



GOVERNMENT OF TAMIL NADU
HIGHWAYS AND MINOR PORTS DEPARTMENT
Secretariat, Fort St. George
Chennai – 600 009

Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years

REQUEST FOR PROPOSAL (RFP)

TNRDC

Tamil Nadu Road Development Company Ltd.

Managing Associates

Tamil Nadu Road Development Company Limited,
Corp. Office: 171, **Tamil Nadu Maritime Board Building**, 2nd Floor, South Kesavaperumal Puram,
Pasumpon Muthuramalingam Road, (Greenways Road), Raja Annamalai Puram, Chennai-600 028,
Tamil Nadu, India, **Phone:** 044 -2495 2800 / 2495 3800, **Fax:** 91-44-2495 3800
Email: tenders@tnrdc.com **Website:** www.tnrdc.com

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SCHEDULE OF BIDDING PROCESS

S. No.	EVENT DESCRIPTION	DATE
1	ISSUE OF RFP TO APPLICANTS	FROM 08TH FEBRUARY 2021 TO 05TH MARCH 2021
2	LAST DATE OF RECEIVING QUERIES, IN CASE THE QUERIES TO BE ANSWERED IN PRE-BID	UPTO 15.00 HRS, 19TH FEBRUARY, 2021
3	PRE-BID CONFERENCE	24TH FEBRUARY, 2021 AT 15.00 HRS
4	LAST DATE OF PURCHASE OF RFP	05TH MARCH 2021
5	LAST DATE FOR SUBMISSION OF PROPOSALS	15.00 HRS, 08TH MARCH, 2021
6	DATE FOR OPENING OF TECHNICAL PROPOSALS	15.30 HRS, 08TH MARCH, 2021

TNRDC will endeavor to adhere to the dates indicated above. However, it reserves the right to effect changes to the above dates, if the need arises. Such change if any would be uploaded in TNRDC website (www.tnrdc.com)

REQUEST FOR PROPOSAL (RFP)

SECTION 1

INFORMATION TO CONSULTANTS

Sub.: Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years

GENERAL:-

1. Tamil Nadu Road Development Company Limited (TNRDC) invites proposals for engaging an Independent Engineer (IE) on the basis of Competitive Bidding for the Outer Ring Road Project – Phase II, being Six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India.

TABLE 1: CHENNAI OUTER RING ROAD PROJECT PHASE-II

S. No	Location	Project Stretch	Project Length	Concession Period	Consultancy Period
1	Chennai, Tamil Nadu, India	Chennai Outer Ring Road Phase-II from Nemilichery in NH-205 to Minjur	Approximately 30.50 Km	240 Months	36 Months

2. The proposal shall be submitted in English Language and all correspondence would be in the same language.
3. This DBFOT Project is a green field Project implemented on Semi Annual Annuity Basis, consisting of 6 Lane Highway (Dual 3 Lane separated by Public Transportation Corridor to be developed later) with Service Roads including Elevated Structures, Wayside Amenities and Illumination for the entire stretch. The construction works involve use of modern equipment and construction practices & techniques. At present, 98% of the work has been completed and the Independent Engineer (IE) shall supervise the balance construction works including additional scope of work and to carry out Independent Engineering services during the Operation and Maintenance period for the entire project length.
4. GOTN/TNRDC intends to appoint a Consultant to act as Independent Engineer for implementation of this DBFOT project and also for operation and Maintenance. As per the Terms and Conditions of the Concession Agreement, the Independent Engineer is assigned for **36 Months** duration in the following stages of the projects:

(i) During the Balance works at the Construction Stage:

To monitor required Quality Assurance and conduct Quality Control tests and report to TNRDC on the Financial, Technical and physical progress of implementation aspects of the project till the completion of the work and handing over and also to verify

(ii) During Operation & Maintenance Stage:

Operation and maintenance of the project for initial 36 Months period on behalf of TNRDC and Concessionaire including the construction period.

(However, the time between different activities specified in Sub Para No.4 (i),(ii) may actually vary, depending on the progress of the project)

And assist the parties in arriving at an amicable settlement of disputes, if any, so as to ensure compliance of the requirements of the provisions of Concession Agreement. The selection of Independent Engineer shall follow the laid down procedure given in the Concession Agreement signed between GOTN and the Concessionaire for this DBFOT project.

5. The interested Consultancy firms may obtain the RFP from TNRDC office from address given below from **08th February 2021 to 05th March 2021** on all working days between **10:00 hrs and 17:00 hrs IST** by payment of non-refundable fee amounting to **Rs.16,800/- (Rupees Sixteen Thousand Eight Hundred Only)** in the form of DD drawn in favour of “**M/s. Tamil Nadu Road Development Company Limited**” payable at any scheduled bank in **Chennai**. The RFP document is also available on TNRDC website. The Consultant who downloads the RFP document from the website will also be required to pay the non- refundable fee of **Rs.16,800/- (Rupees Sixteen Thousand Eight Hundred Only)** at the time of the submission of the proposal. The proposal should be submitted by consultancy firm in two parts in two separate envelopes and put together in one single outer envelope. The two parts of the proposal are **Part 1: Technical Proposal and Part 2: Financial Proposal**. For given DBFOT Project, Stage-1 of the Evaluation shall consider the evaluation of the Technical Proposal (i.e. Part 1). The firms scoring the qualifying mark (minimum 70 marks) as mentioned in RFP shall be considered for further evaluation. The Financial proposal of only those firms, who score qualifying marks in the Technical proposal would be opened and evaluated. The firm will be ranked on the basis of lowest amount quoted by them in Appendix C-1. The firm quoting the least amount will be invited by TNRDC for negotiation.
6. The total time period for the assignment as Independent Engineer will be for **36 Months**.
7. Deleted.
8. The two parts of the Proposal (Technical proposal and Financial proposal) must be submitted in a hard bound form (hard bound implies binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the documents. Spiral bound form, loose form, etc., will not be accepted) with all pages numbered serially, along with an index of submission. All figures quoted in the Financial Proposal should be covered with a transparent adhesive tape. In the event, any of the instructions mentioned herein have not been adhered to, TNRDC may reject the Proposal.

9. RFP submission must be received not later than **15:00 hrs on 08th March 2021** in the manner specified in the RFP document at the address given below:-

Chief General Manager

Tamil Nadu Road Development Company Ltd.,

Corp. Office:

171, 2nd Floor, Tamil Nadu Maritime Board Building,

South Kesavaperumal Puram,

Pasumpon Muthuramalingam Road (Greenways Road),

Raja Annamalai Puram, Chennai – 600 028.

Phone : 044- 2495 2800 / 2495 3800,

Fax : 91-44-2493 3800

Email : tenders@tnrdc.com

10. Throughout this RFP Document, the term ‘Employer’, ‘Client’, ‘TNRDC’ and their derivatives are synonyms and shall carry same meaning, unless otherwise specified.
11. Throughout this RFP Document, the term ‘Consultant/s’, Independent Engineer and their derivatives are synonyms and shall carry same meaning, unless otherwise specified.

Chief General Manager
Tamil Nadu Road Development Company Ltd.,
Chennai – 600 028

SECTION 2

LETTER OF INVITATION TO CONSULTANTS

1. INTRODUCTION

- 1.1 TNRDC invites proposal for providing services as **Independent Engineer during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years** required for the assignment named in the attached Letter of Invitation. This proposal could form the basis for future negotiations and ultimately a contract between selected firm and the GoTN.
- 1.2 A brief description of the assignment and its objectives are given in the Terms of Reference (ToR).
- 1.3 The assignment shall be implemented in various stages such Construction (Balance works), Supervision and Operation & Maintenance supervision.
- 1.4 To obtain first hand information on the assignment and on the local conditions, Bidders are encouraged to pay a visit to TNRDC before submitting a proposal and attend a Pre Bid Meeting as specified in the data sheet. The bidder or his official representative is invited to attend a Pre Bid meeting which will take place at the Employer's address on the date specified in Data Sheet and the minutes of the meeting will be conveyed to the bidders and will be uploaded in web portal. The minutes of the Pre Bid Meeting also forms part of this RFP Document. The Consultant must inform themselves of local conditions and take them into account in preparing the proposal.
- 1.5 Please note that, (i) the costs of preparing the proposal and negotiating for the contract, including a visit to site, are not reimbursable as a direct cost of assignment and (ii) TNRDC is not bound to accept any of the proposals received by it and reserves the right to annul the selection process at any time prior to contract award, without thereby incurring any liability to the Consultants.
- 1.6 TNRDC wish to remind that in order to avoid conflict of interest situations, any firm associated with the Concessionaire of the Project Highway as its Design and/or Supervision Consultant and/or the Contractor(s) as Design Consultant and/or Construction Supervision Consultant is not eligible to participate in the bidding.
- 1.7 Those Consultants who were engaged by GoTN / TNRDC for the above projects as Design Consultants for preparation of Detailed Project Reports (or) Feasibility Report shall not be permitted to submit proposal for providing the consultancy services as Independent Engineer for the same project either individually or in Joint Venture with other firms.
- 1.8 Consultant has an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the GoTN / TNRDC, which may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

- 1.9 It is the GOTN /TNRDC 's policy that the consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the TNRDC:
- (a) Defines, for the purpose of this paragraph, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - (iii) “collusive practices” means a scheme or arrangement between two or more consultants with or without the knowledge of the Client, designed to establish prices at artificial, noncompetitive levels;
 - (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
 - (b) Will reject a proposal for award, if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive 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 a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and
 - (d) Will have the right to require that, a provision be included requiring consultants to permit TNRDC to inspect their accounts and records relating to the performance of the contract and to have them audited by authorized representatives of TNRDC.
- 1.10 Consultants, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices. Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.
- 1.11 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, in the Financial Proposal.
- 1.12 The Data Sheet indicates how long Consultant’s Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. TNRDC will make its best effort to complete negotiations within this period. Should the need arise; however, TNRDC may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension

of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals, without forfeiture of EMD.

2. CLARIFICATIONS AND AMENDMENT OF RFP DOCUMENTS

- 2.1 The interested Bidders may request a clarification on any of the RFP documents up to the number of days indicated in the Data Sheet before the Proposal submission date. Any request for clarification must be sent in writing by paper mail, facsimile, or electronic mail to the Client's address indicated in the Data Sheet. The Client will respond by paper mail, facsimile, or electronic mail to such requests and will send copies of the response (including an explanation of the query but without identifying the source of inquiry) to all interested Bidders who intend to submit proposals.
- 2.2 At any time before the submission of Proposals, TNRDC may for any reason, whether at its own initiative or in response to a clarification requested by a Consulting firm, modify the RFP documents by amendment. Any amendment shall be issued in writing through addendum. Addendum may be sent by mail, facsimile or electronic mail to interested Bidders or/and will be hosted on TNRDC website which will be binding on them. It is the bidder's (those who download from the website) responsibility to keep track of the website specified in the NIT 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 mail, facsimile or electronic mail to the Employer. TNRDC may at its discretion extend the deadline for the submission of Proposals.

3. PREPARATION OF PROPOSAL

- 3.1 Bidders are requested to submit their proposal in Two Parts using, (but not limited to) the formats enclosed herewith (refer section 3, 4 and 5) in 2 separate envelopes and put together in one single outer envelope. The two parts shall be:

Part 1: Technical Proposal and

Part 2: Financial Proposal

The proposal shall be written in the English language as specified in the Data Sheet. The proposal shall be submitted only by the Managing Director/ Head of the eligible consultancy firm. The Managing Director/Head of the eligible consultancy firm shall sign Appendix B-1 (Technical proposal submission form) and Appendix C-1 (Financial proposal submission form) or Authorised Representative holding proper Power of Attorney may also sign the proposal and the rest of the pages of the Technical and Financial Proposal may be signed either by the Managing Director/Head of the eligible consultancy firm OR by an authorized representative holding proper Power of Attorney. The original Power of Attorney shall be executed by Managing Director/ Head of firm duly notarized and submitted with the proposal. In case of Joint Venture's, the signatory to the bid proposal shall be in the similar way the Lead Partner only. In case of Joint Venture, a MoU (executed specifically for this project) indicating the input and role of each Partner shall be submitted with the proposal. In subsequent stages, any relevant submission by authorized representative shall be accepted.

- 3.1.1 **In case the Bidder is a Joint Venture**, the Partners of the Joint Venture shall furnish a Power of Attorney as per the format given in the **Appendix-B-9** designating one of the Partners, as per the Memorandum of Understanding (MoU), as their Lead Partner (Lead Partner is one of the Joint Venture Partner, who shall satisfy technical criteria as detailed in Appendix to Data Sheet i.e.,

under (A) Relevant Experience for the firm for the Assignment & (C) Qualification and Competence of key staff for the assignment.

The authorized representative of the Partners of the Joint Venture other than the Lead Partner shall duly sign the Power of Attorney and the Lead Partner shall sign the same by way of acceptance. The Power of Attorney shall be furnished on a non-judicial stamp paper of Rs.100/- duly attested by notary public.

Proposal submitted by a Joint Venture should comply with the following additional requirements:

- (i) Number of Partners in a Joint Venture would be limited to 2 (two);
- (ii) Wherever required, the Proposal should contain the information required for each Partner of the Joint Venture;
- (iii) One of the Joint Venture Partners should have applied for and obtained the RFP document from TNRDC on having paid the non refundable fee of **Rs.16,800/- (Rupees Sixteen Thousand Eight Hundred Only)** to TNRDC as specified in the RFP document; or submit a Demand Draft for **Rs.16,800/- (Rupees Sixteen Thousand Eight Hundred Only)** at the time of submission of the RFP, in case the documents are downloaded from website.
- (iv) An individual Partner applying as a sole Bidder cannot at the same time be Partner of any Joint Venture applying for this Project. Further, a Partner of a particular Joint Venture cannot be Partner of any other Joint Venture applying for this Project. Any Partner who submits or participates in more than one Bid for this Project will be disqualified and will also lead to disqualification of the Joint Venture /s of which it is a Partner;
- (v) Partners of the Joint Venture shall nominate one Partner as the Lead Partner. The nomination(s) shall be supported by a Power of Attorney by all the Partners on as per the format given in the Appendix-B-9.

3.1.2 Partners of the Joint Venture shall submit a Memorandum of Understanding (MoU) for the purpose of submitting the Proposal, as per the format given in the **Appendix-B-10**. The Memorandum of Understanding (MoU) shall be furnished on a non-judicial stamp paper of Rs. 100/- duly attested by notary public.

