

ARTICLE 36 SUSPENSION OF CONCESSIONAIRE'S RIGHTS

36.1 Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, Government shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to collect Fee, and other revenues pursuant hereto, and (ii) exercise such rights itself or authorize any other person to exercise the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by Government to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, Government shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

36.2 Government to act on behalf of Concessionaire

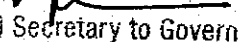
36.2.1 During the period of Suspension, Government shall, on behalf of the Concessionaire, collect all Fee and revenues under and in accordance with this Agreement and deposit the same in the Escrow Account. Government shall be entitled to make withdrawals from the Escrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses specified in Clause 31.3.

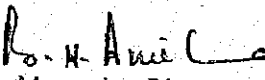
36.2.2 During the period of Suspension hereunder, all assets and liabilities in relation to the Project Road shall continue to vest in the Concessionaire and all things done or actions taken, including expenditure incurred by Government for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify Government for all costs incurred during such period.

36.3 Revocation of Suspension

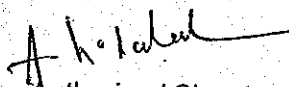
36.3.1 In the event that the Government shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, Government shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

36.3.2 Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, Government shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.


Principal Secretary to Government
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Karnataka Road Development Corporation Ltd.
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Managing Director

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


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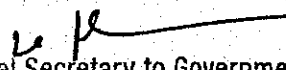
36.4 Substitution of Concessionaire

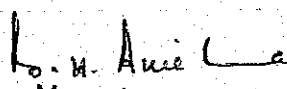
At any time during the period of Suspension, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders' Representative, Government shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 36.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

36.5 Termination

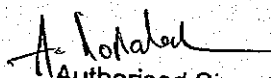
36.5.1 At any time during the period of Suspension under this Article 36, the Concessionaire may by notice require Government to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 36.4, Government shall within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 37.

36.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 36.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by Government upon occurrence of a Concessionaire Default.


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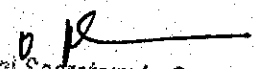

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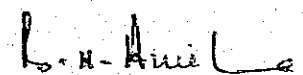
ARTICLE 37 TERMINATION

37.1 Termination for Concessionaire Default

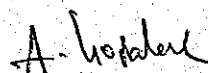
37.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Concessionaire shall be deemed to be in default of this Agreement (a "Concessionaire Default"), unless the default has occurred solely as a result of any breach of this Agreement by Government or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;
- (b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Concessionaire fails to cure, within a Cure Period of 90 (ninety) days, the Concessionaire Default for which whole or part of the Performance Security was appropriated;
- (c) the Concessionaire does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-G and continues to be in default for 90 (ninety) days;
- (d) the Concessionaire abandons or manifests intention to abandon the construction or operation of the Project Road without the prior written consent of Government;
- (e) Project Completion Date does not occur within the period specified in Clause 12.4.3;
- (f) the Punch List items have not been completed within the period set forth in Clause 14.4;
- (g) the Concessionaire is in breach of the Maintenance Requirements;
- (h) the Concessionaire has failed to make any payment to Government within the period specified in this Agreement;
- (i) an Escrow Default has occurred and the Concessionaire fails to cure the default within a Cure Period of 15 (fifteen) days;
- (j) upon occurrence of a Financial Default, the Lenders' Representative has by notice required Government to undertake Suspension in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified in the Substitution Agreement;
- (k) a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;
- (l) the Concessionaire creates any Encumbrance in breach of this Agreement;
- (m) the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

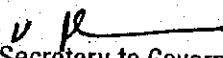

Principal Secretary to Government
Public Works, Ports & IWT Deptt.

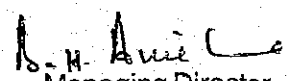

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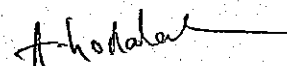

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- (n) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;
- (o) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect;
- (p) an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;
- (q) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;
- (r) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of Government, a Material Adverse Effect;
- (s) a resolution for winding up of the Concessionaire is passed, or any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; and provided that:
 - (i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
 - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and
 - (iii) each of the Project Agreements remains in full force and effect;
- (t) any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false or the Concessionaire is at any time hereafter found to be in breach thereof;
- (u) the Concessionaire submits to Government any statement which has a material effect on Government's rights, obligations or interests and which is false in material particulars;
- (v) the Concessionaire has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement; or
- (w) the Concessionaire commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on Government.


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37.1.2 Without prejudice to any other rights or remedies which Government may have under this Agreement, upon occurrence of a Concessionaire Default, Government shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, Government shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of clause 37.1.3.

