



Copy No. _____

**MAHARASHTRA STATE ROAD DEVELOPMENT
CORPORATION LTD.
MUMBAI**

**OFFER DOCUMENT
FOR
APPOINTMENT OF CONTRACTOR FOR COLLECTION OF
USER FEE AT KINI (KM. 634/500) & TASAWADE (KM. 694/000)
ON NATIONAL HIGHWAY NO. 4 – 2nd call.**

ISSUED TO (NAME OF CONTRACTOR) _____

RTGS NO. _____ DATED _____ OF Rs. _____

OF _____

**SIGNATURE AND DESIGNATION
OF ISSUING OFFICER**



Name of Work: - Offer for collection of toll at Kini (Km. 634/500) & Tasawade (Km. 694/000) on National highway no. 4 -2nd call.

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Name of Work: - Offer for collection of toll at Kini (Km. 634/500) & Tasawade (Km. 694/000) on National highway no. 4 -2nd call.

I N D E X**VOLUME I****(NON - VARIABLE DOCUMENT)**

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Chapter – I
INSTRUCTIONS TO OFFERERS



A. GENERAL

SCOPE OF WORK: The work consists of collection of toll from the notified vehicles crossing the toll plaza at the work stated in Volume-II of the offer document, on behalf of Maharashtra State Road Development Corporation Ltd. (herein after referred to as MSRDC), at rates prescribed for each category of vehicles, making payment of total upfront amount / in instalments to MSRDC as specified, providing all necessary manpower, equipment, security and other arrangements as deemed fit by MSRDC and as is felt necessary by Contractor re-erecting / constructing toll booths for smooth operation of the work of collection of toll, maintaining the property, equipment, handed over by MSRDC and complying with the terms of Contract and other stipulations.

- 1.1 Subject to following eligibility criteria, the offerer having establishment in Maharashtra, having special knowledge of working conditions and having immovable property in Maharashtra shall have preference over others.

The Corporation reserves the right to give price preference maximum upto 5% to the preferred offerer. If preferred offerer is second highest & difference in offers of 1st highest from outside of Maharashtra & IInd highest a preferred offerer is less than 5% then the preferred offerer will be given a chance to raise his offer more than or equal to offer of 1st highest offerer.

- 2.0 **ELIGIBILITY AND QUALIFICATION CRITERIA:** The offer is open to all prospective offerers who meet the following requirements as detailed hereunder:

- 2.1 For the work of toll collection the offerer shall have the experience of toll collection work as follows-

The bidder shall have experience of operating toll plaza having total of 12 lanes (for 4 wheelers) under single contract for a continuous period of at least one year for minimum 1 project in any of the last 7 years for any public sector entity in India. A certificate to that effect from Executive Engineer rank officer shall be mandatory.

In case of JV, the lead partner shall have the experience of toll collection as above. **The experience of octroi collection shall not be considered.**

- 2.2 Any person or a party, who is minor or who has been adjudged insolvent or who has been convicted in a Court of Law for an offence under Indian Penal Code or offence involving moral turpitude or other criminal activities or detained under any preventive Law in force or who has been black listed by the Central / State Government or Semi Government organization or Corporation or MSRDC, is not eligible to submit any offer/s. Offer/s if submitted by such person / party shall be treated as invalid.
- 2.3 To be eligible for award of the contract, the offerer shall provide satisfactory evidence to MSRDC of his eligibility, capability and adequacy of resources to carry



out the work of toll collection effectively. For this purpose, every offer submitted shall include the following information:

- 2.3.1 Details of the current business along with necessary certificates of registration by respective competent authorities, banker's name, details of financial arrangements that will be made for this work;
- 2.3.2 Details of toll collection works carried out by the offerer during last three years.
- 2.3.3 Audited Balance Sheets along with Profit and Loss account duly certified by Chartered Accountant for the last three financial years in case of companies. In other cases, tax audit report along with Balance Sheet and Profit & Loss account, duly certified by Chartered Accountant in terms of provision of Sec 44AB of Income Tax Act, 1961.
- 2.3.4 An Affidavit on appropriate court fee stamp affirming that the offerer and partners if any including Joint venture partners:
 - a) Has not been declared bankrupt or defaulter by any institution or Government;
 - b) Has not been black listed by the Government or any other organization for failure to pay any dues or for any other reason;
 - c) Has not been adjudged by any court of Law as Insolvent or was / were not convicted under any Law for an offence involving moral turpitude or any criminal activities etc., or was not detained under any preventive Law.
- 2.3.5 A comfort letter from the bankers, indicating the financial capability of the Bidder, Bank's willingness to finance the Bidder for Rs.25.00 Crores. Comfort Letter shall be signed by the competent authority of bank.
- 2.4 For the purpose of this contract, the offerer shall meet the following qualifying criteria as a minimum-
 - 2.4.1. The offerer shall have minimum annual turnover as stated at Sr. No. 5 in Vol. II page 65
 - 2.4.2. The net worth of the offerer shall be as stated at Sr. No. 6 in Vol. II page 65.
 - 2.4.3. The intending bidder shall have minimum experience of toll collection at Sr. No. 15 in Vol. II page 68 for a Central Government Organization / State Government Organization / Semi Government Organization / Corporation. In support of this the bidder shall submit Experience Certificate issued by an officer not below the rank of Executive Engineer of the concerned Central Government Organization, State Government Organization or Semi Government Corporation. Experience of toll collection only will be considered as valid Experience for this purpose.
- 2.5 Offer submitted by joint ventures of two or more offerers shall comply with following requirements:
 - 2.5.1 The Joint Venture agreement shall clearly mention about the percentage participation of each partner and that they are jointly and severally responsible for carrying out the work of toll collection. The Joint Venture agreement, should confirm



in clear and definite manner, the proposed financial and administrative arrangement for the management and execution of work of toll collection, the deliberation of duties/responsibilities, and scope of work to be undertaken by each and the authorised representatives of the Joint Venture. One of the firms shall act as lead partner representing the Joint Venture and the duties, responsibilities and power of attorney, details of experience and performance of each of the parties to the Joint Venture on works of similar nature within the past three years should be indicated.

- 2.5.2 The Joint Venture shall comply with the condition of minimum annual turnover stated in clause 2.4.1 above, however, the turnover of the lead partner shall not be less than 50% of the minimum annual turnover required.
- 2.5.3 The net worth of the Joint Venture shall meet the requirement as stated in clause 2.4.2 above, however, the net worth of lead partner shall not be less than 50% of the net worth required.
- 2.5.4 If the offerer has purchased the offer document in his own name and subsequently has formed Joint Venture with one or two additional companies, the offer document can be used for submission of offer in the name of the Joint Venture, provided the offerer who had purchased the offer document is the lead firm.
- 2.5.5 In the case of offerer claiming priority, all qualifying information and documents must accompany the offer.
- 2.6 No eligible toll Contractor will be allowed to participate in any further toll collection tender / BOT project of the Corporation, if he is already operating 4 toll contracts, of the Corporation /including BOT projects. The projects above 100 cr are not considered under 4 contract.

Toll collection agencies having any common persons as Directors of the company shall be treated as the same entity for this purpose.

- 2.7 When a toll collection contract for a particular project is operated by any agencies consecutively for three times, the agency will not be eligible to participate for fourth time for toll collection tender process for that project.
- 2.8 The offerer who has executed / is executing MSRDC contract should submit the no dues certificate by Accounts MSRDC in Envelope no. 1
- 3 **COST OF OFFER:** The offerer shall bear all cost associated with the preparation and submission of his offer and MSRDC will in no case shall be responsible or liable for these costs regardless of the conduct or outcome of bidding.
- 4 **SITE VISIT:** The offerer should visit and examine the site of toll collection and its surrounding and satisfy himself, at his own cost and responsibility, about all information such as traffic data, availability of appurtenances like gates, cabins, shed, rest rooms, speed breakers and the condition of all the appurtenances, availability of electricity, water, labour, manpower and other relevant information such as political, social, unsocial, religious, etc. activities that may be necessary for operation of the offer & may have impact on toll collection. The traffic data given in



Appendix-I of Volume –II of the offer document is only indicative and is made available in good faith and MSRDC does not take any responsibility of its correctness and authenticity. The offerer should make his own assessment of traffic including frequent, non-frequent and free travellers and submit the offer as per his own judgement. The MSRDC shall hand over the toll station on as is basis only. MSRDC does not bear any responsibility of any bye-passable traffic due to development of any new loop and existing loop. MSRDC shall not prevent any traffic using bypasses to avoid payment of toll, at proposed location. The offerer has to make his own assessment of such traffic and work out the offer accordingly.

- 4.1 The offerer should submit his declaration as specified in Schedule – III of Agreement in Envelope No. I.

B. OFFER DOCUMENT

- 5 **CONTENTS OF OFFER DOCUMENT:** Offer Document will be issued during office hours on all working days in the sale period as mentioned in Notice Inviting Tenders by making a written request in person by an authorized representative or by Post & on payment of cost of Offer Document as specified in the Notice, in form of Demand Draft drawn in favour of MSRDC Ltd., payable at Mumbai. The offer document issued for the purpose of this offer shall include Volume-I (Non – Variable document), Volume-II (Variable document) & Volume III (Form of Offer) and any addendum issued in accordance with clause 7 & 13.
- 5.1 The offerer is expected to examine carefully all instructions, conditions and terms of the offer. Failure to comply with the requirements of the offer document will be at the offerer's risk. Pursuant to clause 23, the offers which are not substantially responsive to the requirements of offer documents shall be rejected.
- 6 **CLARIFICATIONS:** In case any clarification or explanation is required by the offerer, he may obtain it personally or in writing well in advance from MSRDC provided that such request is received by MSRDC before the pre-offer conference.
- 7 **AMENDMENTS TO OFFER DOCUMENT:** At any time prior to the dead line for submission of offer, MSRDC may, for any reason whether at its own initiative or in response to a clarification requested by prospective offerers, modify the offer document by issuing an addendum. The addendum will be sent in writing to all prospective offerers, who have purchased the offer document, for incorporation in the offer & shall form a part of the offer document and it will be binding on them.