The MoU shall, inter alia:

- (i) Communicate the willingness of the Joint Venture to subsequently carry out all the responsibilities as Independent Engineer in terms of the Consultancy Contract Agreement, in case the of Joint Venture is awarded to take up the Independent Engineer Services.
- (ii) Clearly state that Partner of the Joint Venture shall be liable jointly and severally for the services of the Project in accordance with the terms of the Consultancy Contract Agreement.
- (iii) Should be accompanied by the Board Resolutions (in case of corporate member) and/or undertakings (in case of individual member) of the Joint Venture Partners, giving authority/undertaking to enter into a MoU with other Partners for undertaking the Project and, if successful, to participate and undertake the Project and in case of corporate members nominating and authorising an authorised representative of the Partner to sign and enter into the MoU and execute Powers of Attorney for the Project. The format for the

Board Resolutions / Undertaking that must be submitted as per the format given in the **Appendix-B-11**.

(iv) Should be accompanied by a certified true copy of the Memorandum and Articles of Association (in case of corporate members), notarised copy of the Registered Partnership Deed (in case of partnership firms) and Sales tax registration number/PAN/TAN/GST Registration Number (in case of proprietorship firms and individuals)

3.1.3 A copy of the MoU duly notarised, should be submitted along with the Proposal. The MoU entered into among the Partners of the Joint Venture should be specific to this Project and should contain the above requirements failing which the Application shall be rejected as non-responsive. The MoU should be governed by the laws, rules and regulations of India and should be subject to jurisdiction of Chennai Courts only.

- a) Once the tender is submitted, the MoU shall not be modified / altered /terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- b) after the contract is awarded, the constitution of JV Firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc.
- c) Approval for change of constitution of JV Firm shall be at the sole discretion of the Employer. The constitution of the JV Firm shall not be allowed to be modified after submission of the tender bid by the JV Firm, except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV Firm. Failure to observe this requirement would render the offer invalid
- d) On award of contract to a JV Firm, a single Performance Guarantee shall be submitted by the JV Firm as per tender conditions. All the Guarantees like Performance Guarantee, shall be accepted only in the name of the JV Firm and no splitting of guarantees amongst the members of the JV Firm shall be permitted.
- e) On issue of Letter Of Award, an agreement among the members of the JV Firm (to whom the work has been awarded) shall be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908. This JV Agreement shall be submitted by the JV Firm to TNRDC before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This Joint Venture Agreement shall have, inter-alia, following Clauses :
 - i) Joint And Several Liability - Members of the JV Firm to which the contract is awarded, shall be jointly and severally liable to the Employer for execution of the project in accordance with General and Special Conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to TNRDC during the course of execution of the contract or due to non-execution of the contract or part thereof.

- ii) Duration of the Joint Venture Agreement - It shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period after the work is completed.
- iii) Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with applicable Indian Laws.

3.1.4 Any entity which has been debarred, blacklisted by NHAI, Tamil Nadu Road Sector Project (TNRSP), TNRDC, Govt of Tamil Nadu, any other State Government and their agencies and Central Government and their agencies and where the bar subsists as on the Proposal Due Date would not be eligible to submit the Proposal, either individually or as Partner of a Joint Venture.

3.1.5 Litigation History

- a) The bidder as on date should not have been debarred from taking up any civil construction 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 three years. A consistent history of litigations/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 reserves its right to take appropriate action including cancellation of the bid, forfeiting of bid security etc., as may be deemed fit by TNRDC at any time without requiring to give any notice to the applicant in this regard.
- b) Suppression of any information or material by the bidder regarding the Debarment, details of Litigation history, blacklisting of the bidder, misrepresentation or omission of any other material fact in order to influence a selection process would be construed as a fundamental breach and will lead to the disqualification of the Bidder or the termination of its Contract without any further notice.

3.1.6 The Proposal shall be signed by the duly authorized signatory of the Lead Partner in the acceptable format and shall be legally binding on all the Partners of the Joint Venture.

3.1.7 All witnesses and sureties shall be persons of status and probity and their full names, addresses and telephone numbers/mobile numbers shall be stated below their signatures. All signatures in the Proposal documents shall be dated.

3.1.7 Change in Composition of the Bidder in the case of Joint Venture

In case a Bidder is a Joint Venture, change in the composition of the Joint Venture will not be permitted by TNRDC.

3.1.8 Proposal Preparation Cost

The Bidder shall be responsible for all costs associated with the preparation of its Proposal and its participation in the bidding process. TNRDC will not be responsible nor in any way liable for such costs, regardless of the conduct or outcome of the bidding process.

3.1.9 Earnest Money Deposit (EMD)

The proposals duly filled in the required format must reach the Corporate Office of TNRDC at 171, TNMB Building II Floor, South Kesavaperumalpuram, Greenways Road, RA Puram, Chennai – 600 028 on or before **15:00 hrs on 08th March 2021** along with EMD/ Bid Security for an amount of **Rs.2,95,000/- (Rupees Two Lakh Ninety Five Thousand Only)** in one of the following forms:-

- (i) Form of Demand Draft drawn in favour of M/s Tamil Nadu Road Development Company Ltd. (TNRDC)
- (ii) Bank Guarantee from any Nationalised Indian Bank / Scheduled Bank as per the format given in the Bid document (Appendix B – 8) of Section - 4
- (iii) The Bank Guarantees issued as surety for the bid shall be valid for (60) Sixty days beyond the validity of the bid.
- (iv) Earnest Money Deposit (EMD) should be enclosed along with Technical Proposal cover.

3.1.10 Any bid not accompanied by the acceptable EMD, RFP Document duly signed in all pages & RFP Document cost shall be rejected By TNRDC as non-responsive Tender.

Part 1: Technical Proposal

3.2 The bidder is expected to examine all terms and conditions included in the documents. Failure to act or to provide all requested information will be at his own risk and may result in rejection of his proposal.

3.3 During preparation of the Technical proposal the bidder may give particular attention to the following:

- i. The estimated man-months for the assignment which shall be the minimum as stated in the Terms of Reference for your information. The proposal shall however be evaluated on the number of professional staff months estimated by the firm.
- ii. For the purpose of interpretation, any ambiguity between Technical & Financial Bid, the details given in the later shall prevail and binding upon for arriving decision. The interested Bidders should prefer to field as many of their permanent staff as possible and marks shall be given in this regard. The permanent staff would be considered those already employed with the firm prior to the month during which this Tender Notice is issued. Please enclose evidence (e.g: Pay roll, Auditor's Certificate) in this regard.
- iii. No alternative to key professional staff may be proposed and only one Curriculum Vitae (CV) may be submitted for each position, and in the event of default, both the CVs shall be rejected.
- iv. A good working knowledge of the language specified in the data sheet is essential for key professional staff on this assignment. Reports must be in the language (s) specified in the data sheet.
- v. Higher weightage shall be given to the Employees of the firm proposed for assignment.

- vi. The staff proposed to be engaged for the period of 30 Months and above should not be engaged for any other assignment. If this violation is detected, the concerned Staff will be disqualified and remuneration of such persons will be withheld.
 - vii. Age limit of the key professional staff must be less than 65 years with minimum residual service of 2 years
- 3.4 Technical Proposal must provide the following information, using but not limited to the formats attached in the Section 3 & 4.
- i. A brief description of the firm's organisation and an outline of recent experience of the Consultants and, in the case of Joint Venture, for each partner, on assignments of a similar nature (covering 6 / 4 Lane Highway Project on Annuity basis with the provision of Grade Separator, Interchanges, Major Bridges etc.,). The information which shall be provided on each assignment should indicate, inter-alia, the profiles of the staff provided, duration, contract amount and firm's involvement.
 - ii. Any comments or suggestions on the ToR and a description of the methodology (work plan) which the firm proposes to execute the services, illustrated with bar charts of Activities.
 - iii. The composition of the proposed staff team, the tasks which shall be assigned to each and their timing;
 - iv. **CVs signed not earlier than a month time, in blue ink** on each page by both the proposed professional staff and the Managing Director/Head of the bidding firms or the authorized representative. Key information should include years with the firm and degree of responsibility held in various assignments. As far as possible, all the CVs which are to be evaluated should be completed in all respects including signing by the concerned individual key personnel.
 - v. Estimates of the total time effort (person x months) to be provided for the services, supported by bar chart diagrams showing the time proposed (person x months) for each Professional staff and sub professional staff.
 - vi. EMD as per the details given in Para. No. 3.1.9 of Section 2 of RFP Document.
 - vii. Any additional information.
- 3.5 The technical proposal must not include any financial information and the financial proposal must not include any technical information.

Part 2: Financial Proposal

- 3.6 Financial Proposal must be prepared using the formats attached in Section 5.
- 3.7 The Financial Proposal should clearly mention the Total cost including overheads, fees, profit, all taxes and duties (except GST) levies in India.

Consultants may express the price of their services in the Local currency (Indian Rupees) only.

- 3.8 The Client may require consultants to state the portion of their price representing local cost in the Indian currency if so indicated in the Data Sheet.
- 3.9 GST as applicable shall be reimbursed to the consultant, upon production of documentary proof of remittance

4. SUBMISSION, RECEIPT AND OPENING OF PROPOSALS

- 4.1 The proposal shall be prepared in indelible ink. It shall contain no inter- lineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the person or persons who sign(s) the Proposals.
- 4.2 All pages of the Proposal shall be signed by the eligible authority as specified in Para 3.1 of LOI given above.
- 4.3 The financial proposal shall be sealed separately and duly marked on the envelope containing it showing the name of the project, the envelope must be clearly marked.

“DO NOT OPEN, EXCEPT IN PRESENCE OF THE TENDER SCRUTINY COMMITTEE”

- 4.4 This outer envelope shall include two separate envelopes, each clearly marked as “Part 1: Technical Proposal” or “Part 2: Financial Proposal”.
- 4.5 The proposal must be submitted in a hard bound form (hard bound implies binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the document - spiral bound form, loose form, etc. will be not accepted) with all pages numbered serially, along with an index of submissions. All figures quoted in the financial Proposal should be covered with a transparent adhesive tape.
- 4.6 The completed proposal must be delivered on or before the time and date stated in the data sheet.

5 PROPOSAL EVALUATION

- 5.1 A two -stage procedure shall be adopted in evaluating the proposals:

Technical Proposal

- 5.2 The Evaluation Committee appointed by TNRDC shall carry out its evaluation applying the evaluation criteria and point system specified in the data sheet. Each responsive proposal shall be attributed a technical score (St.) The technical proposal should score at least 70 Marks to be considered responsive for Financial evaluation.

Financial Proposal

- 5.3 After the evaluation of Technical Proposals is completed, TNRDC may notify those Consultants

whose proposals were not considered as per conditions of RFP indicating that their Financial Proposal will be returned “unopened” along with the EMD. TNRDC shall simultaneously notify the finally selected Consultants indicating the date and time set for opening of the Financial Proposals.

- 5.4 The Financial Proposals shall be opened in the presence of the Consultants’ representatives who choose to attend. The name of the Consultant, the technical scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. TNRDC shall prepare minutes of the opening. TNRDC shall not have any obligation to demonstrate to anybody on the Technical Evaluation process carried out.
- 5.5 The Evaluation Committee will determine whether the submitted Financial Proposals are complete i.e. whether they have included cost of all items of the corresponding proposals; if not, then the cost towards such missing items will be considered as NIL, but the Consultant shall, however, be required to carry out such obligations without any additional compensation. In case under such circumstances, if Client feels that the work cannot be carried out within the overall cost as per the submitted financial proposal, such proposals shall be considered non responsive.

5.6 Deleted

6 NEGOTIATIONS

- 6.1 Prior to the expiration period of validity of proposal, TNRDC shall notify the successful firm who submitted the lowest bid in writing by registered letter or facsimile and may either issue LOA if negotiations are not required or may invite it to negotiate the contract price. In case two or more firms evaluated to be the lowest, the firm achieving the highest Technical score shall be invited first for negotiations.
- 6.2 Negotiations shall commence with a discussion of lowest bidder, the proposed methodology (work plan), staffing and any suggestions they may have made to improve the ToR. Agreement must then be reached on the final ToR, the staffing and bar charts, which shall indicate activities, staff, periods in the field and in the home office, staff months, logistics and reporting. Special attention shall be paid to optimise the required outputs from the firm within the available budget and to define clearly the inputs required from the Employer to ensure satisfactory implementation of the assignment.
- 6.3 It is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm’s tax liability in the Client’s country, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services.
- 6.4 Changes agreed upon shall then be reflected in the financial proposal, using quoted unit rates.
- 6.5 Having selected a firm, among other things, on the basis of an evaluation of proposed key professional staff, TNRDC expects to negotiate, a contract on the basis of the staff named in the proposal and, prior to contract negotiations, will require assurance that this staff shall be actually available. TNRDC shall not consider substitutions during contract negotiations except in cases of unexpected delays in the starting date or incapacity of key professional staff for reasons of health.

6.6 The negotiations shall be concluded with a review of the draft form of Contract. The Employer and the firm will finalise the contract to conclude negotiations.

7 AWARD OF CONTRACT

- 7.1 After completion of negotiations with the consultants, the Client shall award the Contract to the selected Consultant.
- 7.2 Within (7) Seven days from the date of receipt of the LOA, the successful bidder shall accept the LOA and return the same to TNRDC.
- 7.3 After acceptance of LOA, the successful firm shall furnish performance security for a value of 2.50% of the contract value within 20 Days of acceptance of LOA
- 7.4 The successful bidder shall execute the Consultancy Agreement within (30) Thirty Days of acceptance of LOA
- 7.5 Commencement of Assignment: The firm shall begin carrying out the services from the date to be intimated by TNRDC

**Chief General Manager
Tamil Nadu Road Development Company Ltd.,**

DATA SHEET
(As Mentioned in Information to Consultants)

Sub clause No. in Information to Bidders

- 1.4 Pre-Bid Conference shall be held at TNRDC Corporate Office on **24TH FEBRUARY, 2021** at **15:00** hrs.
- 1.12 The proposal shall be valid for 180 days after the last date of submission.
- 2.1 Bidders wanting to have their queries answered in Pre-Bid Conference or bidders wanting any other clarifications should send their queries minimum 05 Days prior to Pre-Bid Conference. The Employer will respond to any request for clarification **on or before 19TH FEBRUARY, 2018 up to 15.00 Hrs.** The address for requesting clarification is:

Chief General Manager

Tamil Nadu Road Development Company Ltd.,

Corp. Office:

171, 2nd Floor, Tamil Nadu Maritime Board Building,
South Kesavaperumal Puram,
Pasumpon Muthuramalingam Road (Greenways Road),
Raja Annamalai Puram, Chennai – 600 028

Phone : 044- 2495 2800 / 2495 3800

Fax : 91-44-2493 3800

Email : tenders@tnrdc.com

- 3.1 The Language of documents and correspondence will be English.
- 3.7 TNRDC shall reimburse only GST. Consultant has to assess all other taxes and should inbuilt them in their financial proposal. These taxes (other than GST) should not be provided separately. Consultants are requested to consult Tax Consultants for details.
- 3.8 The Consultants to state local cost in INR currency only.
- 4.6 The time and date of submission: **15:00 hrs on 08th March 2021.** The **Technical Bid** will be opened at the same day at **15:30 hrs,** in TNRDC Corporate Office.