37.1.3 Government shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 37.1.2 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event Government receives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Senior Lenders' right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders' Representative may, instead of exercising the Senior Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, Government shall withdraw its notice referred to above and restore all the rights of the Concessionaire:

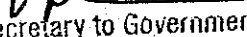
Provided further that upon written request from the Lenders' Representative and the Concessionaire, Government shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as Government may deem appropriate.

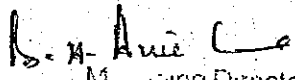
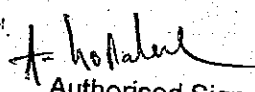
37.2 Termination for Government Default

37.2.1 In the event that any of the defaults specified below shall have occurred, and Government fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, Government shall be deemed to be in default of this Agreement (the "Government Default") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include:

- (a) Government commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Concessionaire;
- (b) Government has failed to make any payment to the Concessionaire within the period specified in this Agreement; or
- (c) Government repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.

37.2.2 Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of a Government Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to Government;


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provided that before issuing the Termination Notice, the Concessionaire shall by a notice inform Government of its intention to issue the Termination Notice and grant 15 (fifteen) days to Government to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

37.3 Termination Payment

37.3.1 Upon Termination on account of a Concessionaire Default during the Operation Period, Government shall pay to the Concessionaire, by way of Termination Payment, an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due. For the avoidance of doubt, the Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default occurring prior to COD.

37.3.2 Upon Termination on account of a Government Default, Government shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

(a) Debt Due; and

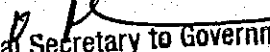
(b) 150% (one hundred and fifty per cent) of the Adjusted Equity.

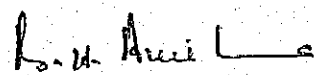
37.3.3 Termination Payment shall become due and payable to the Concessionaire within 15 (fifteen) days of a demand being made by the Concessionaire to the Government with the necessary particulars, and in the event of any delay, Government shall pay interest at a rate equal to 3% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by Government of its payment obligations in respect thereof hereunder.

37.4 Other rights and obligations of Government

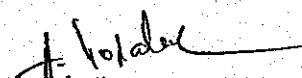
Upon Termination for any reason whatsoever, Government shall:

- (a) be deemed to have taken possession and control of the Project Road forthwith;
- (b) take possession and control of all materials, stores, implements, construction plants and equipment on or about the Site;
- (c) be entitled to restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Site or any part of the Project;
- (d) require the Concessionaire to comply with the Divestment Requirements set forth in Clause 38.1; and
- (e) succeed upon election by Government, without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as Government may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date Government elects to succeed to the interests of the Concessionaire.


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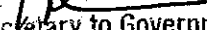
For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd

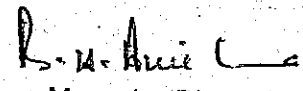

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For the avoidance of doubt, it is hereby agreed, and the Concessionaire hereby acknowledges, that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors, and the Government shall not in any manner be liable for such sums. It is further agreed that in the event Government elects to cure any outstanding defaults under such Project Agreements, the amount expended by Government for this purpose shall be deducted from the Termination Payment.

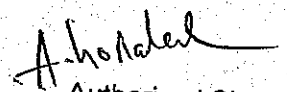
37.5 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.


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ARTICLE 38 DIVESTMENT OF RIGHTS AND INTEREST

38.1 Divestment Requirements

Upon Termination, the Concessionaire shall comply with and conform to the following Divestment Requirements:


- (a) notify to Government forthwith the location and particulars of all Project Assets;
- (b) deliver forthwith the actual or constructive possession of the Project Road, free and clear of all Encumbrances, save and except to the extent set forth in the Substitution Agreement;
- (c) cure all Project Assets, including the road, bridges, structures and equipment, of all defects and deficiencies so that the Project Road is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;
- (d) deliver relevant records and reports pertaining to the Project Road and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date;
- (e) transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;
- (f) execute such deeds of conveyance, documents and other writings as Government may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Concessionaire in the Project Road, including the right to receive outstanding insurance claims to the extent due and payable to Government, absolutely unto Government or its nominee; and
- (g) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the Project Road, free from all Encumbrances, absolutely unto the Government or to its nominee.

38.2 Inspection and cure

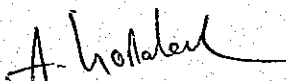
Not earlier than 90 (ninety) days before Termination but not later than 15 (fifteen) days before the effective date of such Termination, the Independent Engineer shall verify, after giving due notice to the Concessionaire specifying the time, date and venue of such verification and/or inspection, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire at its cost and the provisions of

Article 39 shall apply, *mutatis mutandis*, in relation to curing of defects or deficiencies under this Article 38.


