual realization of the advertisement income and if any income generated in excess and above the quoted minimum annual revenue may be paid @ 10% (exclusive of applicable taxes ) for the additional revenue generated for on annual basis.
- 39.2 Notwithstanding anything contained herein above, the final commission for the additional revenue generated shall be made @ 10% only during the last quarter after making necessary tax deductions.

### **39.3 Retention Money**

In each Bill, @ 5 % of the commission will be withheld and the withheld amount will be refunded to the agency along with the Final Bill. The maximum amount of Retention money to be with held is restricted up to 5% of the quoted annual revenue for both TNRDC and ITEL applicable for that particular year and will be refunded during the commission paid during the last quarter.

### **40 & 41 Deleted**

### **42. Tax**

- 42.1 The rates quoted by the selected agency shall be deemed to be exclusive of the service tax, sales tax, contract tax, royalty, Toll tax, cess and other taxes/duties/levies as may be levied by Central / State Governments and local bodies that the selected agency will have to pay for the performance of this Contract.
- 42.2 The selected agency shall have valid Registration for sales tax, VAT and PAN as prescribed in Appendix III

### **43. Currency**

- 43.1 All payments shall be made in **Indian Rupees only**.

### **44. Price Adjustment for Works**

No Price adjustment shall apply to this work/contract.

**45, 46, & 47 Deleted.**

### **48. Securities**

- 48.1 The Performance Security (including additional security for unbalanced bids) shall be provided to the Employer not later than the date specified in the Letter of Award and shall be issued in an amount and form indicated in Contract Data from separately for TNRDC and ITEL as acceptable to the Employer, and denominated in Indian Rupees.:
- State Bank of India or subsidiaries;
  - Any Indian Nationalised Bank; or
  - Any Scheduled Bank

Performance Security in the form of a Demand Draft in favour of **M/s. Tamil Nadu road Development Company Ltd. / M/s. IT Expressway Ltd. (as the case may be)** payable at Chennai (or) in the in any one of the forms as stated above, acceptable to the Employer in the format as given in Section 2 for an amount equivalent to 15 % of the quoted minimum annual revenue separately for TNRDC and ITEL pursuant to Clause 48.1 above. The Performance Security for works shall be valid for a period of **13 Months** from date of appointment as the agency. The Bidder shall furnish fresh performance security for the escalated annual revenue for that particular year, valid for a period of **13 Months** from the date of renewal for that particular year. The bidder should maintain the facility in acceptable condition as stipulated in the Bid document

#### **49. Cost of Repairs**

- 49.1 Loss or damage to or defective works or Materials during the Contract Period shall be remedied by the Selected agency at the Selected agency's cost to the satisfaction of the Engineer/Employer. In case of default by the Selected agency, the Employer shall carry out suitable remedial measures and deduct the amount incurred thereto from payments due to the Selected agency.

### **E. Finishing the Contract**

#### **50. Completion**

- 50.1 The Selected agency shall be engaged to carry out the works specified in the Work Order for a period of one year in all respects.

#### **51. Taking Over**

- 51.1 The Employer will take over the Site and the Works with in 1 month of the Engineer issuing a certificate of Contract Completion on expiry of the contract period unless or otherwise extended by the employer.

#### **52 & 53 Deleted**

#### **54. Termination**

- 54.1 The Employer or the Selected agency may terminate the contract if the other party causes a fundamental breach of the Contract.
- 54.2 Fundamental breach of Contract includes, but shall not be limited to the following:
- (a) Employer or the Selected agency is made bankrupt or goes into liquidation, other than for a reconstruction or amalgamation.
  - (b) When the invoked bank guarantee, on failure of realization of the minimum annual revenue by the agency for one quarter is not generated /replaced by the agency during the next quarter.
  - (c) The Selected agency does not maintain a security (performance security, Security against Advance Payment etc) which is required;
  - (d) In case of the Selected agency has awarded more than 20% of value of works on sub-contract
  - (e) The Selected agency has defaulted in fulfilling his obligations under this Contract;
  - (f) The Selected agency has contravened clause 7,8 and 9 of the conditions of contract
  - (g) The selected agency has failed to show realization of the expected minimum annual revenue and when there is no bank guarantee to invoke.
  - (h) If the Selected agency, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph %corrupt practice+means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official or the Employer or

Engineer in the procurement process or in contract execution. ~~54.2~~ **Fraudulent practice** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, and includes collusive practice among Selected agencies (prior to or after bid submission) designed to establish bid prices at artificial non competitive levels and to deprive the Employer if the benefits of the free and open competition.

- 54.3 When either party to the Contract gives notice of a breach of Contract to the Engineer for a cause than those listed under Clause 54.2 above, the Engineer shall decide whether the breach is fundamental or not.
- 54.4 Notwithstanding the above, the Employer may terminate the Contract for his convenience.
- 54.5 If the Contract so terminated, the Selected agency shall stop work immediately make the site safe and secure and leave the site as soon as reasonably possible.
- 54.6 Deleted.

### **55. Payment/Recovery upon Termination**

In case the selected agency fails to achieve the realisation of the quarterly income out of the quoted minimum annual revenue separately for both TNRDC and ITEL as per the conditions stipulated in the Bid Document , then the Employer, at its sole discretion is entitled to invoke the Bank Guarantee until the payment is made at the next quarter and the employer at its sole discretion is entitled to terminate this contract at the **'Risk and Cost'** of the selected agency and to employ such other agency /s to carry out the works for the remaining period of contract in case if the agency fails to achieve the minimum quoted revenue till the end of the fourth quarter. The loss incurred by the employer for that quarter of the contract period, will be recovered from the terminated agency at the time of termination of the contract. In case if the selected agency fails to pay the above loss, the same will be recovered by invoking the Bank Guarantees of the terminated agency.

### **56. Property**

- 56.1 All materials on the site, plant, Equipment, Temporary Works and Works are deemed to be property of the Employer, if the Contract is terminated because of a Selected agency's default.

### **57. Release from Performance**

- 57.1 If the Selected agency is frustrated by the outbreak of war or by any other event entirely outside the control of the Employer or the Selected agency, the Engineer shall certify that the Selected agency has been frustrated. The Selected agency shall make the site safe and stop works as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and any work carried out afterwards to which commitment was made.

**58, 59 & 60 Deleted**