5.2 The points assigned to Technical Evaluation criteria are enclosed as Appendix to this Data Sheet:-

Sl.No	Description	Marks
A	Relevant experience for the assignment	42
B	The Quality of methodology and work plan proposed	18
C	Qualifications and competence of the key staff for the assignment	40
	Total	100

Appendix to Data Sheet

(A) Relevant Experience of the firm for the assignment

SI No	Description of Item	Score		Minimum Qualifying Marks	Remarks
1	Year of Establishment of the Firm	More than 20 years	5	2.0	<u>If the Bidder is a Joint Venture:-</u> Only Lead Partner's credentials shall be considered for evaluation
		More than 15 years	4		
		More than 10 years	3		
		More than 5 years	2		
		Max Marks	5		
2	Any one year of Annual Turn over (Last 3 years) from Consultancy Business	More than 7 Crores	5	2.0	<u>If the Bidder is a Joint Venture:-</u> Lead Partner shall have minimum Average Annual Turn over (Last 3 years) from Consultancy Business of Rs.2 Crore and Other Partner shall have minimum Average Annual Turn over (Last 3 years) from Consultancy Business of Rs.1 Crore against this criteria
		5 to 7 Crores	4		
		3 to 5 Crores	3		
		3 Crores	2		
		Max Marks	5		
3	Experience as Independent Consultant (or) Construction Supervision in Highway Projects (6 (or) 4 Laning) with minimum 25 Km length or 150 Crores during last 10 Financial years starting from FY 2007-2008	5 or more Projects	14	10	<u>If the Bidder is a Joint Venture:-</u> Lead Partner should have experience in minimum 2 Projects against this criteria
		4 Projects	13		
		3 Projects	12		
		2 Projects	11		
		1 Project	10		
		Max Marks	14		

4	Experience in DPR preparation for Highway Projects (6 or 4 Laning) with min 30 Km or 200 crores Length during last 10 Financial years starting from FY 2007-2008	More than or equal to 4 Projects	9	7	<u>If the Bidder is a Joint Venture:-</u> Lead Partner should have experience in minimum 1 Project against this criteria
		3 Projects	8		
		2 Projects	7		
		Max Marks	9		
5	Experience in DPR preparation for Bridge Projects of more than 300 metres related to Major Structures in Construction Supervision / DPR / Design Review	More than or equal to 4 Projects	9	7	<u>If the Bidder is a Joint Venture:-</u> Lead Partner should have experience in minimum 1 Project against this criteria
		3 Projects	8		
		2 Projects	7		
		Max Marks	9		

(B) The Quality of Methodology and Work Plan proposed

SI No	Description of Item	Score		Minimum Qualifying Marks	Remarks
1	Quality of Approach and Methodology	Understanding of the project, issues and proposed approach to solve them	2	10	
		Approach for investigation, surveys, design reviews and authentication of drawings	2		
		Proposed approach to determine the value of work done for release of Project Support Fund by GoTN.	2		
		Proposed Quality Control & Quality Assurance Plan.	2		
		Proposed measures to have effective control on Completion Schedule, Change of Scope & Project Costing	4		

		Max Marks	12		
2	Comments and Suggestion on ToR	Max Marks	2	1	
3	Work Programme and Manning Schedule	Optimization of manning schedule with respect to time and cost	2	1	
		Proposed work plan	2	1	
		Max Marks	4	2	

(C) Qualification and Competence of the key Staff for the assignment(Age limit must be less than 65 years with minimum residual service of 2 years)

SI No	Description of Item	Score	Minimum Qualifying Marks	Remarks	
1	Team Leader	a) Educational Qualification:-		14 (In addition to minimum qualifying mark of 14 the Candidate should be Graduate in Civil Engineering Should have minimum experience of 15 years and shall have minimum Experience in 4 Projects)	<u>If the Bidder is a Joint Venture:-</u> This position should be nominated from the Rolls of Lead Partner
		Post Graduation in Highway / Transportation Engineering	8.5		
		Mere Graduation in Civil Engineering	6		
		b) Professional Experience in Project Preparation and Construction Supervision / Execution:-			
		More than 20 years	10		
		More than 15 years	8		
		Additional mark in the case of permanent employee of the firm, satisfying the criteria under Para No.3.3 (ii) of Section - 2	1		
Max Marks	19.5				
2	Bridge Engineer	a) Educational Qualification:-		9.5	
		Mere Graduation in Civil Engineering	6		
		b) Professional Experience in Bridge Designing /Execution / Quality Control			
		More than 15 years	5		
		More than 10 years	3.50		
Additional mark in the case of permanent employee of the firm, satisfying the criteria	1				

		under Para No.3.3 (ii) of Section - 2			
		Max Marks	12		
3	Highway Engineer	a) Educational Qualification:-		5.5	
		Graduation in Civil Engineering	3		
		b) Professional experience in similar capacity in Highway Project			
		More than or equal to 10 Years	4.50		
		More than or equal to 5 Years	2.50		
		Additional mark in the case of permanent employee of the firm, satisfying the criteria under Para No.3.3 (ii) of Section - 2	1		
		Max Marks	8.5		

In addition to the above, consultant should propose a suitable Survey/Quantity/Material Engineer as sub professional staff. The candidate should be Graduate in Civil Engineering/Survey with at least 6 years experience in Quantity surveying out of which 3 years should be for highway projects and they should have also dealt with at least 1 project of 6/4 laning nature

SL. No	Description	Marks
1	Total Maximum Marks	100
2	The Minimum Marks for getting Technically qualified	70

5.6 Deleted

7.5 Commencement of Assignment: The firm shall begin carrying out the services from the date to be intimated by TNRDC

SECTION 3

FORMATS FOR SUBMISSION OF FIRMS CREDENTIALS

The proposal should contain the following information in enclosed format attached at **Appendix A.**

Year of Establishment of Firm

Average annual turnover (last three financial years) from Consultancy Services.

S.No.	Particulars	2017-2018	2018-2019	2019-2020
I	Annual turnover from Consulting Services			

APPENDIX A

The following information related to the firm should be provided in the proposal.

- i. Name of the work: **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years**
- ii. Year of establishment of firm *

Consultant	Year of Establishment	Country	Type of Organization			
			Proprietary firm	Partnership	Company	Other
Individual / Lead Partner (of Joint Venture)						

NOTE:- Year of Establishment of Lead Partner of Joint Venture shall be considered.

*Copy of Certificate of incorporation shall be submitted.

- iii. Office/Business Address/Telephone nos./Cable Address.
- iv. Narrative description of firm (Not more than 2 sheets)
- v. Name of two(2) principals who may be contacted with title and telephone number/fax number.
- vi. Financial Statement of the last three years. **

S.No.	Particulars	2017-2018	2018-2019	2019-2020
I	Annual turnover from Consulting business			
Ii	Total Assets			
Iii	Current Assets			

**a) The amount shall be stated in INR only

b) Deleted.

c) Audited balance Sheet/ Auditor Certificate of last 3 years (2017-18,2018-19 & 2019-2020) shall be submitted as evidence of Annual Turnover.

vii. Experience as Independent Consultant/Construction supervision of (4 / 6 Laning) Highway projects (Minimum 25 km length) during last 10 years. * * *

S. No	Projects Name / Year	Type of Services Rendered	Description of Highway Project/ Length (Kms)	Client (with complete address contact person, telephone Nos. and Fax Nos.)	Fee in INR (Applicant's share in case of Joint Venture)	Approx. cost of Highway Project	Period
1	2	3	4	5	6	7	8
A. Completed / Substantially completed projects:							
1.							
2.							
3.							

viii. Experience in DPR preparation of (4/6 Laning) Highway Projects (Minimum 30 km length) during last 10 years * * *

S. No	Projects Name / Year	Type of Services Rendered	Length of Project (kms)	Client (with complete address contact person, telephone Nos. and Fax Nos.)	Fee in INR (Applicant's share in case of Joint Venture)	Period
1	2	3	4	5	6	8
	Sole Consultant / Prime Consultant of Joint Venture / minor consultant of Joint Venture / (Road / Highway projects with or without bridges)					

*** a) Only those projects, to be included in the table which are Highways Projects and for which clients certificates from the concerned authorities are enclosed with the proposal. Agreement copy with necessary certificate issued by the Statutory Auditor will also be accepted.

b) The details of bridges having length more than 200m in the listed projects is to be specifically mentioned.

c) In case the firm is claiming experience for a project which is completed as Joint Venture, 75% credit shall be considered if it was Lead Partner and 50% experience shall be considered if it is Joint Venture minor partner.”

SECTION 4

FORMAT FOR SUBMISSION OF TECHNICAL PROPOSAL

Appendix B-1	Technical proposal submission form.
Appendix B-2	Firm's comments and suggestions on the Terms of Reference and on data, services, and facilities to be provided by TNRDC.
Appendix B-3	Approach paper on methodology and work plan for performing the assignment.
Appendix B-4	Composition of the Team Personnel And Task(s) of each Team Partner
Appendix B-5	Format for Curriculum vitae (CV) of proposed Professional staff.
Appendix B-6	Time schedule for deployment of Professional staff
Appendix B-7	Activity (works) schedule.
Appendix B-8	Format for Bid Security
Appendix B-9	Format for Power of Attorney For Lead Partner Of Joint Venture
Appendix B-10	Format for Memorandum of Understanding (MoU)
Appendix B-11	Format for Board Resolutions for Companies Format for Under Taking For Individual Partners

APPENDIX B-1

Technical proposal submission form:-

FROM (Name of Firm)

TO: (Name and Address of Client)

Chief General Manager

Tamil Nadu Road Development Company Ltd.,

Corp. Office:

171, 2nd Floor, Tamil Nadu Maritime Board Building,
South Kesavaperumal Puram,
Pasumpon Muthuramalingam Road (Greenways Road),
Raja Annamalai Puram, Chennai – 600 028.

Phone : 044- 2495 2800 / 2495 3800,

Fax : 91-44-2493 3800

Email : tenders@tnrdc.com

Ladies/Gentlemen:

- i. Subject:** Submission of Technical and Financial Proposal for engagement as **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years.**

We, the undersigned, offer to provide the consulting services for the above in accordance with your Request for Proposal dated (Date), We are hereby submitting our Proposal, which includes the Technical Proposal and Financial Proposal sealed in two separate envelope for the above mentioned work.

If negotiations are held during the period of validity of the Proposal i.e. before (Date) we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from contract negotiations.

We understand you are not bound to accept any Proposal you receive

We remain,

Yours sincerely,

Managing Director/Head of the firm

Name of the firm

Address

*Lead Partner in case of
Joint Venture

APPENDIX B-2 :

**COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND
ON SERVICES AND FACILITIES TO BE PROVIDED BY THE EMPLOYER**

On the Terms of Reference (not more than one page):

- 1.
- 2.
- 3.
- 4.
-

On the services and facilities to be provided by the Employer (not more than one page)

- 1.
- 2.
- 3.
- 4.
-

APPENDIX B-3:

APPROACH PAPER ON METHODOLOGY AND WORK PLAN FOR PERFORMING THE
ASSIGNMENT

(not more than six pages)

APPENDIX B-4:

COMPOSITION OF THE TEAM PERSONNEL, AND TASK(S) OF EACH TEAM MEMBER

1. Technical/Managerial Staff

Sl. No.	Name	Position	Task
1			
2			
3			
4			
..			
..			

2. Support Staff

Sl. No.	Name	Position	Task
1			
2			
3			
4			
..			
..			

APPENDIX B-5:

**FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED
PROFESSIONAL STAFF**

Proposed Position :
Name of Firm :
Name of Staff :
Profession :
Date of Birth :
Years with Firm/Entity: Nationality:
Membership of Professional Societies:.....
Detailed Task Assigned :

Photograph



Key Qualifications :

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations. Use about half a page.]

Education:

[Summarise college/university and other specialised education of staff member, giving their names, dates attended, and degrees obtained. Use about one quarter of a page.]

Note:-

- a) **Personnel is to affix his recent photograph on first page of CV.**
- b) **Complete address and phone number of the Personnel is to be provided.**
- c) **Document for proof of age is to be enclosed.**
- d) **Document for proof of qualification is to be enclosed.**
- e) **Age of the personnel shall not be more than 70 years.**
- f) **Experience Certificates from Employers to be attached.**

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, name of employing organisations, titles of positions held, and locations of assignments. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about three-quarters of a page.]

Languages:

[For English language indicate proficiency : excellent, good, fair, or poor; in speaking, reading, and writing]

Certification by the Candidate

I, the undersigned, (Name and Address) certify that I have not left any assignment with the consultants engaged by GOTN / contracting firm (firm to be supervised now) for any continuing work of GOTN / TNRDC without completing my assignment. I will be available for the entire duration of the current project (Independent Engineer services for Development of Chennai Outer Ring Road). if I leave this assignment in the middle of the completion of the work, GOTN would be at liberty to debar me from taking any assignment in any of the GOTN works for an appropriate period of time to be decided by GOTN. I have no objection if my services are extended by GOTN for this work in future.

.....

Date :
(Day/Month/Year)

Certification by the firm

The undersigned on behalf of -----(name of consulting firm) certify that Shri ----- (name of the proposed personnel and address) to the best of our knowledge has not left his assignment with any other consulting firm engaged by GOTN / Contracting firm (firm to be supervised now) for the ongoing projects. We understand that if the information about leaving the past assignment is known to GOTN, GOTN would be at liberty to remove the personnel from the present assignment and debar him for an appropriate period to be decided by GOTN.

.....