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38.3 Vesting Certificate

The divestment of all rights, title and interest in the Project Road shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and Government shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule-U (the "Vesting Certificate"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project Road, and their vesting in Government pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Government or its nominee on, or in respect of, the Project Road on the footing that all Divestment Requirements have been complied with by the Concessionaire.

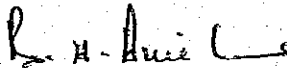
38.4 Additional Facilities

Notwithstanding anything to the contrary contained in this Agreement, all Additional Facilities shall continue to vest in the concessionaire upon and after Termination. However, the additional facilities provided on site handed over by Government shall be vested with Government along with project site upon termination.

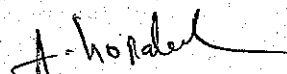
38.5 Divestment costs etc.

38.5.1 The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Concessionaire in the Project Road in favour of Government upon Termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such divestment shall be borne by the Government.

38.5.2 In the event of any dispute relating to matters covered by and under this Article 38, the Dispute Resolution Procedure shall apply.


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ARTICLE 39 DEFECTS LIABILITY AFTER TERMINATION

39.1 Liability for defects after Termination

The Concessionaire shall be responsible for all defects and deficiencies in the Project Road for a period of 120 (One hundred and twenty) days after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Independent Engineer in the Project Road during the aforesaid period. In the event that the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by Government in this behalf, Government shall be entitled to get the same repaired or rectified at the Concessionaire's risk and cost so as to make the Project Road conform to the Maintenance Requirements. All costs incurred by Government hereunder shall be reimbursed by the Concessionaire to Government within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, Government shall be entitled to recover the same from the Escrow Account.

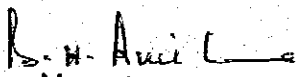
39.2 Retention in Escrow Account

39.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 39.2.3, a sum equal to 5% (five per cent) of the total Realisable Fee for the year immediately preceding the Transfer Date shall be retained in the Escrow Account for a period of 120 (one hundred and twenty) days after Termination for meeting the liabilities, if any, arising out of or in connection with the provisions of Clause 39.1.

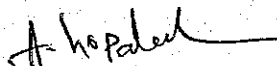
39.2.2 Without prejudice to the provisions of Clause 39.2.1, the Independent Engineer shall carry out an inspection of the Project Road at any time between 210 (two hundred and ten) and 180 (one hundred and eighty) days prior to the Termination and if it recommends that the status of the Project Road is such that a sum larger than the amount stipulated in Clause 39.2.1 should be retained in the Escrow Account and for a period longer than the aforesaid 120 (one hundred and twenty) days, the amount recommended by the Independent Engineer shall be retained in the Escrow Account for the period specified by it.

39.2.3 The Concessionaire may, for the performance of its obligations under this Article 39, provide to Government a guarantee from a Bank for a sum equivalent to the amount determined under Clause 39.2.1 or 39.2.2, as the case may be, and for the period specified therein, substantially in the form set forth in Schedule-F (the "Performance Guarantee"), to be modified, *mutatis mutandis*, for this purpose, and Government shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the required amounts from the Performance Guarantee for undertaking the repairs or rectification at the Concessionaire's risk and cost in accordance with the provisions of this Article 39. Upon furnishing of a Performance Guarantee under this Clause 39.2.3, the retention of funds in the Escrow Account in terms of Clause 39.2.1 or 39.2.2, as the case may be, shall be dispensed with.

b 10
Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

ARTICLE 40**ASSIGNMENT AND CHARGES****40.1 Restrictions on assignment and charges**

- 40.1.1 Subject to Clauses 40.2 and 40.3, this Agreement shall not be assigned by the Concessionaire to any person, save and except with the prior consent in writing of the Government, which consent the Government shall be entitled to decline without assigning any reason.
- 40.1.2 Subject to the provisions of Clause 40.2, the Concessionaire shall not create nor permit to subsist any encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Concessionaire is a party except with prior consent in writing of the Government, which consent the Government shall be entitled to decline without assigning any reason.

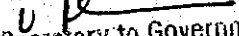
40.2 Permitted assignment and charges

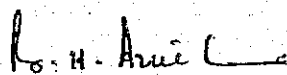
The restraints set forth in Clause 40.1 shall not apply to:

- (a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project Road;
- (b) mortgages/pledges/hypothecation of goods/assets other than Project Assets, and their related documents of title, arising or created in the ordinary course of business of the Project Road, and as security only for indebtedness to the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project Road;
- (c) assignment of rights, interest and obligations of the Concessionaire to or in favour of the Lenders' Representative as nominee and for the benefit of the Senior Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and
- (d) liens or encumbrances required by any Applicable Law.