C. PREPARATION OF OFFER

- 8 **LANGUAGE OF OFFER:** The language of offer shall be English.
- 9 **DOCUMENT COMPRISING THE OFFER:** The offer to be submitted by the offerer shall comprise of the following:
a) Form of offer and appendices thereto



- b) Receipt of Earnest Money.
 - c) The information about eligibility and qualification.
 - d) Any other material required to be completed and submitted in accordance with the instructions to offerers embodied in the offer document. The forms and the data provided in this document shall only be used without exception.
 - e) Material and documents to entitle consideration on priority.
- 10 **OFFER PRICES:** The offerer shall quote his offer, in the Form of offer, as the net total payment, he proposes to make to MSRDC on Monthly upfront basis, as more particularly mentioned in Volume-III of the offer document, which shall be submitted as per procedure laid down in clause 14 here under.
- 10.1 The toll station will be handed over to the contractor as it is. The offer amount quoted by the offerer shall exclude all the cost towards collecting the toll, maintaining the toll station, providing all necessary repair and equipment, man power, facilities if any etc. required for the work of toll collection as defined in clause 1 above. The offerer shall provide for all superintendence, labour, material, plant, equipment and all other things required for work of toll collection including all taxes, duties, royalties, octroi and other charges. The offerer shall, before submitting his offer, take into account and make provision for payments which he has to make under the various provisions of taxation law like Income Tax Act, Turn over Tax, Service Tax, VAT Tax, Property Tax and also Tax Collection at Source (TCS) etc. All taxes which are in force on the day of submission of offer shall be borne by the contractor.
- 10.1.1 Offerer shall take into account the costs required for making temporary arrangements to be done for starting toll collection work immediately at Kini (Km. 634/500) & Tasawade (Km. 694/000) on National highway no. 4 & also construction of temporary toll station including all accessories as detailed in Scope of Work.
- 10.2 Offer shall be quoted in words as well as in figure.
- 11.0 **VALIDITY:** Validity of the offer shall be 180 days from the date of opening of 2nd envelope. Thereafter, it shall be treated as valid until the offerer withdraws it in writing or till the selection procedure is complete.
- 12.0 **EARNEST MONEY:**
- 12.1 The offerer shall furnish as part of his offer, Earnest Money Deposit (E.M.D.) as stated at Sr. No.12 page 68 in Volume-II of the offer document. However MSRDC has right to change this as per requirement of MSRDC and shall always be as given at Sr.No.12 page 68 of Vol. II of offer document.
- 12.2 Deleted.
- 12.3 The Earnest Money shall be deposited electronically through RTGS (RTGS Code – CNRB0000108) in the name of MSRDC A/C No. 0108256705346 with Canara Bank. Earnest money of first three highest offerers will be kept with MSRDC till



finalization of contract & EMD of rest unsuccessful bidders (whether tender submitted or not) will be refunded only after opening of Envelope No. 2 and also EMD of one tender cannot be adjusted against the E.M.D. for another tender.

- 12.4 Any offer not accompanied by Earnest Money shall stand rejected.
- 12.5 In the event of an offer being accepted, subject to provisions of the sub clause below, the said amount of E.M.D. if so requested by the offerer, will be appropriated towards the amount of Security Deposit payable by him under the conditions of contract.
- 12.6 In the event of offer not being accepted, the amount of Earnest Money deposited by the offerer shall be refunded to him subject to provision in clause 33.0 (Chapter II) page 35. EMD of all unsuccessful offerers will be refunded without any interest and on specific written request. If the refund of EMD is requested in Demand Draft the Bank charges shall be on account of unsuccessful offerer.
- 12.7 If after submitting the offer, the offerer withdraws his offer or modifies the same or if after acceptance of his offer fails to furnish the performance security within stipulated time, without prejudice to any rights and powers of MSRDC here under or under any Law, MSRDC shall be entitled to forfeit the full amount of Earnest Money deposited by the offerer.
- 13 **PRE-OFFER CONFERENCE:** A pre-offer conference will be held at the date and time and address stated at Sr. No. 9 of page 67 in Volume-II of the offer document, where the prospective offerers who have purchased the offer documents will have an opportunity to obtain clarifications regarding the offer conditions and the work of toll collection.
- 13.1 The prospective offerers are free to ask any additional information or clarification either in writing or orally. Any modification to offer document which may become necessary as a result of pre-offer conference shall be through issuance of an addendum pursuant to clause 7 page 8 of these instructions, which then will form a part of the offer document. The offer conditions, as modified, if any shall be binding on the prospective offerers.

D. SUBMISSION OF OFFER

14. THE OFFER SUBMISSION:

Refer Annexure to Tender Notice - Guidelines for Bidders for participating in eTendering

The person or persons signing the offer shall state in what capacity, he is or they are signing the offer. viz, as sole proprietor of firm or as a Secretary / Manager / Director etc. of a limited company.



In the case of partnership firm, the names of all the partners should be disclosed and the offer shall be signed by all the partners or in the event of absence of any partner, it shall be signed on his behalf by a person holding a power of attorney authorizing him to do so and an attested copy of the Partnership Deed / Power of Attorney shall be furnished along with offer.

In the case of a limited company, the names of all the Directors should be mentioned and the offer shall be accompanied by a certificate certifying that the person signing the offer is empowered by a resolution of the Board of Directors to do so on behalf of the company and certified copy of resolution along with a copy of Memorandum and Articles of Association of the company shall be furnished.

The person or persons signing the offer shall state in what capacity, he is or they are signing the offer viz. as sole proprietor of firm or as a Secretary / Manager / Director etc. of a limited company.

In the case of partnership firm, the names of all the partners should be disclosed and the offer shall be signed by all the partners or in the event of absence of any partner, it shall be signed on his behalf by a person holding a power of attorney authorizing him to do so and an attested copy of the Partnership Deed / Power of Attorney shall be furnished along with offer.

In the case of a limited company, the names of all the Directors should be mentioned and the offer shall be accompanied by a certificate certifying that the person signing the offer is empowered by a resolution of the Board of Directors to do so on behalf of the company and certified copy of resolution along with a copy of Memorandum and Articles of Association of the company shall be furnished.

- 14.1 **Contents of Envelope No.1:** The envelope No.1 shall contain the following documents:
- a) Receipt of Earnest Money as per Clause 12.
 - b) Qualifying documents mentioned in clause 2.1, 2.2, 2.3, 2.4 & 2.5.
 - c) No dues certificate from Accounts MSRDC

The Envelope no. 1 should be submitted online and offline .Documents in envelope No. 1 shall be serially numbered, indexed & preferably in the form of bound books. MSRDC will not be responsible for loose papers submitted in envelope No. 1.

- 14.2 **Contents of Envelope No.2 :** The second envelope clearly marked envelope no.2 shall contain Volume – I (Non variable), Volume - II (Variable) & Volume – III (Form of Offer) including necessary relevant details to describe the offer fully, including the common set of deviations and any addendum issued as per clause 7 page 8.
- 14.3 The offerer shall quote his offer at the appropriate place in the offer form in Volume-III of this offer document. He shall not quote his offer anywhere directly or indirectly in envelope no.1.



- 15 **PLACE OF SUBMISSION:** The Technical offers shall be submitted online and offline while Financial Proposal shall be submitted online only.

Refer Annexure to Tender Notice - Guidelines for Bidders for participating in eTendering

- 16 **DATE AND TIME OF SUBMISSION OF OFFER:** The offer shall be submitted by the offerer at the date & time and address as stated at Sr. No. 10 on page 67 in Volume-II of the offer document. MSRDC may at its discretion, extend the dead line for submission of offer by issuing an addendum in accordance with clause 7 page 8 in which case, all rights and obligation of MSRDC and offers previously subjected to the original dead line shall be subjected to the new dead line.
- 17 **LATE OFFERS:** Offer documents delivered after the dead line for submission shall either not be received or if inadvertently received shall not be opened and shall be returned unopened to the offerer. The time in the clock of the Account Officer's cubical/chamber (Officer receiving the offer documents) shall be considered as standard time.
- 18 **MODIFICATION AND WITHDRAWAL:** If after submission of the offer, the offerer withdraws his offer or unilaterally modifies the same during its validity, without prejudice to any other rights and power of MSRDC hereunder or in Law, the full amount of the Earnest Money deposited by the offerer shall stand forfeited.

E. OFFER OPENING AND EVALUATION

- 19 **OFFER OPENING:** All offers shall be opened as per the procedure given in para below, in the presence of offerers / their authorized representatives who choose to remain present at the date & time & at the address as stated at Sr. No.11 on page 68 in Volume-II of the offer document.
- 19.1 All information about number of offers received shall be announced for information of all those who are present.
- 19.2 The common envelope containing envelopes no.1 & 2 of all the offers received shall be opened first and envelopes 1 & 2 of all the offers shall be arranged alphabetically as far as possible and shall be marked with serial numbers accordingly.
- 19.3 Envelope no.1 of each offerer shall be then opened serially. Documents in the envelope will be verified by the offer opening authority to check their validity as per requirement. If any requisite particular is missing, a note to the effect shall be recorded by the authorized officer. The contents of envelope shall be then scrutinized with reference to the eligibility criteria which MSRDC shall do subsequently.

Note: - The offerer shall implicitly give MSRDC a right to investigate or inspect the qualifying or other information given or sites of ongoing works.

- 19.4 All envelopes no.2 of the offerers whose envelope no.1 do not contain the specified documents or any of the specified document is missing or the eligibility criteria is not fulfilled as stipulated will be separated out, and shall not be opened. A note



indicating the nature of deficiency and the fact that it is not opened shall be recorded without communication to any of the offerer.

- 19.5 Envelope no.2 of all the offerers who fulfill the qualification criteria shall then be opened on the date which shall be intimated separately exclusively to such eligible offerers. The offers quoted shall be announced for information of all those who are present.
- 20 **PROCESS TO BE CONFIDENTIAL:** After opening of the offers, no information relating to the examination, clarification, evaluation of contents of envelope no. 1 and comparison of offers and recommendations concerning the award of contract shall be disclosed to the offerers or other persons.
Any effort by an offerer to exert unfair influence in process of examination, clarification, evaluation and comparison of offers and to influence decision concerning award of contract shall result in rejection of his offer.
- 21 **CLARIFICATION OF OFFER:** To assist in examination and evaluation of offers, MSRDC may ask the offerer individually for clarification of their offer including break-up of costs, reasons in case of very high / very low offer etc. The response thereof shall be in writing only.
22. **NEGOTIATIONS:** MSRDC may carry out negotiations with the substantially responsive offerer whose offer is highest, for modification of the offer by calling offerer in its office in which case, the offerer shall remain present in the office for negotiations. As a result of negotiation the offerer shall give his revised offer in writing. The original offer shall then be treated as modified and modified offer shall be treated as the final offer.
23. **OFFER LIABLE FOR REJECTION:** The offer is likely to be rejected if on opening it is found that:
- a) The offerer has not strictly followed the procedure laid down for submission of offer;
 - b) The offerer has proposed additional conditions;
 - c) Additions, corrections, or alterations are made by the offerer on any page of the offer document;
 - d) Any page and / or pasted slips are missing;
 - e) The offerer has not signed the offer;
 - f) The offerer has made misleading or false representations in any of the forms, statements and attachments submitted in proof of the qualification requirements, and / or has a record of poor performance such as abandoning the toll collection work, defaulting in payment of instalments of toll collection work/s, not properly completing contracts, inordinate delay in payment of instalments, litigation history, or financial failure, etc;
 - g) The offerer has not submitted the addendum as stated in clause 14.2
- 24 **CORRECTION OF ERRORS:-** If there is any discrepancy between the offer quoted in figures and in words, the higher of the two will be treated as the offer.
- 24.1 **VARIATION:-** Terms in Volume –II shall prevail over terms in Volume –I in case of any variation.