Date :
(Day/Month/Year)

[Signature of staff member or authorised representative of the Firm]

APPENDIX B-6:

TIME SCHEDULE FOR DEPLOYMENT OF PROFESSIONAL STAFF

A. Manning Schedule

Sl. No	Name	Position	Month wise Program (in form of Bar Chart)												Number of Months
			[1 st , 2 nd , etc. are month from the start of assignment]												
			1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th and subsequent Months	
1															Subtotal (1)
2															Subtotal (2)
3															Subtotal (3)
4															Subtotal (4)
-															-
-															-

APPENDIX B-7:

ACTIVITY (WORKS) SCHEDULE

A. Activity Schedule

Sl. No.	Item of Activity (Works)	Month wise Program (in form of Bar Chart)											
		[1 st , 2 nd , etc. are month from the start of assignment]											
		1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th
1												
2												
3												
4												
-												
-												

B. Completion and submission of Reports

S.No	Reports	Programme: (Date)
1	Monthly reports (Design and Construction)	
2	Quarterly Reports	
3	Various other reports as provided in the Concession Agreement such as Completion Report	

APPENDIX B- 8:

FORMAT FOR BID SECURITY

(To be issued by a Bank, as defined in this RFP)

To

The Additional Chief Secretary to Government of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat, Fort St. George,
Chennai 600 009

1. In consideration of Tamil Nadu Road Development Company Ltd., (hereinafter called “TNRDC” which expression shall include any entity which TNRDC may designate for the purpose) acting on behalf of the Secretary to the Government of Tamil Nadu, Highways and Minor Ports Department (hereinafter called “GOTN”) having agreed, inter alia, to consider the bid of [*****] (hereinafter referred to the “Bidder” which expression shall include their respective successors and assigns) which will be furnished in accordance with the terms of the Request for Proposals for the Independent Engineer (hereinafter called the “RFP”) in lieu of the Bidder being required to make a cash deposit, we [*****] [name of the Bank and address of the issuing branch], hereinafter called the “Bank” which expression shall include our successors and assigns, as to bind ourselves our successors and assigns do at the instance of the Bidder hereby unconditionally and irrevocably undertake to pay as primary obligor and not as surety only to GOTN without any demur protest or demand and without any proof or condition the sum of **Rs.2,95,000/- (Rupees Two Lakh Ninety Five Thousand Only)**.
2. We, the Bank, do hereby unconditionally and irrevocably undertake to pay forthwith the amounts due and payable under this Guarantee without demur and on first demand and without any delay merely on a written demand from GOTN or under the hand of any of the employee of GOTN or any other person or entity duly authorised by GOTN in this regard, stating that the amount claimed is due by reason of the occurrence of any of the events referred to in the RFP. Any such demand made on the Bank by GOTN under the hand of any of the employee of GOTN or any other person or entity duly authorised by GOTN in this regard shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, the Bank’s liability under this Guarantee shall be restricted to an amount not exceeding **Rs.2,95,000/- (Rupees Two Lakh Ninety Five Thousand Only)**. This Guarantee will remain in force for the period specified in paragraph 4 below and unless a demand or claim in writing is made by GOTN on the Bank under this Guarantee, not later than 6 (six) months from the date of expiry of this Guarantee, all rights of GOTN under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

3. We, the Bank unconditionally undertake to pay to GOTN any money so demanded under this Guarantee notwithstanding any dispute or disputes raised by the Bidder or any other party including in any suit or proceeding pending before any court or tribunal relating thereto or any instructions or purported instructions by the Bidder or any other party to the Bank not to pay or for any cause to withhold or defer payment to GOTN under this Guarantee. The Bank's liability under this Guarantee is irrevocable, unconditional, absolute and unequivocal. The payment so made by the Bank under this Guarantee shall be a valid discharge of the bank's liability for payment hereunder and the Bidder shall have no claim against the Bank for making such payment.
4. We, the Bank further agree that the Guarantee herein contained shall remain in full force and effect upto and until 17:00 hours on the date which falls Sixty (60) days beyond the Proposal Validity period (180 days after the last date of submission) i.e.(hereinafter called "the End Date"). Unless a demand or claim under this Guarantee is made on the Bank by GOTN or under the hand of any of the employee of GOTN or any other person or entity duly authorised by GOTN, in this regard, in writing on or before the said End Date, the Bank shall be discharged from all liability under this Guarantee thereafter.
5. We hereby agree to renew and extend the validity of this guarantee for a period not exceeding one year from the End Date on a request made by GOTN or under the hand of any of the employee of GOTN or any other person or entity duly authorised by GOTN in this regard.
6. We, the Bank further agree with GOTN that GOTN shall have the fullest liberty without the Bank's consent and without affecting in any manner the Bank's obligation hereunder to vary any of the terms and conditions of the RFP or to extend or postpone the time of performance by the Bidder or any other party from time to time or postpone for any time or from time or postpone for any time or from time to time any of the powers exercisable by GOTN against the Bidder or any of them and to enforce or to forbear from enforcing any of the terms and conditions relating to the RFP and the Bank shall not be relieved from it liability by reason or any forbearance act or omission on the part of GOTN, or any indulgence given by GOTN to the Bidder or any other party or by any such matter or thing whatsoever which under the law relating to securities would, but for this provision, have the effect of so relieving the Bank.
7. To give full effect to the obligations herein contained, GOTN shall be entitled to act against the Bank as primary obligor in respect of all claims subject of this Guarantee and it shall not be necessary for GOTN to proceed against the Bidder or any other party before proceeding against the Bank under this Guarantee and the Guarantee herein contained shall be enforceable against the bank as principal obligor.
8. This Guarantee will not be discharged or affected in any way by the liquidation or winding up or dissolution or change of constitution or insolvency of any individual member of the Bidder or any other party or any change in the legal constitution or insolvency of the Bidder or any other party or any change in the legal constitution of the Bank or GOTN.
9. We, the bank lastly undertake not to revoke this Guarantee during its currency.

10. Notwithstanding anything contained herein.

3. Our liability under the Bank Guarantee shall not exceed **Rs.2,95,000/- (Rupees Two Lakh Ninety Five Thousand Only)**.

- a) The Bank Guarantee shall be valid upto [date], _____ 201_.
- c) Unless a demand in writing is made upon us on or before _____, [date] or any other extended date, all our liability under this guarantee shall cease.

IN WITNESS WHEREOF THE BANK HAS SET ITS HANDS HERETO ON THE DAY, MONTH AND YEAR MENTIONED HEREUNDER.

Signed and Delivered

On behalf of(Bank name)

(Signature)

(Date)

by the hand of Mr

(name of authorized signatory)

Designation

Note:

- a) Address of the controlling office of the issuing branch with phone number and fax number to be provided.
- b) Authenticated copy of Letter of Authority authorizing the signatory of this guarantee to execute the same to be enclosed herewith).

APPENDIX B-9:

FORMAT FOR POWER OF ATTORNEY FOR LEAD PARTNER OF JOINT VENTURE

POWER OF ATTORNEY

(On Non – judicial stamp paper of Rs 100 duly attested by notary public)

Whereas the GOTN represented by Tamil Nadu Road Development Company Ltd (TNRDC) has invited proposals from the interested Bidders for rendering **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India called the “Project” in the State of Tamil Nadu, India for a specified period (Not less than 36 Months)**

Whereas, M/s _____ and M/s _____ (the respective names of the Partners along with address of their registered offices) have formed a Joint Venture and are interested in bidding for the Independent Engineer Consultancy Contract in accordance with the terms and conditions of the Request for Proposal (RFP), and other connected documents in respect of the Project, and

Whereas, it is necessary under the RFP for the Partners of the Joint Venture to designate one of them as the Lead Partner with all necessary power and authority to do for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture’s bid for the Project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT:

We, M/s _____ (the respective name of the Partner, other than the Lead Partner, along with address of their registered offices) do hereby designate the other Partner of the Joint Venture, M/s _____ (name of the Lead Partner, along with address of the registered office), as the Lead Partner of the Joint Venture, to do on behalf of the Joint Venture, all or any of the acts, deed or things necessary or incidental to the Joint Venture’s bid for the Project, including submission of Proposal, participating in pre-proposal conference, responding to queries, submission of information / documents and generally to represent the Joint Venture in all its dealings with TNRDC / GOTN, any other Government Agency or any person, in connection with Project until culmination of the process of bidding, execution of Consultancy Agreement and thereafter till the completion of Contract with GOTN.

We hereby agree to ratify all acts, deeds and things lawfully done by the Lead Partner our said attorney pursuant to this Power of Attorney and agree that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by the Joint Venture.

Dated this _____ day of _____ 201__.
[Executant(s)]

(To be signed by the other Partner in the Joint Venture other than the Lead Partner)

.....Contd

Accepted

Dated this _____ day of _____ 201__

(To be signed by the Lead Partner)

Witness:

1. _____

2. _____

Note:-

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.
- Also wherever required, the executant(s) should submit for verification the extracts of the charter documents and documents such as resolutions/ Powers of attorney in favour of the persons executing this Power of attorney for the designation of power hereunder on behalf of the Bidder.

APPENDIX B-10:

**FORMAT FOR MEMORANDUM OF UNDERSTANDING (MoU)
(On Non-Judicial stamp paper of Rs.100 duly attested by notary public)**

This Memorandum of Understanding (MoU) entered into this _____ day of ____ 201__
_____ at _____ Among _____ (herein (Party of the First Part)
after referred as “_____”) and having office at _____
(Party of the Second Part)

And having office at _____.

The parties are individually referred to as Party and collectively as Parties.

WHEREAS THE GOTN represented by Tamil Nadu Road Development Company Ltd. (TNRDC) has invited proposals from interested parties for **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India** called the ‘Project’ in the State of Tamil Nadu, India for an initial specified period of 36 months.

AND WHEREAS the parties have discussed and mutually agreed for formation of a Joint Venture for bidding for the said project and have reached an understanding on the following points with respect to the Parties rights and obligations towards each other and their working relationship.

IT IS HEREBY AS MUTUAL UNDERSTANDING OF THE PARTIES AGREED AND DECLARED AS FOLLOWS:

- (1) That the Parties hereby form a Joint Venture for bidding for the project;
- (2) Joint Venture hereby state that the party of the First Part, M/s _____ is nominated as the ‘Lead Partner’ of this Joint Venture;
- (3) Lead Partner, M/s _____ is hereby authorized to exercise all the obligations related to this Bidding which includes, but not limited to, submit the Bid, involve in the evaluation, negotiate, accept and execute the Agreement, in case the Bid is accepted;
- (4) Lead Partner, M/s. _____ and the other Partner, M/s _____ are hereby jointly declare that this is only a Sole Joint Venture in which the either parties applying for this project; and other than this proposal, the either parties are not a Partner of any other Joint Venture applying for this project;
- (5) That M/s. _____ who is the Lead Partner of the Joint Venture, commits to hold a Minimum credentials, which is specified in the RFP Document as Technical Criteria for qualification for Lead Partner, during the entire Currency of the Consultancy Agreement;

(6) Whereas, that Partner other than Lead Partner M/s. _____, commits to hold a Minimum credentials, which is specified in the RFP Document as Technical Criteria for qualification for other Partner, during the entire Currency of the Consultancy Agreement;

(7) That the roles and the responsibilities of each party at each stage of the Bidding & execution shall be as follows:-

(i) Bidding Stage

(a) For Lead Partner

.....
.....
.....

(b) For other than Lead Partner

.....
.....
.....

(ii) During Execution Stage

(a) For Lead Partner

.....
.....
.....

(b) For other than Lead Partner

.....
.....
.....
.....

-
- (8) That the parties shall be jointly and severally liable for the Consultancy Services in accordance with the terms of the RFP Document;
- (9) That the Parties of firm that they shall render the Services in good faith and shall take all necessary steps to see the Project through expeditiously. They shall not negotiate with any other party for this project;
- (10) That this MoU shall be governed in accordance with the laws of India and Courts in Chennai shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein;

In witness where of the Parties of firm that the information provided is accurate and true and have caused this MoU to be duly executed on the date and year above mentioned.

(Party on the first Part)

(Party on the Second Part)

Witness:

1. _____

2. _____

APPENDIX B-11:

FORMAT FOR BOARD RESOLUTION FOR COMPANIES

Format for Lead Partner

“RESOLVED THAT approval of the Board be and is hereby granted to the Company to join the Joint Venture with _____, (name and address of the Partner other than Lead Partner) for joint submission of bids to TNRDC for **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years.**

“RESOLVED FURTHER THAT the “draft” Memorandum of Understanding (“MoU) to be entered into with the Joint Venture partners (a copy whereof duly initialled by the Chairman is tabled in the meeting) be and is hereby approved.”

“RESOLVED FURTHER THAT Mr. _____(name), _____(designation) be and is hereby authorised to enter into an MoU, on behalf of the company, with the Joint Venture Partners, to accept the Power of Attorney granted by the other Partners of the Joint Venture to act for and on behalf of the Joint Venture and to sign the bidding documents on behalf of the Joint Venture for submission of the bidding documents .”

“RESOLVED FURTHER THAT a Power of Attorney be granted in favour of Mr. _____ to exercise signing powers on behalf of the Company as Lead Partner of the Joint Venture and to do all such acts and things as may be necessary in connection with the bidding process.”

Format for other Partner

“RESOLVED THAT approval of the Board be and is hereby granted to the Company to join the Joint Venture with _____ (name and address of the Lead Partner) for joint submission of bids to TNRDC for Independent Engineer services for the work of Design, Construction, Development, Finance, Operation, Maintenance and Transfer of Chennai Outer Ring Road (Six lanes plus two service lanes, total length approximately 30.50 km)” called the “Project” in the State of Tamil Nadu”,

“RESOLVED FURTHER THAT the “draft” Memorandum of Understanding (MoU) to be entered into with the Joint Venture partners (a copy whereof duly initialled by the Chairman is tabled in the meeting) be and is hereby approved.”

“RESOLVED FURTHER THAT Mr. _____ (name), _____ (designation) be and is hereby authorised to enter into a MoU with the Joint Venture Partners and execute a Power of Attorney in favour of _____ to act as the Lead Partner”

FORMAT FOR UNDERTAKING FOR INDIVIDUAL PARTNERS

On the Letter head of the Individual (In case the Partner is not a Company or where the Bidder is not a Company)

Format for Lead Partner

I/We _____ hereby agree to join the Joint Venture with _____ (name and address of the Partner other than Lead Partner) for joint submission of bids to TNRDC for **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India** called the “Project” in the State of Tamil Nadu.

I/We also approve the Memorandum of Understanding (“MoU) to be entered into with the Joint Venture partners.

I/We also authorise Mr. _____ (name), _____ (designation) to enter into a MoU with the Joint Venture Partner, to accept the Power of Attorney granted by the other Partner of the Joint Venture to act for and on behalf of the Joint Venture and to sign the bidding documents on behalf of the Joint Venture for submission of the bidding documents.”