40.3 Substitution Agreement

- 40.3.1 The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Concessionaire in accordance with the agreement for substitution of the Concessionaire (the "Substitution Agreement") to be entered into amongst the Concessionaire, the Government and the Lenders' Representative, on behalf of Senior Lenders, substantially in the form set forth in Schedule-V.
- 40.3.2 Upon substitution of the Concessionaire under and in accordance with the Substitution Agreement, the Nominated Company substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations of the Concessionaire under this Agreement as if it were the Concessionaire; provided that where the Concessionaire is in breach of this Agreement on the date of such substitution, the Government shall by notice grant a Cure Period of 120(one hundred and twenty) days to the Concessionaire for curing such breach.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.

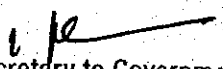

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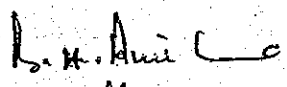
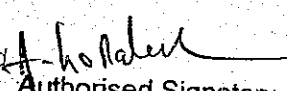
For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

40.4 Assignment by the Government

Notwithstanding anything to the contrary contained in this Agreement, the Government may, after giving 60 (sixty) days' notice to the Concessionaire, assign any of its rights and benefits and/or obligations under this Agreement; to an assignee who is, in the reasonable opinion of the Government, capable of fulfilling all of the Government's then outstanding obligations under this Agreement.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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ARTICLE 41 CHANGE IN LAW

41.1 Increase in costs

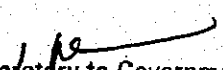
If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after-tax return or other financial burden, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) and 0.5% (zero point five percent) of the Realisable Fee in any Accounting Year, the Concessionaire may so notify the Government and propose amendments to this Agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the Concessionaire, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement:

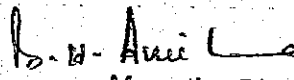
Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Concessionaire may by notice require the Government to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Government shall pay the amount specified therein; provided that if the Government shall dispute such claim of the Concessionaire, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 41.1 shall be restricted to changes in law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.

41.2 Reduction in costs

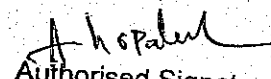
If as a result of Change in Law, the Concessionaire benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) and 0.5% (zero point five percent) of the Realisable Fee in any Accounting Year, the Government may so notify the Concessionaire and propose amendments to this Agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by the Government, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Government may by notice require the Concessionaire to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Concessionaire shall pay the amount specified therein to the Government; provided that if the Concessionaire shall dispute such claim of the Government, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 41.2 shall be restricted to changes in law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


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For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

41.3 Protection of NPV

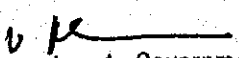
Pursuant to the provisions of Clauses 41.1 and 41.2 and for the purposes of placing the Concessionaire in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties shall rely on the Financial Model to establish a net present value (the "NPV") of the net cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred.

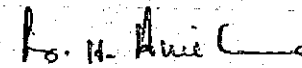
41.4 Restriction on cash compensation

The Parties acknowledge and agree that the demand for cash compensation under this Article 41 shall be restricted to the effect of Change in Law during the respective Accounting Year and shall be made at any time after commencement of such year, but no later than one year from the close of such Accounting Year. Any demand for cash compensation payable for and in respect of any subsequent Accounting Year shall be made after the commencement of the Accounting Year to which the demand pertains, but no later than two years from the close of such Accounting Year.

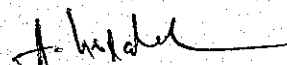
41.5 No claim in the event of recovery from Users.

Notwithstanding anything to the contrary contained in this Agreement, the Government shall not in any manner be liable to reimburse to the Concessionaire any sums on account of a Change in Law if the same are recoverable from the Users.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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Authorised Signatory

ARTICLE 42 LIABILITY AND INDEMNITY

42.1 General indemnity


42.1.1 The Concessionaire will indemnify, defend, save and hold harmless the Government and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, ("the Government Indemnified Persons") against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any User, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach of this Agreement on the part of the Government Indemnified Persons.


42.1.2 The Government will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Government in the land comprised in the Site, and/or (ii) breach by the Government of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

42.2 Indemnity by the Concessionaire

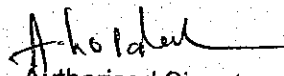
42.2.1 Without limiting the generality of Clause 42.1, the Concessionaire shall fully indemnify, hold harmless and defend the Government and the Government Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits;
- (b) payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or
- (c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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Authorised Signatory


42.2.2 Without limiting the generality of the provisions of this Article 42, the Concessionaire shall fully indemnify, hold harmless and defend the Government Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Government Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project Road, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Government a license, at no cost to the Government authorising continued use of the infringing work. If the Concessionaire is unable to secure such licence within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