F. AWARD CRITERIA



- 25 **AWARD CRITERIA:** - Subject to clause 23 page 13, the Corporation shall award the contract to an offerer whose offer has been found to satisfy all the requirements of the offer document and who has offered highest offer except where the offerer falls under the priority criteria in which case highest offerer shall be decided as per criteria given in clause 1.1 page 5 above.
- 25.1. **Successful bidder whose offer amount is above Rs. three crores or more shall be issued temporary work order on same terms & conditions of the contract subject to approval of the competent authority. Temporary work order pending board's approval.**
- a). **If the offer is approved by the competent authority, the permanent work order will be issued with effect from date of temporary work order on the same terms & conditions of the contract by the Corporation.**
- b). **If the offer is rejected by the competent authority, then it is mandatory on the part of the toll contractor to run the toll station on the same terms & condition till new toll contractor is appointed by the Corporation for which he shall not be eligible for any claim / compensation.**
- 26 **CORPORATION'S RIGHTS TO REJECT:-** Notwithstanding clause 25, the Corporation reserves the right to accept or reject any offer and to annul or suspend the offer process and reject all the offers, without assigning any reason, at any time prior to award of contract without any assurance for costs or consequences on the part of the offerers.
- 27 **NOTIFICATION OF AWARD:** - Prior to the expiry of the offer validity period or any such extended validity period, MSRDC shall notify the successful offerer in writing that his offer has been accepted. This letter (herein after and in conditions of contract called "letter of acceptance") shall specify the details of the accepted offer and shall constitute formal commencement of the contract.

Upon furnishing the Performance Security and Security Deposit by the successful offerer in accordance with clause 28 & clause 29 on page 14 and on payment of Upfront payment / 1st Monthly Upfront Payment / 1st Weekly Upfront payment by the offerer to MSRDC, the order to start work shall be given. The work order shall be accompanied by a true copy of the agreement which is registered in the office of the MSRDC Ltd.

- 28 **PERFORMANCE SECURITY:** - The successful offerer whose offer has been accepted shall pay, within ten days of the issue of the letter of acceptance, as Performance security an amount as specified at Sr. No.14 on page 68 in Volume - II of offer document in any of the following forms:

The Performance Security shall be either in the form of a demand draft drawn in favour of the Maharashtra State Road Development Corporation Ltd, payable at Mumbai, which shall carry no interest or in the form of a bank guarantee issued by a Nationalized Bank or State Bank of India or bank promoted by All India Financial



Institution including HDFC, issued from any branch in Mumbai or in cashable at Mumbai. The bank guarantee shall be valid for period of contract plus additional twelve weeks thereafter.

- a) For offer on upfront basis the amount of performance security shall normally be the amount equal to the 2 times monthly instalment as per offer amount quoted by the offerer or as per estimated realization, which ever is more.
- b) For offer on monthly upfront basis, the amount of performance security shall be as per sub clause (a) above.
- c) For offer on weekly upfront basis, the amount of Performance Security shall be as per sub clause (a) above.

The amount mentioned above is only indicative and for only general guidance. MSRDC reserves the right to change the above values as per requirement of MSRDC and shall always be as given at Sr. No.14 on page 65 of Vol. II of offer document.

- 29 **SECURITY DEPOSIT :-** In case of acceptance of offer on instalment basis, the successful offerer shall deposit with MSRDC, within ten days of the issue of the letter of acceptance, the security deposit as specified at Sr. No. 13 on page 68 in Volume II of offer document in the form of a demand draft or banker's cheque payable at Mumbai. The earnest money deposited by the offerer is paid by demand draft, if so requested by the offerer in writing, shall be converted into Security Deposit. The Security Deposit shall carry interest.

The amount of security deposit shall normally be equal to 2 times of one months realization either as per amount quoted by the offerer or as per estimated realization whichever is more. However MSRDC has right to change the above value as per requirement of MSRDC and shall always be as given at Sr. No. 13 on page 68 in Vol. II of offer document.

- 30 MSRDC reserves right to appropriate at its discretion the Performance Security / Security Deposit of successfully completed contract in full or in part to fulfil any claim or dues of MSRDC against the successful offerer.
- 31 MSRDC has full rights & powers to close the toll collection at subjected toll station before the expiry of contract period by giving short notice of 24 hours to successful bidder. Contractor has to pay toll amount for the period upto which he has run the toll station. No claims in this regard will be entertained by MSRDC.



Chapter – II
TERMS & CONDITIONS OF CONTRACT



TERMS AND CONDITIONS OF CONTRACT

1.0 DEFINITIONS:

1. The term “Contractor” shall mean and include the person or persons, firm or company who has been appointed as a Contractor by the Maharashtra State Road Development Corporation Ltd., Mumbai to collect on its behalf the toll levied at the specified Site and in the case of natural persons, him/her, his/her heirs, executors and administrators and in case of a partnership firm, the partner or partners for the time being of the firm.
2. The term “Project” shall mean the ‘section of road / bridge / tunnel’ as stated in the contract.
3. The term “Contract” shall mean and include the terms and conditions of contract, Letter of acceptance of the offer, the Agreement and mutually accepted conditions in the authorized correspondence exchanged with the offerer by the corporation and any other document forming part of the contract.
4. The term “Contract Amount” shall mean the sum quoted by the contractor in his offer and accepted by Corporation.
5. The “Competent officer” shall mean any officer authorized by the Corporation to act on behalf of the Corporation.
6. The term “Government” shall mean the Government of Maharashtra and shall include the Governor of Maharashtra.
7. The term “Governor of Maharashtra” shall mean and include his successors and assigns.
8. The term “Executive Engineer” shall mean the Executive Engineer for the time being incharge of the work.
9. The term “Superintending Engineer” shall mean the Superintending Engineer for the time being in charge of the work.
10. The term “Chief Engineer” shall mean the Chief Engineer for the time being incharge of the work.
11. The term “Corporation” shall mean Maharashtra State Road Development Corporation Ltd. Mumbai.
12. The term “Vice Chairman and Managing Director” shall mean Vice Chairman and Managing Director of the Corporation and shall include his successors and assigns.
13. The term “Specified Bank” shall mean Nationalized Bank or Banks promoted by All India Financial Institutions and State Bank of India.



14. The term “Site” shall mean the location provided by the Corporation where the toll collection work is to be carried out.
15. The term “User fee Station” shall mean and include the user fee plaza canopy, kerbed lanes, tollbooths, administrative building, all equipments, furniture and accessories.
16. “Lump sum upfront Payment” means the net payment to be paid by the Contractor in advance against toll collection to be done by the contractor for the specified period.
17. “Lender” means financial institutions, banks, funds, trusts or trustees of the holders of debentures or other securities their successors and assigns, who provide financial assistance to the Contractor under any of the Financing Documents.
18. “Replacement Agreement” means the agreement to be executed between MSRDC, Contractor, SPV and Financial Institution for replacing contractor viz, the selectee.
19. “Total Upfront Payment” means total payment to be paid to MSRDC before issue of work order.
20. “Monthly Upfront Payment” means the net payment to be paid by the Contractor in advance of every month against toll collection to be done by the Contractor for the month.
21. “Weekly Upfront Payment” means the net amount to be paid in one day advance before start of week by the contractor against toll collection of every week.
22. “Month” means a continuous period of 28 days starting on any week days and not as usual followed in general practice i.e. 30/31 days.
23. “Week” means the continuous period of seven days which may start on any day of week days.
24. The term “Superintending Engineer (TMU)” shall mean the Superintending Engineer, Toll Monitoring Unit and shall include his successors and assigns.
25. The term “Joint Managing Director” shall mean Joint Managing Director of the Corporation and shall include his successors and assigns.
26. “Local Commercial Traffic” means any commercial vehicle including Buses, Trucks, Light Motor Vehicles or taxies engaged in carrying goods and passengers registered with the concessionaire as plying routinely on the project highway without crossing more than one of the user fee plaza’s.
27. “Local Personal Traffic” means and includes a personal vehicle which is registered with the concessionaire by any person who normally resides or works at a place that can normally be approached only by using a part of the project highway and such person is, the therefore, required to use such vehicles for commuting on a part



of the project highway, without crossing more than one of the toll plazas in the course of normal travel to and from his place of work or residence.

- 2.0 **PARTIES TO THE CONTRACT:** The parties to the contract shall be the Contractor whose bid is accepted by the Maharashtra State Road Development Corporation Limited (hereafter referred to as the Corporation or MSRDC), and MSRDC Ltd., Lender/s.
- 2.1 The persons signing the offer or any other document forming the part of contract on behalf of other persons of a firm shall be deemed to have due authority to bind such person/s or the firm as the case may be in all matters pertaining to the contract. If it is found that the person concerned has no such authority, the Corporation may, without prejudice to any other Civil / Criminal remedies, terminate the contract and hold the signatory and / or the firm liable for all costs and damages for such termination. The Corporation shall entertain no claim from the firm for such termination.
- 3.0 **INTERPRETATION:** Words imparting persons or parties shall include firms and Corporation and any organization having legal entity.
- 4.0 **SINGULAR AND PLURAL:** Words imparting the singular only shall also include the plural and vice versa where the context so requires.
- 5.0 **NOTICES, CONSENTS, APPROVALS, CERTIFICATES AND DECISIONS:** Wherever in the contract, provision is made for giving or issue of any notice or consent or approval or certificate or decision by any person, unless otherwise specified, such notice, consent, approval, certificate or decision shall be in writing and the words "Notify" "Certify" or "Decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not be unreasonably withheld or delayed.
- 5.1 Notices of any other action to be taken on behalf of the corporation may be given / taken by the competent officer duly authorized for the purpose on its behalf.
- 6.0 **OFFICER IN CHARGE:** The Corporation may appoint any person at its discretion as Officer in charge of the work and authorise him to exercise such powers on behalf of the Corporation.
- 7.0 **ASSIGNMENT AND SUBLETTING:** The Contractor shall not sublet, transfer, assign the contract or any part thereof.
- 7.1 Subject to Clauses 7.2 page 19 of this Agreement, this agreement shall not be assigned by the Contractor save and except with prior consent, in writing, of MSRDC which MSRDC shall be entitled to decline without assigning any reason whatsoever.
- 7.2 Subject to sub Clause No. (i) to (v) below, the contractor shall neither create nor permit to subsist any encumbrance over or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement to which Contractor is a party



except with prior consent, in writing, of MSRDC, which MSRDC shall be entitled to decline without assigning any reason whatsoever.