Format for Partners

I/We _____ hereby agree to join the Joint Venture with _____ (name and address of the Lead Joint Venture Partner) for joint submission of bids to TNRDC for **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India** called the “Project” in the State of Tamil Nadu (location of project)”,

I/We also approve the Memorandum of Understanding (“MoU) to be entered into with the Joint Venture partners

I/We also authorise Mr. _____ (name), _____ (designation) to enter into a MoU with the Joint Venture Partner, and execute a Power of Attorney in favour of _____ to act as the Lead Partner”

Each applicant will have to attach its Board Resolution/ Undertaking as the case may be, approving the participation in the Joint Venture, bidding for the Project and authorizing a company official to sign the bidding documents / Power of Attorney to the Lead Partner.

SECTION 5: FORMAT FOR SUBMISSION OF FINANCIAL PROPOSAL.

Appendix C-1 Financial proposal submission form

Appendix C-2 Summary of costs

Appendix C-3 Breakdown of local currency costs

Appendix C-4 Breakdown of foreign currency cost - Deleted

APPENDIX C-1: FINANCIAL PROPOSAL SUBMISSION FORM

FROM : (Name of Firm)

Chief General Manager

Tamil Nadu Road Development Company Ltd.,

Corp. Office:

171, 2nd Floor, Tamil Nadu Maritime Board Building,
South Kesavaperumal Puram,
Pasumpon Muthuramalingam Road (Greenways Road),
Raja Annamalai Puram, Chennai – 600 028.

Phone : 044- 2495 2800 / 2495 3800,

Fax : 91-44-2493 3800

Email : tenders@tnrdc.com

Subject: Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years.

We, the undersigned, offer to provide the Independent Engineer services for the above Project in accordance with your Request for Proposal dated [Date]. Our attached financial proposal is for a sum of Rs..... [Amount in words and figures]. Our financial proposal is exclusive of GST & all applicable Taxes, which will be reimbursed by you on production of proof of payment by us.

Our financial proposal shall be binding upon us subject to the modifications, if any resulting from any contract negotiations, up to the expiration of the validity period of the proposal, i.e., [Date].

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act 1988”.

Commission and gratuities, if any, paid or to be paid by us to agents relating to this proposal and contract execution, if we are awarded the contract, are listed below:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
.....
.....

We understand and hereby confirm that you are not bound to accept any proposal you receive for the above.

We remain,

Yours sincerely,

Managing Director/Head of the firm *

Name of the firm

Address

*Lead Partner in case of Joint Venture

APPENDIX C-2: SUMMARY OF COSTS

No.	Description	Amount (LC)*
	Local Consultants	
I	Remuneration for Local Professional Staff	
II	Supporting Staff	
III	Transportation	
IV	Duty Travel to Site (If applicable)	
V	Office Rent	
VI	Office Supplies, Utilities and Communication	
VII	Office Furniture and Equipment	
VIII	Reports and Document Printing	
IX	Survey Equipment with Survey Party and Vehicle	
X	Provisional Sum	
	Sub Total Local Consultant	
	Total Costs (Including GST and all applicable Taxes)	

LC* Local Currency

Note: Payments will be made as per stipulations of the Conditions of Contract.

APPENDIX C-3 : BREAKDOWN OF LOCAL CURRENCY COSTS

I. REMUNERATION FOR LOCAL PROFESSIONAL STAFF

No	Position	Name	Rate	No. of man-months*	Amount (Rs)
	Key Personnel / Sub professional Staff (Age limit must be less than 65 years with minimum residual service of 2 years)				
1	Team Leader				
2	Bridge Engineer				
3	Highway Engineer				
4	Survey/Quantity/Material Engineer				
	Total				

*The man-month against each key personnel/sub – professional shall be same as specified in Enclosure A.

II Support Staff

No	Position	Name	Staff Months	Billing Rate ()	Amount ()
1	Office Manager (1 no)		36		
2	Computer Operator (1 no)		36		
3	Office Boy (1 no)		36		
				Total :	

Note: there shall be no escalation for the entire 36 months from the Date of Commencement of Services, Consultants shall be paid billing rates as indicated above. *In case if the contract period is extended further beyond 36 months, Beginning 37th month of the services provided, billing rates shall be increased @ 8% per annum for the subsequent period of services rendered by the personnel of following categories namely (i) Key Personnel; (ii) sub-Professional personnel and (iii) Support staff.* This increase shall not be applicable for other items. However, for evaluation of proposals, the quoted initial rate (as applicable for first 36 months) shall be multiplied by the total time input for each position on their contract, i.e. without considering the increase in the billing rates.

III. Transportation (Fixed rate on rental basis)

The vehicles provided by the Consultants shall include the cost for rental, drivers, operation, maintenance, repairs, insurance, etc. an indicative distance run by each vehicle per month is 4000 km, but it may vary, for which no extra payment will be made.

No	Description of Vehicles	Qty. (No. of vehicle – month)	Rate / Vehicle – Month	Amount ()
1	Vehicle for Team Leader	1*36 = 36		

	(1 No)			
2	Vehicle for Engineers (1 No)	1*36 = 36		
			Total :	

IV. Duty Travel to Consultants Head quarters (Fixed Costs): Professional and Sub-Professional Staff

No	Trips	Number of Trips	Rate*	Amount
1	Site to Consultants Head Quarters and back*	36		

* Rate quoted includes Hotel charges, travel cost etc. complete.

V. Office Rent (Fixed Costs) – Minimum 100 sqm area of office shall be rented.

The rent cost includes electricity and water charges, maintenance, cleaning, repairs, etc. complete.

No of Months	Rate / Month	Amount
36		

VI. Office Supplies, Utilities and Communication (Fixed Costs)

No	Item	Months	Monthly Rate	Amount in Rs.
1	Office supplies	36		
2	Drafting Supplies	36		
3	Computer Running Costs	36		
4	Domestic and International Communication	36		

VII. Office Furniture and Equipment (Rental)

(Brand new Furniture and Equipment shall be mandatory at the time of commencement of services)

No	Description	Unit	Qty	Rate / Month/ unit (Rs.)	Period in Months	Amount (Rs.)
	Office Furniture (Rental/Hire)					
1	Executive Table (Godrej make, model No. T-108 or equivalent)	each	3		36	

2	Executive Chairs (Godrej make, model No. PCH-701 or equivalent)	each	3		36	
3	Tables (Godrej make, model No. T-104 Or equivalent)	each	3		36	
4	Ordinary Chairs Type-1 (Godrej make, model No T-CHR –6 or equivalent)	each	3		36	
5	Steel Almirah 1980mm x 915mm x 485mm (Godrej make, model No. 1 Storewell plain or equivalent)	each	3		36	
6	Steel Almirah 1270mm x 765mm x 440mm (Godrej make, model minor plain or equivalent)	each	3		36	
7	Steel Cash Chest of size 1.5' x 1.5' (450 mm x 450 mm) (approx.) (Godrej make, or equivalent)	each	1		36	
8	Drawer filling cabinet with visa file suspension system (Godrej make, or equivalent)	each	5		36	
9	Tables for computers with 3 drawers, key board/mouse pull out trays size 1664mm x 900 (Godrej make. Or Equivalent as per Engineer's design)	each	1		36	
10	Printer desks (Godrej make or equivalent)	each	1		36	
11	Side tables (Godrej make or equivalent)	each	2		36	
	Office Equipment (Rental/Hire with Consumables)					
1	Telephone with PABX facilities (2 external lines & 05 internal lines)	each	1		36	
2	Photocopier	each	1		36	
3	Fax	each	1		36	
4	Air-Conditioner (1.5 Ton)	each	2		36	
5	Computer PC (state of the art)	each	5		36	
6	Laser Jet Printers	each	2		36	
7	Ink Jet Printers	each	1		36	
8	Diesel Generator (33 KVA) with running cost	each	1		36	
9	Refrigerator - 165 liters	each	1		36	
10	Software	LS	LS		36	
	Total					

VIII Reports and Document Printing

No	Description	No of Reports	No. of Copies per Report	Total Nos. of copies	Rate per Copy ()	Amount
1	Monthly reports (Design and Construction)	36	4	144		
2	Quarterly Reports	12	4	48		
3	Various others reports as provided in the Concession Agreement	30	4	120		
				Total		

IX. Survey Equipment with Survey Party and Vehicle etc complete

Description	Nos. of Months	Rate / Month	Amount
Rental cost towards Survey Equipment (GPS/ Total station /Auto Level) with semiskilled survey Party (4 persons) and one dedicated vehicle for Survey Party (inclusive of vehicle rental driver's salary, fuel operation and maintenance etc complete) with rods, flags and other sundries	30		

X. Provisional Sum

A fixed amount of Indian Rupees ONE MILLION shall be included in the Financial Proposal as provisional sum and shall be operated with the specific approval from TNRDC.

APPENDIX C-4: BREAK UP OF COSTS IN FOREIGN CURRENCY

Deleted

SECTION 6:

TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

This shall be read and interpreted in conjunction with Draft Concession Agreement and Concession Schedules given in Website

1 Scope

1.1 These Terms of Reference for the Independent Engineer (the “**TOR**”) are being specified pursuant to the Concession Agreement dated (the “**Agreement**”), which has been entered into between the Authority and (the “**Concessionaire**”) for **Independent Engineer services during the completion of the balance works & during the Operation and Maintenance period in the development of Chennai Outer Ring Road (six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India for 3 years, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.**

1.2 This TOR shall apply to construction (balance works), operation and maintenance of the Six-Lane Project Highway.

2 Definitions and interpretation

2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

2.3 The rules of interpretation stated in clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, mutatis mutandis, to this TOR.

3 Role and functions of the Independent Engineer

3.1 The role and functions of the Independent Engineer shall include the following:

- (i) review and approval of the project execution plan submitted by the Concessionaire;
- (ii) review and approval of the Drawings and Documents as set forth in Paragraph 4;
- (iii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5;
- (iv) conducting Tests on completion of construction and issuing Completion Certificate as set

- forth in Paragraph 5;
- (v) review, inspection and monitoring of Operation & Maintenance as set forth in Paragraph 6;
 - (vi) during the construction period, at the end of every quarter or as may be required by the Authority/ TNRDC, certify the value of civil works done by the Concessionaire, for that quarter, or for the period specified, to enable the Authority to disburse Project Support Fund to the Concessionaire;
 - (vi) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;
 - (viii) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
 - (ix) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
 - (x) undertake safety audit of the Project Highway as per Schedule - L
 - (xi) assisting the Parties in resolution of disputes as set forth in Paragraph 9; and
 - (xii) undertaking all other duties and functions in accordance with the Agreement.
 - (xii) assisting TNRDC/GOTN with relevant clauses of codes and Practices for any situation that may arise at any point of time to arrive at a proper decision in all matters**

3.2 *The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.*

4 Development Period (balance works)

- 4.1 During the implementation of the balance works in Chennai Outer Ring Road Phase, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and approval and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 4.2 The Independent Engineer shall review and approve any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- 4.3 The Independent Engineer shall review the Drawings in accordance with Schedule-L and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.
- 4.4 The Independent Engineer shall review and approve the detailed design, construction

methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.

- 4.5 Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Highway, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

5 Construction Period (Balance works)

- 5.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
- 5.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 5.3 The Independent Engineer shall inspect the Construction Works and the Project Highway frequently in a month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the “**Inspection Report**”) setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project Highway. The Inspection Report shall also contain a review of the maintenance of the existing lanes in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
- 5.4 The Independent Engineer shall inspect the Project Highway on regular basis, to identify any lapses, defects or deficiencies, and ensure that corrective remedial steps are taken up by the Concessionaire.
- 5.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 5.5, the tests specified in the IRC Special Publication-11 (Handbook of Quality Control for Construction of Roads and Runways) and the Specifications for Road and Bridge Works issued by MORTH (the “**Quality Control Manuals**”) or any modification/substitution thereof shall be deemed to be tests conforming to

- Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 5.6 The sample size of the tests, to be specified by the Independent Engineer under Paragraph 5.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.
- 5.7 The timing of tests referred to in Paragraph 5.5, and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 5.8 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
- 5.9 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 5.10 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 5.11 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
- 5.12 The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-I and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph 5.13 and all matters incidental thereto, the

Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-I.

- 5.13 Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.
- 5.14 The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.
- 5.15 The Independent Engineer shall be entirely responsible for ensuring the quality of implementation. Corrective steps towards quality enhancement, based on site visits and tests shall be carried out. Technical designs with cost implications to the Authority shall be arrived at after consent from TNRDC, as and when the need for the same arises, prior to the communication to Concessionaire.
- 5.16 Certify the value of work done by the concessionaire for the release of Project Support Fund (PSF) by GoTN
- 5.17 Assist GoTN and Concessionaire in agreeing upon the time and cost for implementation of change of scope of works.

6 Operation Period

- 6.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
- 6.2 The Independent Engineer shall review the annual Maintenance Programme furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Programme.
- 6.3 The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
- 6.4 The Independent Engineer shall inspect the Project Highway once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an Operation & Maintenance Inspection Report setting forth an overview of the status, quality and safety of Operation & Maintenance including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the Operation & Maintenance Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in Operation & Maintenance of the Project Highway. The Independent Engineer shall send a copy of its Operation & Maintenance Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
- 6.5 The Independent Engineer may inspect the Project Highway more than once in a month, if any lapses, defects or deficiencies require such inspections.
- 6.6 The Independent Engineer shall in its Operation & Maintenance Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Project Highway is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
- 6.7 In respect of any defect or deficiency referred to in Paragraph 3 of Schedule-K, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
- 6.8 The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.

- 6.9 The Independent Engineer shall examine the request of the Concessionaire for closure of any lane(s) of the carriageway for undertaking maintenance/repair thereof, keeping in view the need to minimise disruption in traffic and the time required for completing such maintenance/repair in accordance with Good Industry Practice. It shall grant permission with such modifications, as it may deem necessary, within 3 (three) days of receiving a request from the Concessionaire. Upon expiry of the permitted period of closure, the Independent Engineer shall monitor the re-opening of such lane(s), and in case of delay, determine the Damages payable by the Concessionaire to the Authority under clause 17.7.
- 6.10 The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in clause 19.4.
- 6.11 In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Project Highway, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.
- 6.12 The Independent Engineer shall undertake traffic sampling, as and when required by the Authority, under and in accordance with Article 22 and Schedule-O.
- 6.13 As per the provisions of the Concession Agreement the Independent Engineer shall verify the invoices for Annuity payment submitted by the concessionaire within the consultancy period of I.E Services as per the consultancy Agreement and duly adjust the same for any bonus or reduction in Annuity in accordance with Article 28 of the Concession Agreement along with the necessary documentation in this regard. The Independent Engineer shall after verification and certification of the amount claimed in the invoice along with adjustments, forward the invoice to the Authority with necessary documentation recommending payment in full or part thereof so as to reach the Authority at least 21 days prior to the relevant Authority Payment Date.