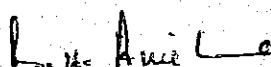
42.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 42 (the "Indemnified Party") it shall notify the other Party (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

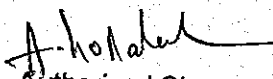
42.4 Defence of claims

42.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 42, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defense.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
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For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

42.4.2 If the Indemnifying Party has exercised its rights under Clause 42.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

42.4.3 If the Indemnifying Party exercises its rights under Clause 42.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- (a) the employment of counsel by such party has been authorized in writing by the Indemnifying Party; or
- (b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defense of such action; or
- (c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defense of such action and shall have been so notified by the Indemnified Party; or
- (d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
 - (i) that there may be specific defenses available to it which are different from or additional to those available to the Indemnifying Party; or
 - (ii) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

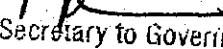
Provided that if Sub-clauses (b), (c) or (d) of this Clause 42.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defense of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.


42.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 42, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.


42.6 Survival on Termination

The provisions of this Article 42 shall survive Termination.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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Authorised Signatory

ARTICLE 43 RIGHTS AND TITLE OVER THE SITE

43.1 Licensee rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Site as sole licensee subject to and in accordance with this Agreement, and to this end, it may regulate the entry and use of the Project Road by third parties in accordance with and subject to the provisions of this Agreement.

43.2 Access rights of the Government and others

43.2.1 The Concessionaire shall allow free access to the Site at all times for the authorised representatives and vehicles of the Government, Senior Lenders, and the Independent Engineer, and for the persons and vehicles duly authorized by any Government Instrumentality to inspect the Project Road and to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

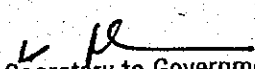
43.2.2 The Concessionaire shall, for the purpose of operation and maintenance of any utility or road specified in Article 11, allow free access to the Site at all times for the authorized persons and vehicles of the controlling body of such utility or road.

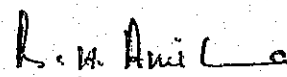
43.3 Property taxes

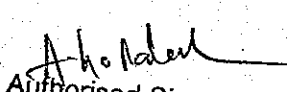
The Concessionaire shall not be liable to pay any property taxes for the ROW portion of the Site. However, any taxes/royalty/duties/cess/surcharge etc., pertaining to implementation./construction/development of Project Road, way side amenities etc., as per the relevant provisions shall be payable by the Concessionaire to the respective agencies/departments. Any change in the duties, taxes, cess, surcharge, royalty etc., levied/charged/imposed by the respective agencies/departments during the implementation of the project and during the entire Concession/Lease period shall be solely borne by the Concessionaire and the same is considered as a part of his bid. No claim in this regard will be allowed.

43.4 Restriction on sub-letting

The Concessionaire shall not sublicense or sublet the whole or any part of the Site, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project Road including Project Facilities.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.

ARTICLE 44 DISPUTE RESOLUTION

44.1 Dispute resolution

44.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 44.2.

44.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

44.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Independent Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Engineer or without the intervention of the Independent Engineer, either Party may require such Dispute to be referred to the Secretary, PWP&IWT for amicable settlement, and upon such reference, the said persons shall meet no later than 15 (fifteen) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 15 (fifteen) day period or the Dispute is not amicably settled within 20 (twenty) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 44.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to reconciliation committee comprising of Principal Secretary, PWP&IWT, and Chairman of Board of Directors of the Concessionaire for reconciliation. In the event of non reconciliation then either party may refer the dispute to arbitration in accordance with the provisions of Clause 44.3.

44.3 Arbitration

44.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 44.2, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 44.3.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the Indian Council of Arbitration (the "Rules"), and shall be subject to the provisions of the Arbitration Act. The venue of such arbitration shall be Bangalore, and the language of arbitration proceedings shall be English.

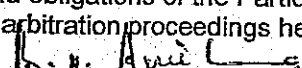
44.3.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

44.3.3 The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Article 44 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Government agree and undertake to carry out such Award without delay.

44.3.4 The Concessionaire and the Government agree that an Award may be enforced against the Concessionaire and/or the Government, as the case may be, and their respective assets wherever situated.

44.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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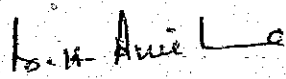

Authorised Signatory

For SRMP Whagdhari Ribbanpalli Tollway Pvt. L

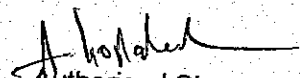
44.4 Adjudication by Regulatory Authority or Commission

In the event of constitution of a statutory Regulatory Authority or Commission with powers to adjudicate upon disputes between the Concessionaire and the Government, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 44.3, be adjudicated upon by such Regulatory Authority or Commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or High Court, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.