Restraint set forth in Clauses 7.1 and 7.2 above shall not apply to :

- (i) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of toll collection work.
- (ii) mortgages / pledges / hypothecation of rights, those covered by the Replacement Agreement and their related documents of title arising or created in the ordinary course of business of the toll collection and/or for working capital arrangements for the toll collection work, payment of Lump sum Upfront Payment / Monthly Upfront Payment / Weekly Upfront Payment.
- (iii) assignment of rights, titles and interest to or in favour of the Lender pursuant to and in accordance with the Replacement Agreement in respect of financing by the Senior Lenders under the Financing Documents for the Toll Collection work and
- (iv) liens or encumbrances required by any Applicable Law.
- (v) Senior Lenders may exercise the rights of step-in or replacement as provided in the Replacement Agreement to be entered into amongst the Contractor, MSRDC and Senior Lenders in the form set forth in this volume provided that the person Replacing the Contractor shall be deemed to be the Contractor under this Agreement and shall enjoy all rights and be responsible for all obligations under this Agreement as if it were the entrepreneur.

Notwithstanding anything to the contrary contained in this Agreement MSRDC may assign any of its rights and benefits and / or obligations under this Agreement pursuant to any direction of Government of Maharashtra or by operation of law or in the course of its own business.

8.0 CONTRACT DOCUMENT:

8.1 LANGUAGE: The language of the contract is English.

8.2 LAW: The contract shall be governed and construed in accordance with the law of India. No suit or other proceedings relating to this offer, its conditions and performance or breach of contract shall be filed or taken in any Court of Law except Principal Court of Ordinary Civil Jurisdiction at Mumbai which shall have exclusive jurisdiction to the exclusion of any outside court.

8.3 PRIORITY OF CONTRACT DOCUMENTS: The several documents forming the contracts shall be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies, the same shall be explained and harmonized by the officer in charge who shall issue to the Contractor necessary instructions thereon and in such event, unless otherwise provided in the contract, the priority of the documents forming the contract shall be as follows :

- i) Toll Notification
- ii) The Contract Agreement
- iii) The Commencement Order
- iv) The letter of acceptance
- v) The bid
- vi) The terms and conditions of contract



vii) Any other document forming part of the contract.

- 9.0 **CONTRACTOR'S GENERAL OBLIGATIONS:** To demand and collect toll, only from specified Motor Vehicles and trailers drawn by such vehicles that pass over the said toll station, at the prescribed rates of toll stipulated in the contract. If the vehicle has to use the section/s of road/s or project site continuously and quite frequently in a day or for entire month or even beyond that for much longer period, the collection of toll shall be at concessional rates as specified and the Contractor shall make appropriate arrangements for frequent travellers in the form prescribed by the Corporation.
- 9.1 To issue only a sequential / showing serial number wise computer generated receipt for the amount of toll collected to vehicle operator in the form prescribed.
- 9.2 To arrange collection of toll efficiently in such a manner that the traffic at the said site is not unreasonably detained resulting in blocking up of traffic and there shall be no complaints from passengers about undue waste of time or detention of vehicles for more than due or exertion.
- 9.3 To use the toll station only for the purpose of collection of toll and for no other purpose whatsoever and to protect, preserve and maintain it.
- 9.4 To submit details of daily toll collection & traffic data to Corporation daily and upload it on the website of PWD / MSRDC so as to be available to the public and to comply with the instructions of the Corporation as may be issued in that respect. The above information should be submitted in the format as attached in Appendix – V.
- 9.4.1 To submit data regarding complaints received during the month & compliance done.
- 9.5 Upon expiration or earlier termination of this agreement to return the toll station to the Corporation in the same condition in which it was handed over to the Contractor subject to reasonable wear and tear.
- 9.6 While handing over toll station peacefully to the new contractor, the original contractor shall give details of unpaid MSEB bills, various taxes of Grampanchayat / Municipality / Corporation, account of discount coupons issued, account of monthly passes issued, shall evaluate the damages if any to the toll station & structures thereof mutually and settle all the account in this regard with new contractor in co-ordination with him. The new contractor shall take all the above accounts from old contractor and get settled monetarily at the time of taking over of toll station only. If the original contractor does not settle this account within 7 days with the new contractor, then new contractor shall report the above matter primarily within 7 days and shall submit the detail report stating total monetary loss on each account. If the coupons issue is not settled then recovery at penal rate of the face value of the coupons will be effected from the original contractor as specified under clause No. 31.



- 9.7 To pay to Corporation cost of making good the damage caused to the said toll station forthwith on demand. The cost of repair as worked out by the Engineer of MSRDC Ltd. shall be final and binding to the contractor by MSRDC.
- 9.8 To make the necessary arrangement of lighting, speed breakers, gates, sheds etc. to ensure proper working of the toll station and regulation of traffic through it.
- 9.8.1 To make provision of own electric arrangement including power supply at his own cost and electric lighting/lanterns etc., if installed by in sufficient numbers, including all expenses required for the entire period of the agreement.
- 9.8.2 To pay punctually, the various taxes of Grampanchayat / Municipality / Corporation, electricity charges, telephone charges, mobile phone charges and water supply charges payable in respect of consumption at the toll station to the respective authorities supplying such services, as they become due and payable and not to allow them to fall in arrears, for the entire period of agreement.
- 9.8.3 To replace, at his cost bulbs and tubes and other electric accessories in the toll station.
- 9.8.4 To make his own arrangement for water supply, first-aid box and sanitary (separate arrangements for ladies and gents) for travellers at his own cost. He must maintain the same in good hygienic condition.
- 9.9 Not to make or retain any secret profit or margin during collection of toll. To return balance, if any in the form of currency notes / coins and not to retain it at all.
- 9.10 To permit the Officers duly authorized by the Corporation in that behalf at any time or times during the subsistence of this agreement to enter upon any part of the toll station for the purpose of inspection or for any other legitimate purpose.
- 9.11 To give all required information and inspection of records to the authorized officers of Corporation regarding the collection of toll, if asked for.
- 9.12 In all respects to carry out and comply the directions that may from time to time be given to him by the Competent Officer.
- 9.13 To exhibit at a place to be indicated by the Corporation in the vicinity of the said project, boards of such size and design as may be prescribed by the Corporation on which the rates at which tolls have been levied on the said sections of roads and conditions of levy including exempted vehicles & concessions etc. are written and to preserve and take care of such boards at his cost.

To install electronic arrangements at the toll station facing both sides of the road to display information in the enclosed proforma prescribed by the Corporation at his cost.
- 9.14 To comply with the provision of the Bombay Motor Vehicles Tax Act 1958 (Bom LXV of 1958) and rules made there under and any other law/rules applicable.



- 9.15 To provide to the staff working at the toll station uniform as specified by MSRDC. The uniform shall consist of dark grey trouser & shirt of light grey, which shall necessarily bear the name of the employee & designation along with the name of toll collecting agency or the Identity Card signed by the toll Contractor and duly stamped both by the MSRDC and the Toll Contractor. A badge bearing the name of the employee shall also be displayed on his arm.
- 9.16 To ensure that complaint Register & work order are kept on the toll collection station and both should be easily assessable at toll booth.
- 9.17 The Offerer specifically undertakes to unconditionally abide by all the instructions issued by MSRDC from time to time in operational matters including on deployment of the personnel and on maintenance activities under Volume IV of the Offer Document.
- 9.18 The toll Contractor undertakes the responsibility of complete job of toll collection and routine maintenance as per the scope of the contract.
- 9.19 To comply all requirements regarding deployment of personnel as detailed under Clause No. 16.2.
- 9.20 Contractor has to install weighing machines and CCTV camera at minimum two toll lanes or as specified by MSRDC. The cost of weighing machine of capacity 150 MT shall be borne by the agency in addition to the bid price.
- 9.21 Contractor should comply with all the instructions given by NHAI officers / independent consultant without any delay.

A penalty of Rs. 50,000 will be imposed per week for non compliance of any of the above facility starting from the day one of the work order.

- 10.0 **RESPONSIBILITY OF CORPORATION:** The contractor shall have to take the possession of toll on as is basis. During the running of toll station, the Corporation does not bear any responsibility of providing protection, deputing officer of Corporation to help toll collection, carryout any addition, repairs proposed by contractor or any other such matter as considered by the contractor that becomes necessary and useful to restrict leakage of traffic and effective recovery of toll. The contractor has to make his own arrangements and execute the same at his own expenses. The Corporation's help will be only upto writing of letters to the concerned department for any assistance if needed by the contractor.
- 11.0 **PERFORMANCE SECURITY:** The Contractors shall obtain and provide to the Corporation as security for his proper performance of the contract, an amount as mentioned at Sr. No. 13 on page 68 of Vol. II of the offer document within 20 days of issue of letter of acceptance. Such security shall be either in the form of demand draft in favour of the Corporation, payable at Mumbai or in the form of bank guarantee issued by Nationalised bank or State bank of India or Bank promoted by all India Financial Institution including HDFC issued from any branch in Mumbai



valid for period of contract plus 12 weeks and is in cashable at Mumbai as per form prescribed. The performance security shall carry no interest.

The performance security shall be refunded to the Contractor within 3 months of the expiry of the contract period upon full and satisfactory compliance by the Contractor of all the obligations and requirements under this contract, provided there is no claim of the Corporation against the Contractor in respect of this contract or in respect of any other contract and after a specific written request is received from the Contractor.