7 Termination

- 7.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the Project Highway for determining compliance by the Concessionaire with the Divestment Requirements set forth in Clause 38.1 and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of the Project Highway is such that its repair and rectification would require a larger amount than the sum set forth in Clause 39.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.
- 7.2 The Independent Engineer shall inspect the Project Highway once in every 15(fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire

under Article 39, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Authority and the Concessionaire.

8 Determination of costs and time

- 8.1 The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
- 8.2 The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

9 Assistance in Dispute resolution

- 9.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.
- 9.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

10 Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

11 Miscellaneous

- 11.1 The Independent Engineer shall notify its programme of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.
- 11.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.

** Clauses refer to the Concession Agreement / Schedules.*

- 11.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in two copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send one of the copies to the Authority along with its comments thereon.
- 11.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
- 11.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished in micro film form or in such other medium as may be acceptable to the Authority.

12 PERFORMANCE CLAUSE

Independent Engineers shall be expected to fully comply with all the provisions of the 'Terms of Reference', and shall be fully responsible for supervising the Designs, Construction and ensuring that operation and maintenance of the facility takes place in accordance with the provisions of the Concession Agreement and other schedules. Any failure of the Independent Consultant in notifying to TNRDC and the Concessionaire on non-compliance of the provisions of the Concession Agreement and other schedules by the Concessionaire, non-adherence to the provision of ToR and non-adherence to the time schedule prescribed under ToR shall amount to non-performance.

The Independent Engineer shall appoint its authorized representative, who shall issue on behalf of the IE, the Provisional Completion Certification and Completion Certificate along with the Team Leader and shall carry out any such task as may be decided by TNRDC. The IE shall take prior approval of TNRDC before issuing Provisional Completion Certification and Completion Certificate. The proposal submitted shall also include the name of the authorized representative along with the authorization letter and power of attorney.

13. CONSULTANT'S PROPOSAL

- 13.1 List of key personnel / Sub Professional staff to be fielded by the Consultants shall be as below:
- i.) Team Leader
 - ii.) Bridge Engineer
 - iii.) Highway Engineer
 - iv.) Survey/Quantity/Material Engineer
- 13.2 Broad job-description and qualification for key personnel mentioned above are enclosed as Enclosure-B. The Consultant should feel free to submit their proposal on the basis of the man-

months which they consider to be necessary to undertake the assignment. All the CV's of the personnel mentioned shall be evaluated at the time of evaluation of technical proposal as per Para 5.3 of Data Sheet. The age of the Key Personnel should be less than 65 years with minimum residual service of 2 years on the date of submission of proposal. Consultants are advised in their own interest to frame the technical proposal in an objective manner as far as possible so that these could be properly assessed in respect of points to be given as part of evaluation criteria. The bio-data of the key personnel should be signed on every sheet by the personnel concerned and the last sheet of each bio-data should also be signed by the authorized signatory for the Consultant. The key personnel shall also certify at the end of their bio-data proforma that they have not left any of the GoTN works without completing of their assignment and have not accepted any other offer at the time of signing of the bio-data and as such shall be available to work with the Independent Engineer, if the Project is awarded. In case the key personnel leaves the assignment without approval of GoTN would be at liberty to take any appropriate action against that key personnel including debarment.

14. PERIOD OF SERVICES

- 14.1 The services of an Independent Engineer will be in phases as per "Article 23 –Independent Engineer", of Concession Agreement.
- 14.2 The appointment of the Independent Engineer shall initially be for a period of 36 months with an escalation @8% per annum and shall be extended for a further period on approval of GOTN. The proposed manpower deployment for this period shall be matching the activities to be performed during the said period. The time frame for services during the deployment of key personnel during this period shall be as shown in Enclosure A

15. PERFORMANCE SECURITY

The successful consulting firm shall have to submit a Bank Guarantee (BG) for an amount of 2.50% of the Contract Value within 20 days of issue of LOA. The BG shall be valid for a period of 40 months i.e. upto 4 months beyond the expiry of the Contract of 36 months with a claim period of 3 months. The BG shall be in the format specified in Appendix I of draft contract form and furnished from a Nationalized Bank. In case of Joint Venture, the BG shall be furnished on behalf of the Joint Venture and not individually by the Partners.

Enclosure-A

B. MANMONTH INPUT FOR KEY PROFESSIONAL STAFF/ SUB PROFESSIONAL STAFF

INDEPENDENT CONSULTANTS

A Key Personnel

SL. No	Position	Proposed Man-Month
1	Team Leader	36
2	Bridge Engineer (Intermittent)	24
3	Highway Engineer	36

C. Sub Professional Staff

SL No	Position	Man-Month in Construction
1	Survey/Quantity/Material Engineer	36

Note: The qualification and experience of Sub Professional staff other than Highway Design Engineer and Bridge/Structural Engineer would not be accounted in the evaluation. However, Consultant shall have to get their CVs approved from TNRDC before mobilisation. The other inputs like support staff shall also be provided by the Consultant of an acceptable type commensurating with the roles and responsibilities of each position.

Enclosure B

MINIMUM QUALIFICATION OF KEY PERSONNEL /SUB PROFESSIONAL STAFF

TEAM LEADER

This is the senior most position and the expert engaged as the team leader shall be responsible for reviewing the entire Project preparation and implementation activities of the Concessionaire. He shall check all the Designs being prepared by the Concessionaire, ensure execution of works on site as per specification and standards, and continuously interact with TNRDC and the Concessionaire. He shall undertake Project site visits and shall guide, supervise, coordinate and monitor the work of other experts in his team as well as those of the Concessionaire. The candidate should have a proven record of supervising, organizing and managing of Project preparation and construction of highway projects of large magnitudes, as defined below, financed by international lending agencies and others. Knowledge of Project management shall be an added advantage.

This position requires a Senior Highway Engineer who shall be a Graduate in Civil Engineering preferably with higher qualifications and specialization in highway engineering. He should have a minimum of 15 years experience He should have handled as Team Leader or similar capacity at least four Project Preparation. He should have experience of operation and maintenance of major highway links

Note: Definition of Team Leader includes Project Manager/Resident Engineer/ or any equivalent position.

BRIDGE ENGINEER

The Bridge Engineer shall be responsible for checking the balance bridge works, ROBs, interchanges and any other structure to be constructed in the Project highway. His expertise shall include computer aided design methods for Civil/Structural Engineering with particular reference to Structural design.

He should be a post graduate in Structural Engineering from a recognized University. He should have minimum 10 years' experience out of which at least 5 years in Construction of bridges/interchanges/any other structures. He should have supervised at least two major highway bridges. The candidate should have a thorough understanding and experience with international 'best practices', and of modern bridge construction technology

HIGHWAY ENGINEER

The Highway Engineer shall be responsible for the review of highway. Should be a graduate in Civil Engineering from a recognized University ; His expertise shall include computer aided

design methods for Civil/Highway Engineering with particular reference to CAD application to the geometric design for highway rehabilitation and/or upgrading projects. Highway Design Engineer should have a minimum of 5 years of experience

He should have handled at least 2 major road four laning improvement projects. He should have exposure of computer software programmes for design of highways.

SURVEY/QUANTITY/MATERIAL ENGINEER

The Survey/Quantity/Material Engineer shall review the test results of bore holes, quarry and borrow area material to find out their strength characteristics and suitability for using them in construction. He shall inspect the Concessionaire's field laboratories to ensure that they are adequately equipped and capable of performing all the specified testing requirements of the contract. He shall look into the quality assurance aspect of the construction works and supervise the setting-up of the various Concessionaire's rock crushers and bituminous mixing plants to ensure that the specified requirements for such equipments are fully met. The candidate should be Graduate in Civil Engineering/Survey with at least 6 years' experience in Quantity surveying out of which 3 years should be for highway projects and they should have also dealt with at least 1 project of 6/4 laning nature. This position requires thorough understanding of modern computer based method of surveying with total station digital level etc.

- ***Only projects with completion certificate / substantial completion certificates will be considered for evaluation and score. All the CVs and experience certificates shall be verified at any stage of the bidding process or even after the award of work if necessity arises. In case if any of the certificates furnished by the consultant is identified to be fake, will amount to misrepresentation/hiding of facts and the bid shall be summarily rejected by TNRDC/GOTN at any stage without assigning reasons thereof.***

SECTION 7:

DRAFT FORM OF CONTRACT

**CONTRACT FOR CONSULTANCY SERVICES
OF INDEPENDENT ENGINEER**

Between

(Name of Client)

And

(Name of Consultant)

Dated:

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I. FORM OF CONTRACT

This CONTRACT (hereinafter called the “Contract”) is made the _____ day of the _____ Month of _____, 201_____, between, on the one hand _____ (hereinafter Called the “Client) and, on the other hand, (hereinafter called the “Consultants”).

[Note: If the Consultants consist of more than one entity, the above should be partially amended to read as follows:“*

“...(hereinafter called the “Client”) and, on the other hand, a Joint Venture consisting of the following entities, each of which will be jointly and severally liable to the Client for all the Consultants’ obligations under this Contract, namely, _____ and _____ (hereinafter called “Consultants”)]

WHEREAS

(a) the Client has requested the Consultants to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);

(b) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract (hereinafter called “GC”);
- (b) The Special Conditions of Contract (hereinafter called “SC”);
- (c) The following Appendices:

[Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix on the sheet attached hereto carrying the title of that Appendix].

- Appendix A : Description of the Services**
- Appendix B : Reporting Requirements**
- Appendix C : Key Personnel and Sub-consultants**
- Appendix D : Medical Certificate**
- Appendix E : Hours of Work for Key Personnel**

Appendix F : Duties of the Client

Appendix G : Cost Estimates in Local Currency

Appendix H : Form of Performance Bank Guarantee

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular
- (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) The Client shall make payments to the Consultants in accordance with the Provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF
[NAME OF THE CLIENT]

By

(Authorized Representative)

FOR AND ON BEHALF OF
[NAME OF THE CONSULTANTS]

By

(Authorized Representative)

[Note: If the Consultants consist of more than one entity, all of these entities should appear as signatures, e.g. in the following manner]

FOR AND ON BEHALF OF EACH OF THE PARTNERS OF THE CONSULTANTS

[Name of the Partner]

By

(Authorized Representative)

[Name of the Partner]

By
(Authorized Representative)
etc.

Witness:-

1.....

2.....

II. GENERAL CONDITIONS OF CONTRACT

1. General Provisions

1.1 Definitions:-

Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in India or in such other country as may be specified in the Special Conditions of Contract (SC), as they may be issued and in force from time to time.
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Effective Date” means the date on which this Agreement comes into force and effect pursuant to Clause GC 2.1;
- (d) “foreign currency” means any currency other than the currency of the Government;
- (e) “GC” means General Conditions of Contract;
- (f) “Government” means the Government of Tamil Nadu;
- (g) “Local currency” means the Indian Rupees;
- (h) “Consultant” wherever mentioned in this Consultancy Agreement means the “Independent Engineer (IE)”
- (i) “Partner”, in case the Consultant is a Joint Venture, consisting of more than one entity, means any of these entities, and “Partners” means all of these entities;
- (j) “Party” means the Client or the Consultant, as the case may be, and Parties means both of them;
- (k) “Personnel” means persons hired by the Consultant or by any Sub-Consultants and or Associates as Employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such persons who at the time of being so hired had their domicile outside the Country, “Local Personnel” means such persons who at the time of being so hired had their domicile inside the Country; and ‘key personnel’ means the personnel referred to in Clause GC 4.2 (a).

-
- (l) "SC" means the Special Conditions of Contract by which these General Conditions of Contract may be amended or supplemented;
 - (m) "Services" means the work to be performed by the Consultant pursuant to this contract, as described in Appendix A hereto. The scope of work will be strictly as given in various Clauses in Terms of Reference (Annexure). The approach and methodology to be adopted by the Consultant for carrying out the assignment as Independent Engineer may be modified depending on the site requirements and work programme of the Concessionaire after mutual discussions with M/s. Tamil Nadu Road Development Company Limited, (hereinafter called "TNRDC") the Concessionaire and the Independent Engineer. The work plan as indicated by the Consultant may be modified according to the site requirements.
 - (n) "Sub-consultants and or Associates "means any entity to which the Consultant subcontract any part of the Services in accordance with the provisions of Clause GC 3.7; and
 - (o) "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-consultant.
 - (p) "Concessionaire" means the Consortium / Company which entered Concession Agreement with Government to implement a Project envisaging Construction, Operation, Maintenance and Transfer of Chennai Outer Ring Road on DBFOT Annuity basis.
 - (q) "Agreement" means the agreement signed by the parties hereto for Independent Engineer Services for development of Chennai Outer Ring Road (ORR) on DBFOT Annuity basis in the State of Tamil Nadu.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, have complete charge of Personnel and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

This Contract has been executed in the English language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorised representative of the Party to whom the communication is addressed, or when sent by registered mail, telegram or facsimile to such Party at the address specified in the SC.

1.6.2 Notice will be deemed to be effective as specified in the SC.

1.6.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SC with respect to Clause GC 1.6.2.

1.7 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in India or elsewhere, as the Client may approve.

1.8 Authority of Partner in Charge

In case the Consultant consist of a Joint Venture of more than one entity, the Partners hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

1.9 Authorised Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

1.10 **Taxes and Duties**

Unless otherwise specified in the SC, the Consultant, Sub-Consultants and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable Law.

2. **Commencement, Completion, Modification and Termination of Contract**

2.1 **Effectiveness of Contract**

This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services.

2.2 **Termination of Contract for failure to become effective**

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as shall be specified in the SC, either Party may, by not less than four (4) weeks' written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 **Commencement of Services**

The Consultant shall begin carrying out the Services when asked to do so by TNRDC.

2.4 **Expiration of Contract**

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire when services have been completed and all payments have been made at the end of such time period as shall be specified in the SC.

2.4.1 **Extension of Time**

(a) IE Services is initially required for 36 Months duration, broadly assigned to the following project stages:

- (i) Construction period – till completion of the balance works ;
- (ii) and during the O&M period not exceeding 36 months from the date of commencement of services ;

However, the time between different activities specified in Sub Para No.2.4.1 (a) (i) –(iii) may vary, depending on the progress of the project.

(b) The selected IE shall be expected to make all endeavors to achieve the concerned milestones by the Concessionaire well within the target period.