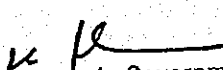

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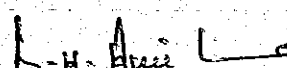
**ARTICLE 45
DISCLOSURE****45.1 Disclosure of Specified Documents**

The Concessionaire shall make available for inspection by any person, copies of this Concession Agreement, the Maintenance Manual, the Maintenance Programme and the Maintenance Requirements (hereinafter collectively referred to as the "Specified Documents"), free of charge, during normal business hours on all working days at the Toll Plaza[s] and Concessionaire's Registered Office. The Concessionaire shall prominently display at each of the Toll Plazas and toll booths, public notices stating the availability of the Specified Documents for such inspection, and shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.

45.2 Disclosure of Documents relating to safety

The Concessionaire shall make available for inspection by any person copies of all Documents and data relating to safety of the Project Road, free of charge, during normal business hours on all working days, at the Concessionaire's Registered Office. The Concessionaire shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
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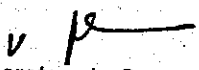
ARTICLE 46 REDRESSAL OF PUBLIC GRIEVANCES

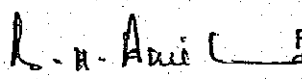
46.1 Complaints Register

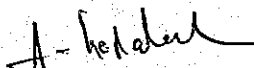
- 46.1.1 The Concessionaire shall maintain a public relations office at each of the Toll Plaza[s] where it shall keep a register (the "Complaint Register") open to public access at all times for recording of complaints by any person (the "Complainant"). Information relating to the availability of and access to the Complaint Register shall be prominently displayed by the Concessionaire at each of the Toll Plazas so as to bring it to the attention of all Users.
- 46.1.2 The Complaint Register shall be securely bound and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by the Concessionaire. Immediately after a complaint is registered, the Concessionaire shall give a receipt to the Complainant stating the date and complaint number.
- 46.1.3 Without prejudice to the provisions of Clauses 46.1.1 and 46.1.2, the Government may, in consultation with the Concessionaire, specify the procedure for making complaints in electronic form and for responses thereto.

46.2 Redress of complaints

- 46.2.1 The Concessionaire shall inspect the Complaint Register every day and take prompt and reasonable action for redress of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by the Concessionaire to the Complainant under a certificate of posting.
- 46.2.2 Within 7 (seven) days of the close of each month, the Concessionaire shall send to the Government and to the Independent Engineer a true photocopy each of all the pages of the Complaint Register on which any entry has been recorded during the course of such month, and upon perusal thereof, the Government may, in its discretion, advise the Concessionaire to take such further action as the Government may deem appropriate for a fair and just redress of any grievance. The Concessionaire shall consider such advice and inform the Government of its decision thereon, and if the Government is of the opinion that the Complainant is entitled to further relief, it may refer the matter to the competent forum for its disposal under the Consumer Protection Act, 1986, and advise the Complainant to pursue the complaint at his own risk and cost.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
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Authorised Signatory

**ARTICLE 47
MISCELLANEOUS****47.1 Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Bangalore shall have jurisdiction over matters arising out of or relating to this Agreement.

47.2 Waiver of immunity

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

47.3 Depreciation


For the purposes of depreciation under the Applicable Laws, the property representing the capital investment made by the Concessionaire in the Project shall be deemed to be acquired and owned by the Concessionaire. For the avoidance of doubt, the Government shall not in any manner be liable in respect of any claims for depreciation to be made by the Concessionaire under the Applicable Laws.

47.4 Delayed payments

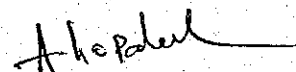
The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 15 (fifteen) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.


Managing Director

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.

Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.


Authorised Signatory

47.5 Waiver

47.5.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

47.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

47.6 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

- (a) no review, comment or approval by Government or the Independent Engineer of any Project Agreement, Document or Drawing submitted by the Concessionaire nor any observation or inspection of the construction, operation or maintenance of the Project Road nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and
- (b) the Government shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

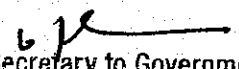
47.7 Exclusion of implied warranties etc.

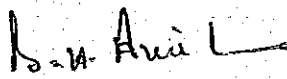
This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

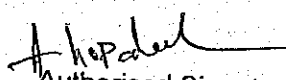
47.8 Survival

47.8.1 Termination shall.

- (a) not relieve the Concessionaire or the Government, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
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For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.

47.8.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

47.9 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

47.10 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

47.11 No partnership

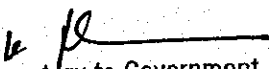
This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

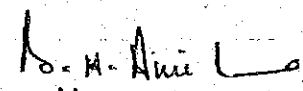
47.12 Third Parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.