- 11.1 **CLAIMS UNDER PERFORMANCE SECURITY:** The claims under performance security shall be made by the Corporation after notifying the Contractor stating the nature of the default in which respect the claim is made.
- 12.0 **SECURITY DEPOSIT:** The contractor shall pay to the Corporation within ten days of issue of letter of acceptance a Security Deposit equivalent to the amount as specified at Sr. No. 13 Page 68 Volume – II in the form of Demand Draft payable at Mumbai in favour of Maharashtra State Road Development Corporation Ltd. The Earnest Money deposited by the offerer, if paid by Demand Draft and if so requested by the offerer in writing, shall be converted into security Deposit. However, the period of ten days may be extended upto 15 days. The said Deposit shall not carry any interest whatsoever.
- 12.1 The Contractor shall always maintain the original amount of security deposit and shall forthwith deposit such further cash as may be necessary to make up the original amount of security deposit (Sr. No. 13 Page 68 Volume – II). In case of failure after demand notice is duly served upon by the contractor, the corporation shall be entitled to terminate the contract and forfeit performance security.
- 12.2 In the event of Security Deposit being found insufficient or if the Security Deposit has been wholly forfeited, the balance or the total sum recoverable as the case may be shall be deducted from any sum due to the contractor or which at any time thereafter may become due to contractor under this or any other contract with the corporation. Should that sum also not be sufficient to cover the full amount recoverable, the contractor shall forthwith pay to the corporation on demand the remaining balance dues.
- 12.3 Upon full and satisfactory compliance by the contractor of all obligation and requirements under this contract, the Security deposits or such part thereof as has not been forfeited or appropriated as aforesaid shall be refunded to the contractor preferably within a period of 3 months after expiry of contract.
- 13.0 **CONTRACT AGREEMENT:** The contractor shall when called upon so to do, enter into and execute the Contract Agreement, to be prepared and completed at the cost of the Entrepreneur, in the form annexed to these conditions with such modifications as may be necessary.
- 14.0 **SUFFICIENCY OF OFFER:** The Contractor shall be deemed to have satisfied himself as to correctness and sufficiency of the offer which shall, except in so far as



it is otherwise provided in the contract, cover all his rights and obligations under the contract and all matters and things necessary for proper completion of the work.

- 15.0 **UNFORESEEN PHYSICAL OBSTRUCTIONS OR CONDITIONS:** During the period of the contract, if the Contractor encounters physical obstructions or physical conditions other than climatic conditions which create obstructions or conditions in his opinion not foreseeable by an experienced Contractor, the Contractor shall give notice to the Corporation as per clause 27 page 29 – Procedure for relief.
- 16.0 **CONTRACTOR’S EMPLOYEES:** The Contractor shall provide on the site in connection with the toll collection work capable assistants who are efficient and experienced in this kind of work and leading hands as are competent to give proper superintendence of the collection work. The Contractor shall follow and abide by all rules and regulations under the labour Law applicable. The Contractor shall appoint his own security staff and shall follow all regulations of the Security Guards Board for the area concerned. In case computers are used for toll collection work, the contractor shall appoint knowledgeable computer operator. The contractor shall get approval to the system of computers to be installed and software to be used in collection of toll from MSRDC before and after its instalment at site. The Contractor shall not make any change in software or the system of computers without prior written consent of the Corporation. The Contractor shall provide all stationery required for toll collection work and computers / smart cards / passes / coupons at his own cost.
- 16.1 The Corporation or officer in charge shall be at liberty to require the Contractor to remove from the collection work such person who in the opinion of the Corporation, misconducts himself or is incompetent or negligent in the proper performance of his duties or whose presence at the toll station is considered undesirable or is a nuisance to passengers or traffic generally.
- 16.2 **DEPLOYMENT OF PERSONNEL:** For the purpose of discharging its obligations under this contract, the Contractor shall deploy adequate number of suitably qualified personnel as mentioned below, the Executive Engineer may, however, instruct for any change in the number of personnel to be deployed by the Toll Contractor for the purpose of collection of toll, amongst others, to ensure free flow of traffic.
- (i) Toll Manager / Toll Supervisor
 - (ii) Cashier / Accounts Officer
 - (iii) Assistant Toll Manager / Toll Supervisor
 - (a) The Toll Contractor shall ensure that the personnel deployed by it under this contract are of good health, of highest integrity, punctual, well dressed and decent. The Contractor shall also ensure that his personnel are courteous, well behaved and well mannered. If any complaint is received by MSRDC against the behaviour or conduct of any member of the Contractor’s personnel, he shall be removed by the Contractor from the toll station forthwith on demand by MSRDC.
 - (b) The Toll Contractor shall furnish to the MSRDC a list of persons deployed under the contract, containing all the details like their educational qualifications, training/s attended, experience, present residential address,



permanent address, a character certificate issued by a Gazetted Officer and recent photographs.

1. While employing the staff for toll collection, it is mandatory on the part of successful bidders to procure character certificate of antecedents of each employee working on the toll station from the Police Authority and submit it to the concerned Camp Office within 30 days from the date of commencement of toll station.
 2. If the successful bidder fails to produce character certificates of his employees working on toll station from the police authority within 30 days as above, penal charges of Rs. 500/- per employee will be levied on him.
 3. If the successful bidder fails to produce character certificates of his employees working on toll station from the police authority within 60 days penal charges of Rs. 1,000/- per employee will be levied on him.
 4. If the successful bidder fails to produce character certificates of his employees working on toll station from the police authority within 60 days, then his contract will be terminated. No claims of whatsoever nature will be entertained by MSRDC.
- (c) Shift wise duties of the staff at Toll Collection Booths will be decided by the Contractor, in consultation with the Executive Engineer for the round the clock supervision of the Toll Plaza / Toll Collection Booths activities.
- (d) The MSRDC reserves its right to object to the deployment of any personnel for any reason. In such a case, the person or persons being objected to by the MSRDC shall be removed by the Toll Contractor forthwith and replaced within a day from such removal. Notwithstanding removal of personnel as aforesaid, the Toll Contractor shall be liable for maintaining and providing the services as per the terms of the contract.
- (e) The personnel deployed by the Toll Contractor shall not misconduct / misbehave with the members of public and shall observe strict discipline and decency in their behaviour.
- (f) The MSRDC shall not be responsible or liable in any manner for any misconduct or misdeeds or any act or incident involving the Toll Contractor or any of its personnel in any criminal or civil case.
- (g) Toll Contractor specially agrees that the personnel deployed by it, will not in any way claim employment with MSRDC and that he will clarify to them accordingly at the time of their appointment only. It is agreed that they are not employees of MSRDC. The Toll Contractor shall be solely responsible for any dispute raised by the personnel deployed either during the term of the contract or thereafter. If any such incident takes place, the Toll Contractor shall forthwith intimate the said incident to the MSRDC and alone be responsible for consequences such as claims, cost, expenses etc. arising there from.
- (h) Notwithstanding any thing contained in Clause 16.2 (f) and (g), the Toll Contractor also undertakes to indemnify and keep indemnified the MSRDC against all losses suffered or likely to be suffered, including but not limited to the expenses / costs incurred by the MSRDC for defending any claim against it.

16.3 INTERSE RELATION:



- (i) In all circumstances it is clearly understood by the parties that the personnel deployed by the Toll Contractor shall have no connection whatsoever with the MSRDC and the relationship of Employer and Employee shall be only between the Toll Contractor and the personnel deployed by him. The toll contractor as Employer shall be solely responsible and liable for complying with statutory liability for welfare of the employees such as ESI, EPF, workmen's compensation, wages, bonus, medical leave etc.
- (j) However, if considered necessary, the MSRDC shall have every right to enquire and seek documentary evidence from the Toll Contractor to confirm, whether all the statutory dues like ESI, EPF, Minimum wages, Weekly offs, Bonus, Medical Leave, Workmen Compensation and any other entitlements, in accordance with the statutory dues applicable in the area are being paid.
- (k) In case of non payment of such statutory dues by the Toll Contractor, the MSRDC on being brought to its notice by any appropriate authority and on its prima facie satisfaction about such claim, shall be entitled to appropriate the amount of the Performance Security towards such dues without any further reference to or consent of the Toll Contractor and pay such statutory dues to the appropriate authority or as may be called upon by the appropriate authority. The Toll Contractor shall replenish the Performance Security within 7 days of the notice by the MSRDC failing which the contract shall be liable to be terminated.

17.0 SAFETY, SECURITY AND PROTECTION OF ENVIRONMENT: The Contractor shall throughout the period of contract have full regard for safety of all persons entitled to be upon the site in an orderly state appropriate to the avoidance of danger to such persons specially from moving traffic.

17.1 The Contractor shall provide all necessary safety equipments such as reflective vests, helmets to the persons.

17.2 The Contractor shall provide and maintain adequate lights, guards, warning signs when and wherever required.

17.3 TRAFFIC SAFETY MANAGEMENT AND MAINTENANCE OF TOLL PLAZA STRUCTURE, BOOTHS AND AREA:

- (i) The Toll Contractor shall take all necessary measures for smooth regulation and safety of traffic during toll collection. The agency shall provide, erect and maintain the necessary barricades, retro-reflective sign and cautionary boards, information boards and rate boards as per detailed drawings enclosed herewith as Annexure – I. The set of boards required shall be provided on both the sides of toll plaza.
- (ii) In order to make it convenient to the road users to read the instruction and rates written on the boards from a distance of 100 meter, the size of letters on boards shall not be less than 100 mm.
- (iii) The Toll Contractor is fully responsible for toll plaza structure, booths in terms of replacement of damaged part, painting and sufficient lighting arrangements and maintain surroundings in good hygienic and aesthetic condition.



- (iv) The toll contractor shall keep the riding surface of the surrounding area of toll plaza / toll booth in traffic worthy condition and shall maintain the same during the entire contract period, moreover the general cleanliness of toll plaza shall be the responsibility of toll contractor.
- (v) On failure of Toll Contractor to fulfil or comply with the above requirements in 15 days time, the Executive Engineer In Charge will get it done departmentally through other agency at the toll contractor's risk and cost and would recover the cost from Security Deposit without further consent from Toll Contractor at double the DSR rate of work item in force.

18.0 CARE OF CORPORATION'S EQUIPMENT AND PROPERTY: The Contractor shall take full responsibility for the care of materials and equipment of the corporation which are given to the contractor by the corporation throughout the period of contract. Any cost towards damages to such property /equipment shall be recoverable from the contractor. Contractor shall procure all the necessary materials/equipments required for toll collection work other than those supplied by Corporation, at his own cost.

19.0 DAMAGE TO PROPERTY AND PERSONS: The Contractor shall, except in so far as the contract provides otherwise, indemnify and keep indemnified the Corporation against all losses and claims in respect of

- a) Death of or injury to any person
- b) Loss of or damage to any property

Which may arise out of or in consequence of the toll collection work and against all claims, proceedings, damages, costs and expenses what so ever in respect thereof or in connection therewith. The Contractor shall also indemnify the Corporation in respect of the other claims / losses other than those mentioned above.

20.0 INSURANCE

20.1 AGAINST ACCIDENT TO WORKMEN: The Contractor shall insure his workmen, equipment etc. No additional burden shall fall on the Corporation due to absence of insurance, if any.

20.2 AGAINST THEFT AND FIRE: The Contractor shall take out all necessary insurance against theft, dacoits, fire or other contingencies against loss to toll station or toll collected.

20.3 If the Contractor fails to effect and keep in force all insurance legally required or under the contract or fails to provide certified true copies of the insurance policies to the Corporation, the Corporation may effect and keep in force any such insurance policies and pay any Lump sum upfront Payment necessary for the purpose, and from time to time deduct the amount so paid from the money deposited by the contractor with the Corporation.