- (c) However, there may be the case of delay in activities, and in such case, the appropriate Extension of Time (EoT) may be considered by the GoTN/TNRDC in respect of IE Services.
- (d) In such cases, the following enhancement shall be applicable on quoted rates:-
- (i) Under the provisions of Para No (II), Appendix C-3 of financial proposal submission form of Request for Proposal (hereinafter referred to as RFP) Document, beginning 37th month of services, billing rates shall be increased @ 8% per annum for the subsequent period of services rendered by the personnel of following categories namely Key personnel, Sub-Professional and Support Staff. This shall be applicable for the period from 37 months onwards.
 - (ii) New rates for further period beyond 48 months shall be fixed based on the mutually agreed rates between GoTN/TNRDC and Independent Engineering Firm.

2.5 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

2.6 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties as the case may be, pursuant to Clause GC 7.2 hereof; however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1. Definition

- (a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a party or such Party's Sub-consultants or agents or

- employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the execution of this Contract and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care" and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure. However the total cumulative period which can be extended because of Force Majeure, in a single incident or multiple incidents shall not be more than 60 days.

2.7.5 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to be reimbursed for additional costs as determined to be reasonable by **TNRDC** and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 **Consultation**

Not later than thirty (30) days after the Consultant, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8. **Suspension**

The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fail to perform any of its obligations under this Contract, including the carrying out of the services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

2.9 **Termination**

2.9.1 **By the Client**

The Client may, by not less than thirty (30) days written notice of termination to the Consultant (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.9.1, terminate this Contract.

- (a) if the Consultant fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- (b) if the Consultant become (or, if the Consultant consist of more than one entity, if any of their Partners becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) if the Consultant fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof;
- (d) if the Consultant submit to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultant know to be false;
- (e) if, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(f) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

(g) if the consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

(h) if Concessionaire represents to TNRDC that the Consultant is not discharging his duties in a fair, efficient and diligent manner and if the dispute remains unresolved.

2.9.2 By the Consultant

The Consultant may, by not less than sixty (60) days written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2 terminate this Contract:

(a) if the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 8 hereof within Sixty (60) days after receiving written notice from the Consultant that such payment is overdue;

(b) if the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within Sixty (60) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant notice specifying such breach;

(c) if, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(d) if the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

2.9.3. Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except:

- (i) such rights and obligations as may have accrued on the date of termination or expiration;
- (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof;
- (iii) the Consultant obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 (ii) hereof; and
- (iv) any right which a Party may have under the Applicable Law

2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Client shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to the Client):

- (a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination after recovery of penalty/damages if any ;
- (b) reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) except in the case of termination pursuant to paragraphs (a) through (d) of Clause GC 2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultant's personnel and their eligible dependents.

2.9.6. Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause GC 8 hereof.

3. Obligation of the Consultant

3.1 General

3.1.1. Standard of Performance

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods" The Consultant shall always" act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the TNRDC, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-consultants or Third Parties.

3.1.2 Law Governing Services

The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub- consultants and or Associates, as well as the Personnel of the Consultant and any Sub- consultants and or Associates, comply with the Applicable Law. TNRDC shall advise the Consultant in writing of relevant local customs and the Consultant shall, after such notifications, respect such customs.

3.2 Conflict of Interests

3.2.1 Consultant Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultants' sole remuneration in connection with this Contract or the Services and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultant shall use their best efforts to ensure that any Sub- consultants and or Associates, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2 If the Consultant, as part of the Services, have the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with any applicable

procurement guidelines of the GoTN / TNRDC and or Associates Bank or of the Association, as the case may be, and other funding agencies and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

3.2.3 **Consultant and Affiliates not to engage in Certain Activities**

The Consultant hereby agree that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultant and or Associates and any entity affiliated with such Sub-consultant and or Associates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services. .

3.2.4 **Prohibition of Conflicting Activities**

The Consultant shall not engage, and shall cause their Personnel as well as their Sub-consultants and or Associates and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in India which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 **Confidentiality**

The Consultant, its Sub-consultants and the personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 **Liability of the Consultant**

Subject to additional provisions, if any, set forth in the SC, the Consultant liability under this Contract shall be as provided by the Applicable Law.

3.5 **Insurance to be Taken Out by the Consultant**

The Consultant (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at their own cost (or the Sub-consultants', as the case may be) but on terms and conditions approved by the Client, insurance against the risks, and for the coverages, as shall be specified in the SC, and (ii) at the Client's request, shall provide evidence to the Client showing

that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

3.6 Accounting, Inspection and Auditing

The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services, hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the bases thereof (including such bases as may be specifically referred to in the SC); (ii) shall permit the Client or its designated representative periodically, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client; and (iii) shall permit the client to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors appointed by the client.

3.7 Consultant's Actions requiring Client's prior approval

The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:

(a) Appointing such members of the Personnel as are listed in Appendix C ("Consultant's Sub-consultant's Key Personnel") merely by title but not by name;

(b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-consultant and its Personnel pursuant to this Contract; and

(c) any other action that may be specified in the SC

(d) any other action that may be specified in Concession Agreement with the Concessionaire

3.8 Reporting Obligations

The Consultant shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.

3.9 Documents prepared by the Consultant to be the property of the Client

All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Client under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SC.

3.10 Equipment and Materials furnished by the Client

Equipment and materials made available to the Consultant by the Client, or purchased by the Consultant with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

4. Consultant's Personnel and Sub-consultants and or Associates

4.1 General

The Consultant shall employ and provide such qualified and experienced Personnel and Sub-consultants as are required to carry out the Services.

4.2 Description of Personnel

(a) The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix C. If any of the Key Personnel has already been approved by the clients his name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods "of engagement of Key Personnel set forth in Appendix C may be made by the Consultant by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Client's written approval

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1 (b) of this Contract.

4.3 Approval of Personnel

The Key Personnel i.e. Professional Staff and Sub-consultants listed by title as well as by name in Appendix C are hereby approved by the Client. In respect of other Key Personnel which the Consultant propose ,to use in the carrying out of the Services, the Consultant shall submit to the client for review and approval a copy of their biographical data and (in the case of Key personnel to be used within the country of the Government) a copy of a satisfactory medical certificate in the form attached hereto as Appendix D. If the Client does not object in writing (stating the reasons for the objection) within thirty (30) calendar days from the date of

receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Client.

4.4 Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Personnel are set forth in Appendix E hereto.
- (b) The Personnel of all types engaged by Consultant to provide Services on this Contract shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave **except as specified in Appendix E** hereto, and except as specified in such Appendix, the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set for in **Appendix C**. Any taking of leave by Key & Sub Professional Personnel shall be subject to the prior approval by the Client and the Consultants shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and Replacement of Personnel

- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultant may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Client. Except as the Client may otherwise agree,
 - (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and
 - (ii) the remuneration to be paid to any of the Key Personnel provided as a replacement shall be 95% of the remuneration which would have been payable to the Key Personnel replaced for the reason other than death/extreme medical ground.
 - (iii) for total replacement upto 33% of key personnel, remuneration shall be reduced by 7%
 - (iv) for total replacement upto between 33% to 50%, remuneration shall be reduced by 10% and
 - (v) for total replacement beyond 50% of the total of key personnel, the client may initiate action for termination/debarment of such consultants for future projects of

GOTN.

- (d) Penalty equivalent to 10% of monthly billing rate of an expert per month will be recovered for non-deployment of the expert as per the agreed programme.
- (e) Any unauthorised leave or absence of any staff shall attract the penalty on pro-rata basis with respect to the man month rate.

4.6 Resident Project Manager

If required by the SC, the Consultant shall ensure that at all times during the Consultant's performance of the Services in India a Resident Project Manager, acceptable to the Client, shall take charge of the performance of such Services.

5. Obligations of the Client

5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultant, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-consultants or Personnel to perform the Services;
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (e) assist the Consultant and the Personnel and any Sub-consultants and or Associates employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;
- (f) grant to the Consultant, any Sub-consultants and or Associates and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Government's country reasonable amounts of currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services: and

- (g) Provide to the Consultant, Sub-consultants and or Associates and Personnel any such other assistance as may be specified in the SC.

5.2 Access to Land

The Client warrants that the Consultant shall have, free of charge, unimpeded access to all land in India in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub-consultant or the Personnel of either of them.

5.3 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall not be increased or decreased, except applicable GST, which will be reimbursed by the Client on production of proof of payment by the Consultant

5.4 Services, facilities and property of the Client

The Client shall make available to the Consultant and the Personnel, for the purposes of the services and free of any charge, the services, facilities and property described in Appendix F at the times and in the manner specified in said Appendix F, provided that if such services, facilities and property shall not be made available to the Consultant as and when so specified, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GC 6.1 (c) hereinafter.

5.5 Payment

In consideration of the Services performed by the Consultant under this Contract, the Consultant shall raise invoice every month for their remuneration, costs, expenses etc, as provided in GC 6 of this contract. It has been provided in the Concession Agreement that the payment to be made to the Consultant shall be equally borne by the Client and the Concessionaire. The payments to the Consultant by Client and Concessionaire will be made as provided in GC 6 of this Contract.

5.6 Counterpart Personnel

- (a) If so provided in Appendix F hereto, the Client shall make available to the Consultant, as and when provided in such Appendix F, and free of charge, such counterpart personnel to be selected by the Client, with the Consultant's advice, as shall be specified in such Appendix F. Counterpart personnel shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultant which is consistent with the position

occupied by such - member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

- (c) If counterpart personnel are not provided by the Client to the Consultants as and when specified in Appendix F, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GC 6.1(c) hereof.

6. Payments to the Consultants

6.1 Cost Estimates; Ceiling Amount

- (a) An estimate of the cost of the Services payable in local currency is set forth in Appendix H.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceilings in local currency specified in the SC. The Consultant shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GC 6.1 (b) hereof, if pursuant to clauses GC 5.3,5.4 or 5.6 hereof, the Parties shall agree that additional payments in local currency, as the case may be, shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1 (b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause GC 6.1 (b) hereof, the Client shall pay to the Consultant (i) remuneration as set forth in Clause GC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GC 6.2(c). If specified in the SC, said remuneration shall be subject to price adjustment as specified in the SC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and Clause SC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to, and subject to such additional provisions as are set forth, in the SC.
- (c) Reimbursable expenditures actually and reasonably incurred by the Consultant in the performance of the Services, as specified in Clause SC 6.3(b).

6.3 Currency of Payment

- (a) Local currency payments shall be made in the currency of the Government.
- (b) The SC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in local currency.

6.4 Mode of Billing and Payment

Billing and payments in respect of the Services shall be made as follows:

- (a) The Client shall cause to be paid to the Consultant an interest bearing advance payment as specified in the SC, and as otherwise set forth below. The advance payment will be due after provision by the Consultant to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SC, such bank guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SC, and (ii) to be in the form set forth in Appendix I hereto or in such other form as the Client shall have approved in writing.
- (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Client in duplicate, one copy to TNRDC and one more copy to the Concessionaire itemized statements, accompanied by copies of invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and 6.4 for such month. Separate monthly statements shall be submitted in respect of amounts payable in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures. In respect of the amounts payable to the Consultant as per Clauses 6.2 and 6.3 for such month, TNRDC will certify the amount payable for such month by the Client and the Concessionaire.
- (c) The Client and Concessionaire shall cause the payment of the Consultant periodically as given in schedule of payment above within sixty (60) days after the receipt by them, the bills with supporting documents and certification by TNRDC. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments. Interest at the rate specified in the SC shall become payable as from the above due date on any amount due by, but not paid on such due date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90)-days period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any

amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Client within thirty, (30) days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.

- (e) All payments under this Contract shall be made to the account of the Consultant specified in the SC.

7. **Fairness and Good Faith**

7.1 **Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realisation of the objectives of this Contract.

7.2 **Operation of the Contract**

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. **Settlement of Disputes**

8.1 **Amicable Settlement**

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

8.2 **Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

III. SPECIAL CONDITIONS OF CONTRACT

GC Clause

A. Amendments of, and Supplements to, Clauses in the General Conditions of Contract

1.1(a) The words 'in the Government's country' are amended to read 'in INDIA'

1.4 The language is: English

1.6.1 The addresses are:

For Client:

Chief General Manager

Tamil Nadu Road Development Company Ltd.,

Corp. Office:

171, 2nd Floor, Tamil Nadu Maritime Board Building,
South Kesavaperumal Puram,

Pasumpon Muthuramalingam Road (Greenways Road),
Raja Annamalai Puram, Chennai – 600 028.

Phone : 044- 2495 2800 / 2495 3800,

Fax : 91-44-2493 3800

Email : tenders@tnrdc.com

Attention:

Cable address: _____

Telex:

Fax:

For Consultants:

Attention:

Cable address: _____

Telex: _____

Facsimile: _____

[Note: Fill in the Blanks]

1.6.2 Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of telexes, 24 hours following confirmed transmission; and
- (c) in the case of facsimiles, 24 hours following confirmed transmission.

1.8 Authorised Partner of Joint Venture:-

(Note: If the Consultants consist of a Joint Venture of more than one entity, the name of the entity whose address is specified in SC 1.6.1 should be inserted here. If the Consultants consist of one entity, this Clause 1.8 should be deleted from the SC)

1.9 The Authorised Representative are:

For the Client: _____

For the Consultants: _____

1.10 The Consultants, Sub-consultants and the Personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract and the client shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

2.1 Deleted

2.2 The time period shall be four months or such other time period as the parties may agree in writing.

2.3 Deleted

2.4 The time period shall be 36 months during development, construction and Operation & Maintenance

3.2.4 (b) shall not become the Consultants to the Concessionaire pertaining to this project during the entire Concession Period.

3.4 **Limitation of the Consultant's Liability towards the Client**

(a) Except in case of gross negligence or willful misconduct on the part of the Consultant

or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultant, with respect to damage caused by the Consultants to the Client's property, shall not be liable to the Client:

- (i) for any indirect or consequential loss or damage; and
 - (ii) Consultant will maintain at its expenses; Professional Liability Insurance including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement, (A) For the amount not exceeding total payments for Professional Fees and Reimbursable Expenditures made or expected to be made to the Consultants hereunder or (B) the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.
 - (iii) The policy should be issued only from an Insurance Company operating in India.
 - (iv) The policy must clearly indicate the limit of indemnity in terms of "Any One be for an Accident" (AOA) and "Aggregate limit on the policy period" (AOP) and in no case should amount less than stated in the contract.
 - (v) If the Consultant enters into an agreement with Client in a Joint Venture or 'in the policy must be procured and provided to Client by the Joint Venture /in association entity association', and not by the individual partners of the Joint Venture /association.
 - (vi) The contract may include a provision whereby the Consultant does not cancel the policy midterm without the consent of GOTN / TNRDC. The insurance company may provide an undertaking in this regard.
- (b) This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.
 - (c) Professional Liability Insurance may be accepted for initially one year which shall be extended annually for total period for five years.