47.13 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


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47.14 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

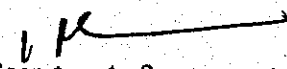
- (a) in the case of the Concessionaire, be given by facsimile and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Concessionaire may from time to time designate by notice to the Government; provided that notices or other communications to be given to an address outside Bangalore may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Concessionaire may from time to time designate by notice to the Government;
- (b) in the case of the Government, be given by facsimile and by letter delivered by hand and be addressed to the Principal Secretary, PWP&IWD with a copy delivered to the Government Representative or such other person as the Government may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in Bangalore it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.


47.15 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

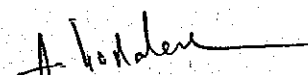
47.16 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

ARTICLE 48

DEFINITIONS

48.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Accounting Year" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

"Additional Facilities" means the facilities such as service stations, motels, restaurants, shopping areas and amusement parks which the Concessionaire may, in its discretion and subject to Applicable Laws, provide or procure for the benefit of the Users, of the Project Road and which are in addition to the Project Facilities, and not situated on the Site;

"Additional Tollway" shall have the meaning set forth in Article 30;

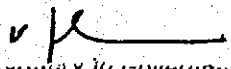
"Adjusted Equity" means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "Reference Date"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

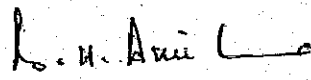
- (a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
- (b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "Base Adjusted Equity") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;
- (c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.42% (zero point four two per cent) thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;

(and the aforesaid shall apply, *mutatis mutandis*, to the Equity funded in Indian Rupees). For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Base Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

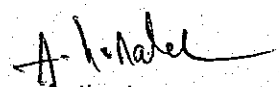
"Affected Party" shall have the meaning set forth in Clause 34.1;

"Agreement" or "Concession Agreement" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;


Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
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Authorised Signatory

"Applicable Laws" means all laws, brought into force and effect by Government of India (GOI) or the Government of Karnataka including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"Applicable Permits" means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project Road during the subsistence of this Agreement;

"Appointed Date" means the date on which Financial Close is achieved or an earlier date that the Parties may by mutual consent determine, and shall be deemed to be the date of commencement of the Concession Period;

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

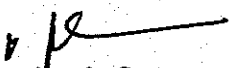
"Adjusted Equity" means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the **"Reference Date"**), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:


- (a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
- (b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the **"Base Adjusted Equity"**) and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;
- (c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.42% (zero point four two per cent) thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;


and the aforesaid shall apply, *mutatis mutandis*, to the Equity funded in Indian Rupees. For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the

Transfer Date; provided that no reduction in the Base Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

"Associate" or "Affiliate" means, in relation to either Party [and/or Consortium Members], a person who controls, is controlled by, or is under the common control with such Party [or Consortium Member] (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person,


Principal Secretary to Government
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and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

"Average Daily Fee" means the amount arrived at after dividing the total Realisable Fee of the immediately preceding Accounting Year by 365 (three hundred and sixty five), and increasing the product thereof by 5% (five per cent);

provided that the Average Daily Fee for any period prior to completion of the first Accounting Year following COD shall be a simple average of the Fee collected every day during the period between COD and the last day of the month preceding the date on which the event requiring calculation hereof occurred, and in the event that the Fee payable by any segment of traffic has not been realised for any reason, an assessment thereof shall be made by the Independent Engineer to form part of the Average Daily Fee for such period;

"Bank" means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior Lender has an interest;

"Bank Rate" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

"Bid" means the documents in their entirety comprised in the bid submitted by the Concessionaire/Consortium in response to the Tender Notice/RFP in accordance with the provisions thereof;

"Bid Security" means the security provided by the Concessionaire/Consortium to the Government along with the Bid in a sum of [Rs. _____ ***** crore (Rupees _____ ***** crore)], in accordance with the Tender Notice/RFP, and which is to remain in force until substituted by the Performance Security;

"Bus" means any passenger motor vehicle with gross vehicle weight exceeding 12,000 (twelve thousand) kilograms

"Bidder" means the single entity/Consortium referred to in Recitals.

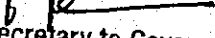
"BOT" means Build, Operate and Transfer referred to in Recitals;

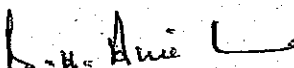
"COD" or **"Commercial Operation Date"** shall have the meaning set forth in Clause 15.1;

"Car" means and includes any motor transport vehicles, car, jeep, van, omni bus, or three-wheeled motor vehicle with a Gross Vehicle Weight not exceeding 7,500 (seven thousand five hundred) Kilograms, but does not include a motor cycle, tractor or road roller.