21.0 COMPLIANCE WITH STATUTES OR REGULATIONS: The Contractor shall comply with all Central or State Statutes, Rules or other Regulations in all respects.

22.0 PATENT RIGHTS: The Contractor shall save and indemnify the Corporation from and against all claims and proceedings for or on account of infringement of any



patent rights, design, trade mark or name or other protected rights in respect of Contractor's equipment, material or plants used by Contractor in connection with the work.

- 23.0 **CONTRACTOR TO KEEP ROAD LANES CLEAR:** During the toll collection work the Contractor shall keep lanes and adjoining area free from all unnecessary obstruction and shall see that the traffic flow is smooth and is not affected and the obstructions do not become a cause of accident or complaints from public. Contractor shall always keep all the lanes operative all the time irrespective of volume of traffic. The Contractor shall always take written consent of Corporation before making any lane inoperative quoting justification for the same.
- 24.0 **COMMENCEMENT OF TOLL COLLECTION WORK:** The Contractor shall commence the work of toll collection on the date and time specified in the work order.
- 24.1 The Toll Contractor shall solely be responsible to keep complete working and management of toll collection under his contract transparent and efficient at all points of time and at all levels, for example at the level of Cashier, Toll Manager / Toll Supervisor and the Toll Contractor.
- 25.0 **CONTRACT PERIOD:** The period of contract shall be as stated at Sr. No.4 on page 67 in Volume II of offer document and it shall start from the date and time of commencement of the work of toll collection. It is mandatory on the part of contractor to run the contract for further period upto three months if so requested by the MSRDC. This shall be the discretion of MSRDC and shall not be the right of contractor. If required, MSRDC may extend this period for further such period as is deemed necessary by MSRDC. The terms & conditions of the entire extended period will remain the same as that of the original contract except the amount of toll instalment which shall be solely decided by MSRDC.
- 25.1 If a Contractor has to surrender the work of toll collection prior to expiry of the contract period or extended contract period, he shall give notice of minimum 60 days to the Corporation. However, this will not release the Contractor from his obligations of contract & appointment of a new Contractor will be done at his risk as to costs & in addition Security Deposit & Performance Security remitted by the Contractor will be forfeited.
- 26.0 **CORPORATION'S RISKS:** The Corporation's risks are
- a) War, Hostilities, invasion, act of foreign enemies.
 - b) Rebellion, revolution, insurrection or military or usurped power, civil war
 - c) Ionizing radiation or contamination by radio activity from any nuclear fuel or from any nuclear waste from combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties or any explosive nuclear assembly or nuclear component thereof.
 - d) Riot, commotion, disorder unless solely restricted to employees of the contractor and arising from conduct of the toll collection work, provided that the same is not temporary or transitory and affects the toll collection appreciably.



- e) Any other operation of the forces of nature against which an experienced Contractor could not reasonably have been expected to take precaution.
- f) Repair work undertaken by the Corporation, Government, other Government Authorities on section of road resulting in total closure of traffic at the site of toll collection.

26.1 There shall not be any compensation on any ground whatsoever, affecting toll collection unless the toll collection is affected for a continuous period of more than 15 days.

27.0 **PROCEDURE FOR RELIEF:** Notwithstanding any other provisions in the contract, if the Contractor intends to claim any relief in the payment made or to be made to the Corporation, he shall give notice of his intention to the Corporation within 15 days of the event giving rise to the claim with facts and figures of collection supported by relevant records. The claim shall be settled based on the claim period and payment for that period. The traffic data given in Appendix – I & Provisions in Appendix – III will only be considered for settlement of any claim. Upon happening of the event referred to in paragraph above the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make.

27.1 The claim of the contractor shall be considered only if the contractor has remitted amount due as per relevant clause. If there has been any default in remitting instalments, then the claim shall not be considered.

27.2 Contractor shall not be entitled to any compensation, rebate or reduction in contract amount i.e. amount quoted by the contractor in his offer and accepted by the Corporation, on account of change or a variation in traffic pattern, volume or intensity for any reason whatsoever except as mentioned in sub Para 27.3 and 27.4.

27.3 If the said site is closed for traffic on account of Corporation's risk (Clause 26), then the Contractor shall be entitled to the rebate equal to amount of offer quoted by him for contract period proportionate to number of days for which the said site is closed for traffic or collection of toll is affected.

27.4 If there is substantial change or variation in traffic pattern, volume or intensity, due to reasons stated as Corporation's Risks (clause 26) directly affecting the average total collection of the toll amount, a proportionate rebate or reduction in the contract amount during the period of aforesaid contingencies shall be considered provided contractor has fulfilled conditions of clause 27 & 27.1 above. Such rebates shall not exceed 25% of the average contract amount for such period or actual shortfall on the collection for such period whichever is less. The decision given by the Managing Director on the application made by the Contractor in respect or the question of admissibility of the claim and / or grant of rebate or reduction and quantum thereof in the contract amount shall be final and binding on the Contractor.

27.5 The Maharashtra State Road Development Corporation Ltd. has no data regarding local users & if the local users agitate demanding exemption from payment of toll then rebate / claims in this regard will not be entertained. Contractor has to make



his own assessment before quoting the offer & has to bear losses due to such types of incidents, if any, as & when they occur.

28.0 MODE OF PAYMENT TO MSRDC:

28.1 In case of upfront payment for entire contract period or whole, after the Letter of acceptance is issued, the Lump sum upfront Payment as finally offered by the offerer shall be paid within 20 days of the date of issue of acceptance letter by the Corporation. Only thereafter work order shall be issued.

28.1.1 If contract period is extended as per condition under clause 25.0, in case of total Lump sum offer tender, instalments to be paid monthly in extended period will be calculated on prorata basis from the accepted offer value as quoted for the last year of contract and enhanced to Net Present Value as on the date of extension.

28.2 In case of upfront payment on instalment basis, either monthly or for any such duration as given by MSRDC at Sr. No. 16 on page 68 of Vol. II, after the Letter of acceptance is issued, the 1st upfront instalment shall be paid within 10 days of the date of issue of acceptance letter by the Corporation. Only thereafter work order shall be issued. Balance instalment shall be paid as per schedule given at Sr. No. 16 on page 68 of Vol. II.

28.3 In case there is holiday on the due date of payment of instalments, under the Negotiable Instrument Act, the next calendar day shall be treated as the date of payment of instalment. The instalment shall be in round figure of thousand. If any fraction remains to be paid or is overpaid the same may be adjusted in the last instalment. The Banks commission for drawing of D.D. shall be borne by the Contractor.

28.4 Sharing of Toll Revenue:

The toll revenue more than that projected by the Contractor as per his submitted Cash Flow and accepted (by MSRDC) shall be shared with MSRDC in ratio 90:10 from commencement date. In this regard to ascertain actual traffic, traffic count reported by the Contractor and traffic count taken by MSRDC independently, in the presence of the contractor whichever is higher, shall be considered as actual traffic count. Actual toll income will be calculated on the basis of the actual traffic count. If due to unavoidable circumstances the independent survey is interrupted, the average traffic count will be considered for the period for which survey could not be taken. The average traffic count (AADT) will be taken as base for working out toll income for that period.

Procedure of sharing: The surplus toll income shall be the difference between the total expected toll income given in Cash Flow submitted with the Bid as accepted by MSRDC and the actual toll income of that project.

In order to work out the actual monthly toll income the following procedure shall be followed.



Average daily traffic count X prevailing toll rates X 0.84(towards exempted vehicles, monthly passes, etc.)

From monthly toll income worked out as above, toll income during the month considered in the Cash Flow submitted with the bid as accepted by MSRDC inclusive of administrative expenses and profit and balance shall be shared in the ratio of 90 (MSRDC) : 10 (Contractor).

Note: Maximum 10% will be allowed towards administrative expenditure and profit as deduction from the gross toll revenue as projected in the cash flow and accepted by MSRDC for the purpose of revenue sharing one month shall mean 28 days for this purpose.

- 28.5 **REMISSION OF TOLL INSTALMENTS:** The contractor shall during the period of contract continue to remit the amount of instalments in the name of the Corporation in the form mentioned in Volume – II of the offer document. The contractor shall make good the shortfall between the amount of toll collection and the amount of his accepted offer and remit it to Corporation in the manner prescribed hereinafter.
- 28.6 **DELAYS AND SHORTFALLS IN INSTALLMENT PAYMENTS:** If in any month the amount of toll collected by the contractor falls short of the amount of instalment specified in volume – II, then the Contractor shall forthwith remit to the Corporation along with the amount of toll collected by him, the amount of the shortfall in the collection of toll relating to that month so as to make the amount of collection of toll in that week equal to the amount of instalments specified in volume – II. In case the contractor does not pay full amount of monthly instalments of toll collection by due dates or within three days of due dates, then the same will be recovered by adjusting / encash the Security Deposit / Performance Security or part thereof. The notice of seven days in writing will be given to the contractor on fourth day, if he fails to pay full amount of toll instalments or recoup the shortfall within three days of due date. In case of such default by the contractor, the performance security may at the discretion of the Corporation stand forfeited to the Corporation and the contract may be terminated / determined. The delay in payment of instalments on the due dates and arrears on account of such delays shall carry interest at the rate of 24% per annum covering the actual period of non payment and recovery as the case may be.
- 28.7 In case of monthly upfront payment basis if the Contractor makes default in remitting one instalment then Corporation has a right to terminate the contract.
- 28.8 In case of whole upfront payment basis if the Contractor makes default in remitting whole instalment then Corporation has a right to terminate the contract within 15 days after due date. No claims of whatsoever nature will be entertained by MSRDC in this regard.
- 29.0 **RATES OF TOLL:** The Contractor shall recover toll only at the rates mentioned in “Schedule of Toll Rates” given in Vol. - II from all specified vehicles passing through the toll station as mentioned. The rate/s and concession so fixed by Corporation shall be displayed on the board/s erected at the location decided by the Corporation in the vicinity of the toll station, of the size and design as may be prescribed by the



Corporation or its authorized representative. The Contractor shall display the rates and concessions in bold letters at various locations near toll stations. The contractor shall prepare and take care of such boards at his cost. The Contractor shall give numbered & stamped receipt to every vehicle paying the toll. The size of letter on receipt shall be such that, it should be conspicuously and easily readable. The 'SINGLE JOURNEY', 'DAILY PASS', 'RETURN PASS' shall be boldly written on receipt.