3.5 The risks and the coverage shall be as follows

- (a) Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1988 in respect of motor vehicles operated in India by the Consultant or their Personnel or any Sub-consultants or their Personnel for the period of Consultancy.
- (b) Third Party liability insurance with a minimum coverage, of Rs. 1.0 million for the period of consultancy.
- (c) Professional liability insurance as per 3.4 (a) (ii) of SC of the consultancy, with a minimum coverage equal to estimated remuneration and reimbursable.

- (d) Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of any Sub-consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
- (e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultants' property used in the performance of the Services, and (iii) any documents prepared by the Consultants in the performance of the Services.

3.7 (c) The other actions are

- (i) "taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the Client as "Employer" is required".

3.9 The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

4.6 "The person designated as Team Leader cum Sr. Highway Engineer in Appendix C shall serve in that capacity, as specified in Clause GC 4.6."

6.1 (b) The ceiling in local currency is: _____

6.2 (a) "Payments for remuneration made in accordance with Clause GC 6:2(a) in local currency shall be adjusted as follows :

Remuneration of employed personnel designated in Indian Currency pursuant to the rates set forth in the Appendix G & H shall be adjusted only one after 36 months from the date of commencement by increasing it by a factor of 8% per annum.

Notwithstanding any other provisions in the agreement in this regard, this provision will prevail and over ride any other provision to the contrary in this agreement.

6.2 (b) (i) (1) It is understood (i) that the remuneration rates shall cover (A) such salaries and allowances as the Consultants shall have agreed to pay to the Personnel as well as factors for social charges and overhead, and (B) the cost of backstopping by home office staff not included in the Personnel listed in Appendix C, and (C) the Consultants' fee; (ii) that bonuses or other means of profit-sharing shall not be allowed as an element of overhead, and (iii) that any rates specified for persons not yet appointed shall be provisional and shall be subject to downward revision only, with the written approval of the Client, once the applicable salaries and allowances are known.

(2) Remuneration for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Consultants' home office and directly attributable to the Services (one hour being equivalent to 1/240th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).

6.2 (b) (ii) The rates for local Personnel, in Appendix H.

6.3 (a) Deleted.

6.3 (b) (i) Remuneration for local Personnel shall be paid in local currency only.

6.3 (b) (ii) Deleted.

6.3 (b) (iii) The reimbursable expenditures in local currency shall be the following:

(1), (2), (3) deleted

(4) the cost of the following locally procured items: local transportation, office accommodations, camp facilities, camp services, subcontracted services, soil testing, equipment rentals, supplies, utilities and communication charges arising in India, all if and to the extent required for the purpose of the Services, at rates specified in Appendix H;

(5) the cost of equipment, materials and supplies to be procured locally in India as specified in Appendix H;

(6) the local currency cost of any subcontract required for the Services and approved in writing by the Client;

(7) any such additional payments in local currency for properly procured items as the Parties may have agreed upon pursuant to the provisions of Clause GC 6.1(c); and

(8) the cost of such further items as may be required by the Consultants for the purpose of the Services, as agreed in writing by the Client.

6.4 : DELETED

7 Deleted

8.2 Disputes shall be settled by arbitration in accordance with the following provisions:

8.2.1 Selection of Arbitrators

Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:

- (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator or within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the President, Indian Roads Congress, New Delhi, for a list of not

fewer than five nominees and , on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the President, Indian Roads Congress, New Delhi, shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.

- (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultants shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.
- (c) If, in a dispute subject to Clause SC 8.2.1 (b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary, Indian Council of Arbitration, New Delhi, to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

8.2.2 Rules of Procedure

Arbitration proceedings shall be conducted in accordance with procedures of the Arbitration and Conciliation Act 1996, (Central Act 26 of 1996) of India.

8.2.3 Substitute Arbitrators

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

8.2.4 Qualifications of Arbitrators

The sole arbitrator or the third arbitrator appointed pursuant to Clause 8.2.1 hereof shall be an internationally/nationally recognised legal or technical expert with extensive experience in relation to the matter in dispute.

8.2.5 Payment to Arbitrator

- (a) GOTN has decided that the maximum amount payable per arbitrator in arbitration Cases shall be as under:

Sl. No.	Particulars	Maximum amount payable per Arbitrator/ per case
1	Arbitrator fee	Rs. 8,000/- per day subject to a maximum 2 lacs Or Rs 1.5 lacs (lump sum) subject to publishing the award within 12 months.
2	Reading Charges	Rs 6,000/-
3	Secretarial Assistance	Rs 5,000/-

4	Incidental charges (telephone, fax, postage etc.)	Rs 6,000/-
5	Charges for publishing/declaration of the Award	Maximum of Rs.10,000/-
6	Other expenses (actuals against bills subject to the prescribed ceiling) Travelling Expenses Lodging and Boarding	Maximum ceiling Economy class (by air), First class AC (by train) and AC car (by road) 1. Rs10,000/- per day (in metro cities) 2. Rs 5,000/- per day (in other cities) 3. Rs 2,000/- per day, if any Arbitrator makes their own arrangements.
7	Local Travel	Rs.1,000/- per day
8	Extra charges for days other than hearing / meeting days (maximum for 2 days)	Rs 2,500/- per day

- (b) In exceptional cases such as involving major legal implications/wider ramifications/higher financial stakes etc., a special fee structure could be fixed in consultation with the contractor/ supervision consultants and with the specific approval of the GOTN before appointment of the Arbitrator.

8.2.6 Miscellaneous

In any arbitration proceeding hereunder:

- (a) proceedings shall, unless otherwise agreed by the Parties, be held in Chennai.
- (b) The English language shall be the official language for all purposes; and
- (c) The decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

IV. APPENDICES

Appendix A: Description of the Services

[Give detailed descriptions of the Services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Client, etc.]

Details as per TOR

Appendix B: Reporting Requirements

[List format, frequency, contents of reports and number of copies; persons to receive them; dates of submission, etc. If no reports are to be submitted, state here "Not applicable".]

Please refer TOR

Appendix C: Key Personnel and Sub-consultants

[List under: *C.1 Titles [and names, if already available], detailed job descriptions and minimum qualifications experience of Personnel to be assigned to work in India, and staff-months for each.*

C-2 Same information as C-1 for Key local Personnel

C-3 Deleted

C-4 List of approved Sub-consultants [if already available]; same information with respect to their Personnel as in C-1 through C-4)

Appendix D: Medical Certificate - Deleted

- **Not Applicable**-

Appendix E: Hours of Work for Key Personnel

The Consultants Key personnel and all other Professional / Sub Professional / Support Staff / Sub-Consultancy personnel shall work 6 days (Mondays through Saturday) every week and observe the Gazetted Holidays of Government of Tamil Nadu as Holidays. The Consultant shall work as per the work program of the concessionaire. In this context incase the work plan of the Consultant needs suitable modifications, the same shall be carried out and submitted to the client for consideration. The Consultants hours of work normally shall match with that of Contractor's activities on the site. No extra remuneration shall be claimed or paid for extra hours of work required in the interest of Project completion.

Appendix F: Duties of the Client

1. Access to the quality control laboratory for performing various types of tests, which will be provided by the concessionaire including the testing personnel.
2. To provide Concessionaire's RFP, Bid submission, Concession Agreement, Data and information for field surveys and investigations
3. To ensure availability of the Detailed Work plan and Programme for Design and Construction of Project Highways from Concessionaire.
4. To ensure availability of the Quality Assurance Plan and Quality Control Procedures from the Concessionaire.
5. To provide relevant reports and necessary data as per the reporting obligation of concessionaire under the concession Agreement.
6. Deleted.

Appendix G: Cost Estimates in Local Currency

List hereunder cost estimate in local currency:

1. Monthly rates for local Personnel (Key Personnel and other Personnel)

2. Reimbursable/Rental/Fixed expenditures as follows:
 - a. Deleted
 - b. Deleted
 - c. Cost of local transportation.
 - d. Cost of other local services, rentals, utilities, etc.

Appendix H: FORM OF PERFORMANCE SECURITY
PERFORMAMANCE BANK GUARANTEE)
(Clause-15 of TOR)

To

The Additional Chief Secretary to the Government of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat, Fort St. George,
Chennai 600 009,
Tamil Nadu, India.

WHEREAS:

.....(hereinafter called the “Bidder”) had submitted the proposal for **Independent Engineer Services during the completion of the balance works & during the Operation and Maintenance period in the Development of Chennai Outer Ring Road (Six lanes plus two service lanes, total length approximately 30.50 km) on Design, Build, Finance, Operate and Transfer (DBFOT) on Annuity basis – Phase-II, in the state of Tamil Nadu, India**

- (A) **GOVERNMENT Of TAMIL NADU, HIGHWAYS AND MINOR PORTS DEPARTMENT, represented by Additional Chief Secretary Highways and Minor Ports Department and having its office at Secretariat, Fort St. George, Chennai, Chennai-600 009, Tamil Nadu, India** (hereinafter referred to as “GOTN”) have appointed M/s. Tamil Nadu Road Development Company Limited, (TNRDC), Chennai as its Managing Associate to assist GOTN and function on behalf of GOTN, in performing its roles and responsibilities during the bid process, Development Period, Consultancy Period etc. and TNRDC will, inter alia, finalize the bid process and accordingly select the successful Bidder.
- (B) Based on the above, the bid submitted by the ***** [Joint Venture] or ***** [Bidder] [hereinafter called Independent Engineer] has been accepted by TNRDC and a Letter of Award (LOA) was issued by TNRDC vide its communication no. ***** dated ***** to the ***** [Joint Venture] or ***** [Bidder] requiring, inter alia, the execution of Contract Agreement within Thirty [30] days of acceptance of LOA.
- (C) As provided in Request for Proposal (RFP) the Consultant has to furnish a Performance Security to GOTN for Rs.....(In Rupees.....Only) (the “**Guarantee Amount**”) as security for due and faithful performance of its obligations, under and in accordance with the RFP and/or LOA during the Assignment Period (as defined in the Contract Agreement).
- (D) We, ***** through our Branch at ***** (the “**Bank**”) have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of

the Independent Engineer's obligations during the Consultancy Period, under and in accordance with the Contract, and agrees and undertakes to pay to GOTN, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Independent Engineer, such sum or sums upto an aggregate sum of the Guarantee Amount as may be claimed by GOTN and without GOTN being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from GOTN, or under the hand of any of the employee of GOTN or any other person or entity duly authorised by GOTN in this regard, that the Independent Engineer has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the RFP and/or LOA and/or Contract shall be conclusive, final and binding on the Bank. The Bank further agrees that GOTN shall be the sole judge as to whether the Independent Engineer is in default in due and faithful performance of its obligations during the Assignment Period under the Contract and its decision that the Independent Engineer is in default shall be final, and binding on the Bank, notwithstanding any differences between GOTN and the Independent Engineer, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Independent Engineer for any reason whatsoever.
3. We, the Bank unconditionally undertake to pay to GOTN any money so demanded under this Guarantee notwithstanding any dispute or disputes raised by the Bidder or any other party including in any suit or proceeding pending before any court or tribunal relating thereto or any instructions or purported instructions by the Bidder or any other party to the Bank not to pay or for any cause to withhold or defer payment to GOTN under this Guarantee. The Bank's liability under this Guarantee is irrevocable, unconditional, absolute and unequivocal. The payment so made by the Bank under this Guarantee shall be a valid discharge of the bank's liability for payment hereunder and the Bidder shall have no claim against the Bank for making such payment.
4. In order to give effect to this Guarantee, GOTN/TNRDC shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Independent Engineer and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
5. It shall not be necessary, and the Bank hereby waives any necessity, for GOTN to proceed against the Independent Engineer before presenting to the Bank its demand under this Guarantee.
6. GOTN shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Contract or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Independent Engineer contained in the Contract or to postpone for any time, and from time to time, any of the rights and powers exercisable by GOTN against the Independent Engineer and either to enforce or forbear from enforcing any of the terms and conditions contained in the Contract and/or the securities available to GOTN, and the Bank shall not be released from its liability and obligation under these presents by any exercise by GOTN of the liberty with reference to the matters aforesaid or by reason of time being given to the Independent Engineer or any other forbearance, indulgence, act or omission on the part of GOTN or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the

Bank hereby waives all of its rights under any such law.

7. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by GOTN/TNRDC in respect of or relating to the Contract or for the fulfillment, compliance and/or performance of all or any of the obligations of the Independent Engineer under the Contract.
8. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 9 below and unless a demand or claim in writing is made by GOTN/TNRDC on the Bank under this Guarantee, not later than 3 Months (Three) months from the date of expiry of this Guarantee or referred as End Date herein below, all rights of GOTN under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
9. We, the Bank further agree that the Guarantee herein contained shall remain in full force and effect upto..... the date which falls Forty (40) Months from the date this Bank Guarantee, (hereinafter called “the End Date”). Unless a demand or claim under this Guarantee is made on the Bank by GOTN/TNRDC or under the hand of any of the employee of GOTN/TNRDC or any other person or entity duly authorised by GOTN/TNRDC in this regard, in writing on or before the said End Date, the Bank shall be discharged from all liability under this Guarantee thereafter.
10. We hereby agree to renew and extend the validity of this guarantee for a period not exceeding one year from the End Date or such period, on a request made by GOTN/TNRDC or under the hand of any of the employee of GOTN/TNRDC or any other person or entity duly authorised by GOTN/TNRDC in this regard
11. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of GOTN/TNRDC that the envelope was so posted shall be conclusive.
12. We, the bank lastly undertake not to revoke this Guarantee during its currency.
13. Notwithstanding anything contained herein.
 - a) Our liability under the Bank Guarantee shall not exceed Rs.....(In RupeesOnly)
 - b) The Bank Guarantee shall be valid upto [date], 201__.
 - c) Unless a demand in writing is made upon us on or before _____, [date] or any other extended date, all our liability under this guarantee shall cease.

IN WITNESS WHEREOF THE BANK HAS SET ITS HANDS HERETO ON THE DAY, MONTH AND YEAR MENTIONED HEREUNDER.

Signed and Delivered

On behalf of(Bank name)

(Signature)

(Date)

by the hand of Mr

(name of authorized signatory)

Designation

Note:

- a) Address of the controlling office of the issuing branch with phone number and fax number to be provided.
- b) Authenticated copy of Letter of Authority authorizing the signatory of this guarantee to execute the same to be enclosed herewith).