- 30.0 **VARIATION OF TOLL RATES:** If the Corporation varies the existing rates of toll levied on the specified vehicles and concessions given, at any time during the subsistence of the Contract then there would be corresponding revision to the Lump sum Upfront Payment / Monthly Upfront Payment / Weekly Upfront Payment. If the revision is on the positive side the offerer shall pay additional Upfront Payment / Monthly Upfront Payment / Weekly Upfront Payment to the Corporation within Thirty days of order to start collection of toll at revised rates. If the revision is on the negative side, the Corporation shall refund the offerer within Thirty days of order to start collection at revised rates. The decision of the Vice Chairman & Managing Director shall be final, conclusive and binding on the Contractor.
- 31.0 **EXEMPTIONS AND CONCESSIONS:** The vehicles exempted from payment of toll and the various concessions offered to different kinds of vehicles shall be as per Appendix III of Volume- II.
- 31.1 Concessions offered for frequent travellers like concessional coupons are valid for particular vehicle only. These concessions are not transferable except for the vehicles defined in the clause 31.3.
- 31.2 The Contractor shall issue the coupons to such an extent that the same shall be utilized in his contract period only. The amount of concessional coupons issued by the Contractor, for which vehicles have performed their journeys after his contract period is over, shall be recovered from the contractor's security deposit or performance security subject to provisions in clause 36 / 37 of Vol. I page 37 to 40. The Contractor shall not issue excessive coupons at the end of his contract period. If such excessive coupons issued by the contractor are found in use after his contract period is over, amount of the same will be recovered at double the rate of face value of the coupons from the contractor's performance security.

These concessional coupons shall be issued by contractor in the form of smart cards preferably, if the computerised toll system is adopted. If the system of smart cards fails in working then in that case contractor can use other system after applying for the same to the Corporation and obtaining consent of Corporation therefore in writing.

- 31.3 Corporation has accepted system of payment of toll, for Government owned Corporations and/or local authorities engaged in public transport, on the basis of trips of the vehicles irrespective of their registration number. Such public transport agencies pay the toll at the end of month based on actual number of trips during the month by availing appropriate concession. Some public transport agencies pay advance against likely trips to be generated during a week, a fortnight or a month. The toll collecting contractor shall keep account of such trips generated by various



public transport agencies and accept the payment as per the system adopted by the Corporation without claiming extra payment for the same.

- 31.4 The Toll Contractor shall accept the journey coupons and passes upto a period as mentioned in Appendix – III of Volume – II, which have been issued by the earlier Contractor and should report to the Corporation with all details, the same will be reimbursable by the Corporation (subject to physical verification).
- 32.0 **ROUTINE MAINTENANCE OF THE PROJECT AND THE TOLL STATION:** During the period of operation of contract, the contractor will have to carry out the routine maintenance of various items as narrated in clause 32.4 & deposit amount (non refundable) as in Appendix VI for carrying out maintenance activity.
- 32.1 In case of IRDP projects, the scope of routine maintenance will be limited to area of operation of toll station and contractor will have to maintain the components like traffic lanes, speed breakers, dividers, gates, toll booth, rest room, any shed etc. The area of toll plaza shall generally be about 30 M x 60 M, covering the platform, central divider, footpath on both sides, roadside furniture, shed, street lights, roadside gutter, sign boards, road marking, cat eye, hazard marker, crash barrier, check barrier, arboriculture etc.
- 32.2 No Claim on account of maintenance and on account of damaged road will be entertained even if the maintenance cost increases.
- 32.3 The scope of routine maintenance will be limited to area of operation of toll station and contractor will have to maintain the components like traffic lanes, speed breakers, dividers, gates, toll booth, rest room, any shed etc. The area of toll plaza shall generally be about 30 M x 60 M, covering the platform, central divider, footpath on both sides, roadside furniture, shed, street lights, roadside gutter, sign boards, road marking, cat eye, hazard marker, crash barrier, check barrier, arboriculture etc.
- 32.4 Contractor shall maintain Toll plaza structure & the road for 100 m length on either side of toll station which will include following activities:
- Routine maintenance work**
The items of Routine maintenance, generally required and needs to be attended time to time are listed below.
1. Pothole filling by WBM, BBM, BM & AC or any other approved materials.
 2. Cutting of Grass and bushes.
 3. Cleaning of Road (dirt or any other debris found on road).
 4. Scraping of side shoulders.
 5. Deepening of gutters.
 6. De-silting of gutters /cleaning of Gutters /C D works whenever required.
 7. Washing and cleaning of median verge, railing of bridges and embankment, booth platform, crash barriers, sign & caution boards, information boards, Km stones, 200 meter stones, etc by soap wash & water.
 8. Painting of km stones, railing of bridges and embankment, median verge, crash barrier, kerb, parapet of bridges and culverts.
 9. White washing to parapets of bridges, C.D. works & guard stones.



10. White washing & colour washing to the tree girth as per IRC specification.
 11. Repairs / replacement to solar blinkering light.
 12. Repairs / replacement of broken delineator and delineator whose illuminosity is reduced to less than 50%.
 13. Repairs / replacement of damaged km stones, 200 meter stones, guard stones, road boundary stones.
 14. Repairs to parapet of C.D. works, railing of bridges and embankment, expansion joints of bridges.
 15. Maintenance of toll booth, office room, store room, rest room, etc including repairs / replacement of broken glasses, repairs to roofs & walls, flooring tiles, hinges, aldrop, tower bolts, etc. Also distempering to internal area, cement painting to external area & oil painting to doors & windows.
 16. Road markings by thermoplastic paint.
 17. Watering to the arboriculture in median verge / approaches & road boundary whenever required.
 18. Disposal of fallen trees as per Law including obtaining upset value from forest Dept. and then auctioning and depositing auction value to M.S.R.D.C.
 19. Prevent encroachment and unauthorized entry.
 20. Inform the respective authorities like telephone, water supply, MSEB, optical fibre cables, etc regarding repairs to utility services when found damaged.
 21. Repairs / replacement of broken sign & caution boards and information boards. Also replacement of all such boards whose illuminosity is reduced to less than 50%. All traffic signs and markings shall always be kept clean, visible and in correct alignment and position, any damage to traffic signs which reduces or threatens to reduce full and clear visibility shall be rectified and if they are used as base for posters then such posters shall be removed and the signs shall be cleaned. Signs shall be washed using detergent solution, followed by clean water in order to maintain their visibility and reflectivity unimpaired due to dust, etc. Further if any part of traffic signs are damaged due to weathering, corrosion, vandalism or any mandatory sign including those for traffic safety and all other signs damaged beyond repair shall be replaced by the contractor. Checking of luminosity and reflectivity by appropriate devices to check visibility and reflectivity of sign board, caution board, information board, delineators and road markings, all the mentioned articles shall be replaced / repaired by similar materials if the reduction in the level of visibility falls below 50% of the original level.
 22. Water spout cleaning
 23. Electricity, House tax, Water charges and any other charges levied by the local authority time to time.
 24. Any other item not covered above but may crop up any time during the contract.
- 33.0 **SET OFF:** Any sum of money due and payable to the Contractor/s including the EMD under this tender or any sum returnable to the contractor/s under this contract may be appropriated by the Corporation and set off against any claim of the Corporation for payment of any sum of money arising out of or under any other contract made by the Contractor/s, with the Corporation.



34.0 **BRIBES AND COMMISSION** : Any bribes, commission, gift or advantages given, promised or offered by or on behalf of the Contractor/s or any one or more of their Partner/ Directors/ Contractor/s or servants or any one on their behalf to any officer, employee, representative or Contractor of the Corporation or any person on his or their behalf or showing favour or disfavour to any person in relation to the contract, in any manner whatsoever will entitle the Corporation to cancel this contract and also to claim from the Contractor/s payment of any loss or damage resulting from such cancellation.

(A) **Authorised Representative of the MSRDC:**

- (a) The MSRDC has authorized the Executive Engineer, MSRDC to carryout its function on its behalf under this contract.
- (b) The Executive Engineer shall have the overall authority to control and supervise the work of collection of toll.
- (c) The Executive Engineer or any other officer of MSRDC as authorized by the MSRDC shall have right and authority to inspect and check the receipt books (used/unused/counterfoils), registers and books of accounts maintained by the Toll Collecting Contractor.
- (d) The instructions given from time to time by the Executive Engineer or other authorised representative shall be complied with promptly by the Toll Contractor.
- (e) The Toll Contractor shall provide proper system for receiving feedback / complaints / suggestions from public and ensure prompt redressal of all grievances of the public. The Toll Contractor shall keep records of all the complaints received and replied by it and forward a copy on monthly basis to the Executive Engineer. In respect of suggestions, same will be forwarded to the Executive Engineer alongwith the recommendation of the Toll Contractor.

(B) **Right of Inspection:**

- (a) In order to ensure smooth functioning of the Toll Plaza, manpower for round the clock supervision of the plaza activities will be deployed by the Toll Contractor.
- (b) The MSRDC reserves the right to inspect, check or surprise check the activities of the Toll Contractor by conducting various assignments like noting down registration number of vehicles crossing the plaza for the purpose of verifying them from the vehicle crossing report to be generated from plaza, continuous observation of plaza activities for a particular period, surprise cash verification or any other checks as considered necessary either at MSRDC, TMU Office level or at MSRDC Camp Office level to monitor or ensure that all the activities enunciated are being carried out properly by the personnel deployed by the Toll Contractor. The Toll Contractor shall not be made part of any discreet observations. The findings of the above checks will be binding on the Contractor.
- (c) The Collecting Entity shall ensure to keep such record of inspection including a register, as per Proforma prescribed by the MSRDC.

35.0 **PENALTY:**

35.1 **Overcharging:** If the toll contractor is found overcharging toll at any time during a day, more than specified in tender document, for the each such overcharged receipt



and if this fraud is confirmed to the satisfaction of MSRDC then he will be charged fine of 100 times of respective toll amount for each such fraud subjected to minimum of Rs.25,000/-. The amount will be recovered from the deposits such as Security Deposit and / or Performance Security or by adjusting the approved toll period suitably. If toll contractor is found overcharging on any other day, and the said fraud is confirmed to the satisfaction of MSRDC, then the contractor will be charged fine of 300 times of respective toll amount for such fraud subjected to minimum of Rs.1,00,000/-. The amount of fine will recovered from the said deposits or by adjusting the concession period suitably. If toll contractor is found overcharging any time again and said fraud is confirmed to the satisfaction of MSRDC, then the contract will be terminated and the contractor will be totally banned for quoting or participating in any of the toll bids of MSRDC in future. In case of the partnership firm or Joint Venture firm, all the partners / members of the JV will be totally banned for quoting or participating in any of the toll bids of MSRDC in future.

Further the procedure of black listing will be initiated against the contractor by submitting the proposal to the Board of Director's meeting. After the resolution to that effect is passed in the Board of Director's meeting the official order of Black listing the contractor will be issued by VC & MD.

- 35.2 If the Contractor shall commit any act of insolvency or shall be adjudged insolvent or shall have an order of compulsory winding up made against it or subject to the supervision of the court or if the Contractor shall suffer execution to be issued or shall suffer any payment under the contract to be attached or shall charge or encumber the contract or any payment due or which may become due to the Corporation hereunder or compound with its creditors or if the Contractor fails to observe and perform any of the obligations covenants or agreement on its part herein contained or if the Contractor shall go into liquidation or if the Contractor shall make any default in payment of any amount payable to the Corporation under the contract for a period of thirty(30) days after the due date for the payment thereof, or if a receiver, administrator, trustee or liquidator is appointed over substantial part of the Contractor's assets or if under any law or regulation relating to reorganization, arrangement, readjustment of debts proceedings are started against the Contractor or the Contractor has repudiated the contract or has failed to commence the work within the stipulated time or has failed to comply with the instructions issued by the Corporation or has given false or untrue information regarding eligibility to offer as revealed in the offer and in the selection process even if it is over or even earlier, or if the Contractor or any of its partners or directors commits any criminal activity or act of moral turpitude or is detained under any law or Act for time being in force dealing with any criminal activity, it shall be lawful for the Corporation, without any notice, to terminate the contract forthwith and to take possession of the sites under the contract and the same shall be the property of the Corporation to be dealt with in any manner as deemed fit without prejudice to the rights of the Corporation to recover all sums then due under the contract and damage in respect of any breach or default on the part of the Contractor as arrears of land revenue under the provisions of Maharashtra Land Revenue Code, 1966 and as provided herein. In that event no client of the Contractor who is using the said site shall have any cause of action of whatsoever nature against Corporation.



35.3 If during the period the contract remains in force, the Corporation has reason to be dissatisfied with the management and/or performance of the Contractor or his representative, the Corporation may by notice in writing call upon the Contractor to remove the cause of such dissatisfaction in the way to be indicated in the notice and if the Contractor fails for a period of thirty(30) days after the receipt of such notice to remedy such cause/s of dissatisfaction to the satisfaction of the Corporation then notwithstanding anything contained in the Agreement to the contrary, the Corporation shall be at liberty at any time thereafter to terminate the contract by giving the Contractor thirty(30) day's notice in writing and the contract shall on the expiry of the notice period, stand cancelled and also the performance security shall be liable to be forfeited.

35.4 The toll Contractor will be charged a fine equal to 5% of offer amount if he is found non co-operative towards the traffic survey consultancy work and resists to conduct the traffic survey by threatening the traffic survey personnel.

36.0 TERMINATION:

36.1 If the Contractor is deemed by law unable to pay his debts as they fall due or enters into voluntary or involuntary bankruptcy, liquidation or dissolution (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or becomes insolvent or makes an arrangement with or assignment in favour of his creditors or agrees to carry out the contract under a committee of inspection of his creditors or if a receiver, administrator, trustee or liquidator is appointed over any substantial part of his assets or If under any Law or regulation relating to reorganization, arrangement or readjustment of debts, proceedings are commenced against the Contractor or resolutions passed in connection with dissolution or liquidation or if any steps are taken to enforce any security interest over a substantial part of the assets of the Contractor, or if act is done or event occurs with respect to the Contractor or his assets which, under any applicable law has a substantially similar effect to any of the foregoing events or, a default has occurred under any of the Financing Documents & any of the Lenders has recalled its financial assistance & demanded payment of the amounts outstanding under the Financial Documents or any of them as applicable, then the corporation may after giving notice to the contractor, enter upon site & terminate the contract at the contractor's risk without thereby releasing the contractor from any of his obligations or liabilities under the contract or affecting the rights, remedies or authorities conferred on the corporation under the contract.

OR

- If the Contractor -
- 36.2
- a) has repudiated the contract - or,
 - b) Without reasonable excuse has failed to commence the work within stipulated time - or.
 - c) Has failed to comply with the instructions issued by Corporation or his authorised officer – or
 - d) Has failed to remit the instalments on the due dates and the due amount - or



- e) Despite previous warning is otherwise persistently or flagrantly neglecting to comply with any of the obligations under the contract - or
- f) Committed any breach of any of the terms of contract, - or
- g) Has given false or untrue information, regarding eligibility to offer, in the selection process – or
- h) Non courteous, rude behaviour with the travellers – or
- i) Breached any of the terms and conditions of the contract for any reason whatsoever

then the Corporation may after giving 14 days prior notice to the Contractor, enter upon site & terminate the contract at the Contractor's risk without thereby releasing the Contractor from any of his obligations or liabilities under the contract or affecting the rights remedies or authorities conferred on the Corporation under the contract.

- 36.2.1 If the Security deposit of the Contractor is adjusted as per provisions of the Clause 28 in whole or in part and the contractor thereafter as per the provisions of the Clause 12.1 has failed to maintain the amount of the security deposit to the original amount, then the Corporation may after giving notice to the Contractor enter upon the site and terminate the contract at the Contractor's risk without thereby releasing the Contractor from any of his obligations or liabilities under the contract or affecting the rights, remedies or authorities conferred on the Corporation under the contract.

The Contractor shall also not be entitled to participate in any tender of MSRDC in respect of toll collection and / or commercial exploitation for a period of two years.

- 36.2.2 In the event of any default on the part of the Contractor to comply with any of the terms of this contract or in the event of termination of the contract by the Corporation under any Clause, the Corporation shall have the right to forfeit the entire amount of performance security and appropriate the security deposit full or any part thereof in or towards the satisfaction of any claim of the Corporation for any damages, losses, costs, charges or expenses or otherwise howsoever. The decision of the Managing Director in respect of such damages, losses, costs, charges or expenses or otherwise howsoever shall be final and binding on the Contractor.

- 36.3 If the Contractor/s being a natural person/s die/ dies or being a natural person or a partnership firm is adjudged insolvent or commits any criminal activity or act of moral turpitude or is detained under any preventive law or commits any act of insolvency or being a limited company is ordered to be wound up or makes arrangements with its creditors or fails to observe any of the provisions of the contract or any of the terms and conditions governing the contract, the contract shall forthwith stand terminated without prejudice to any other rights, remedies or authorities of the Corporation under the contract and no compensation shall be payable by the Corporation.

- 36.4 In case of a partnership firm, all the partners shall be liable for due performance of the contract, jointly and severally. If the Contractor or servants of the Contractor are convicted of any offence under the Bombay Prohibition Act 1949 and / or Bombay Opium Smoking Act 1936 and / or The Narcotic Drugs and Psychotropic Substances Act 1985, the Corporation shall at its discretion have the right to



terminate the contract without notice and in such an event, no compensation shall be payable by the Corporation to the Contractor on account of such termination of contract.

- 36.5 In the event of change of location of toll stations on any account what so ever, the contract in that event will be terminated and Contractor shall not have any claim of any type on account of such termination of contract.
- 36.6 The Corporation reserves the right to foreclose the contract at any stage without assigning any reason for such a foreclosure. The Contractor shall not be liable for payment of any compensation, rebate in any form on account of such foreclosure.

Toll Contractor may surrender contract by giving 60 days prior notice to MSRDC. Any loss to MSRDC on account of such surrender will be liable to be recovered from the Contractor.

37.0 PAYMENT UPON TERMINATION:

- a) Upon termination of the contract under clause 36.1 the Contractor shall not be entitled for any refund of Lump sum Upfront Payment / Monthly Upfront Payment / Weekly Upfront Payment. The performance security shall be forfeited by encashment of the bank guarantee.
- b) Upon termination of the contract under clause 36.2 the whole of performance security shall be forfeited by the Corporation by encashment of the bank guarantee. The Corporation shall carry out the balance work at the Contractor's risk and cost The Corporation shall refund the Contractor such amount of Lump sum Upfront / Monthly Upfront Payment / Weekly Upfront Payment attributable to the balance period of contract for which new Contractor is appointed after adjusting the losses, if any, in the toll collection and payment due to the lenders, if any. All the refund shall be made at the end of contract period.
- c) Upon termination of the contract under clause 36.3 the whole of performance security shall be forfeited by the Corporation by encashment of the bank guarantee/s. The Corporation shall carry out the balance work at the Contractor's risk and cost. The Corporation shall refund the Contractor unless it is repugnant to the law for the time being in force, such amount of Lump sum Upfront / Monthly Upfront Payment / Weekly Upfront Payment attributable to the balance period of contract for which new Contractor is appointed after adjusting the losses, if any, in the toll collection and payment due to the lenders, if any. All the refund shall be made at the end of contract period.
- d) Upon termination of the contract under Clause of Penalty Clause No. 35, the whole Performance Security shall be forfeited by the Corporation by encashment of the bank guarantee. The Corporation shall carry out the balance work at the Contractor's risk and cost and consequences. The Corporation shall not refund the Contractor any such amount of lump sum Upfront / Monthly Upfront payment / Weekly Upfront payment attributable to the balance period of contract for which new Contractor is appointed.



- 38.0 **RECOVERY OF DUES:** The Corporation shall, without prejudice to its any other rights and remedies be entitled to recover from Contractor/s, all amount due to or recoverable by Corporation from him / them, under the contract, as arrears of land revenue, under the provisions of Maharashtra Land Revenue Code, 1966.
- 39.0 **DISPUTES AND RESOLUTION:** In case of disputes or difference of opinion arising, the decision of the Vice Chairman and Managing Director shall be final and binding on the Contractor. The Contractor shall be given reasonable opportunity to represent his case before the Vice Chairman and Managing Director.
- 40.0 **STAMP DUTY:** The Contractor shall bear and pay stamp duty registration charges in respect of the agreement.
- 41.0 **TAX :** All taxes which are in force on the day of submission of offer shall be borne by the Contractor. The taxes which are levied by Govt. after date of receipt of offer shall be the liability of Contractor only. TCS as applicable on each instalment shall borne by Contractor in addition to the instalment amount.

On the other hand, if any tax is stopped / reduced by Govt., then the Contractor shall remit the tax amount to appropriate period & worth to MSRDC.

- 42.0 **FACILITIES TO TMU:** The Contractor should provide to Toll Monitoring Unit:
- 1) One inspection Vehicle (Toyota Inova) with driver for 2,500 Km Travelling Including Vehicle maintenance and other expenses on Vehicle as per concerned law shall be borne by the bidder in addition to the offer quoted by him.
 - 2) Peon with minimum salary of Rs.7,000/- per month throughout the contract period. Salary and other expenses on peon as per concerned law shall be borne by the bidder in addition to the offer quoted by him.

The above facilities shall be provided during the contract period and expenses towards this shall be borne by the Contractor in addition to the bid amount.