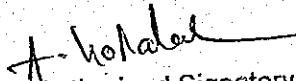
"Change in Law" means the occurrence of any of the following after the date of submission of Bid:

- (a) the enactment of any new Indian law as applicable to the State of Karnataka;
- (b) the repeal, modification or re-enactment of any existing Indian law as applicable to the State of Karnataka;


Principal Secretary to Government
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- (c) the commencement of any Indian law, as applicable to the State, which has not entered into effect until the date of Bid;
- (d) a change in the interpretation or application of any Indian law, as applicable to the State of Karnataka, by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid.
- (e) Any change in the rates of any of the taxes that have a direct effect on the project.

"Change of Scope" shall have the meaning set forth in Clause 16.1;

"Company" means the Company acting as the Concessionaire under this Agreement;

"Completion Certificate" shall have the meaning set forth in Clause 14.2;

"Concession" shall have the meaning set forth in Clause 3.1.1;

"Concessionaire" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Concession Fee" shall have the meaning set forth in Clause 26.1;

"Concession Period" means the period starting on and from the Appointed Date and ending on the Transfer Date;

"Concessionaire Default" shall have the meaning set forth in Clause 37.1.1;

"Conditions Precedent" shall have the meaning set forth in Clause 4.1.1;

"Consortium" shall have the meaning set forth in Recitals;

"Consortium Member" means a company specified in Recitals as a member of the Consortium;


"Construction Period" means the period beginning from the Appointed Date and ending on COD;

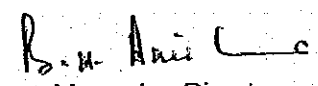
"Construction Works" means all works and things necessary to complete the Project Road for use of the traffic and other users thereof in accordance with this Agreement;

"Contractor" means the person or persons, as the case may be, with whom the Concessionaire has entered into any of the EPC Contract, the O&M Contract, the Tolling Contract or any other agreement or contract for construction, operation and/or maintenance of the Project Road or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Concessionaire;

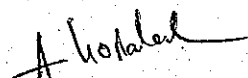
"Cure Period" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- (a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- (b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

- (c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Concessionaire requires any reasonable action by the Concessionaire that must be approved by the Government or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Government or the Independent Engineer to accord their approval;

"Damages" shall have the meaning set forth in Sub-clause (v) of Clause 1.2.1;

"Debt Due" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:

- (a) the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment two years prior to the Transfer Date;
- (b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Government Default; and
- (c) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost; provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

"Debt Service" means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Agreements;

"Development Period" means the period from the date of this Agreement until the Appointed Date;

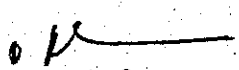
"Dispute" shall have the meaning set forth in Clause 44.1.1;

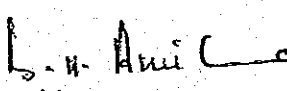
"Dispute Resolution Procedure" means the procedure for resolution of Disputes set forth in Article 44;

"Divestment Requirements" means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 38.1;

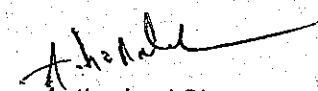
"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"Drawings" means all of the drawings, calculations and documents pertaining to the Project Road as set forth in Schedule-H, and shall include 'as built' drawings of the Project Road;


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


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For GVRMP Whagdhari Ribbanpalli Tollway


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"EPC Contract" means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the Project Road in accordance with the provisions of this Agreement;

"EPC Contractor" means the person with whom the Concessionaire has entered into an EPC Contract;

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

"Encumbrances" means, in relation to the Project Road, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project Road, where applicable herein but excluding utilities referred to in Clause 11.1;

"Equity" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Concessionaire, and any interest-free funds advanced by any shareholder of the Concessionaire for meeting such equity component, but does not include Equity Support.

"Equity Support" shall have the meaning set forth in Clause 25.2.1;

"Escrow Account" means an Account which the Concessionaire shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement, and includes the Sub-Accounts of such Escrow Account;

"Escrow Agreement" shall have the meaning set forth in Clause 31.1.2;

"Escrow Bank" shall have the meaning set forth in Clause 31.1.1;

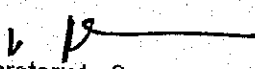
"Escrow Default" shall have the meaning set forth in Schedule-S;


"Exempted Vehicle" means a Vehicle exempted from payment of Fee under and in accordance with the Fee Notification;"

"Fee" means the charge levied on and payable for a vehicle using the Project Road or a part thereof, in accordance with the Fee Notification and this Agreement;

"Fee Notification" means the Notification No. *** dated *** issued by the Government in exercise of the powers conferred by Section [** of the ***** Act] in respect of the levy and collection of Fee during the Concession Period, and a copy of which is at Schedule-R, and includes any subsequent notifications issued from time to time for levy and collection of the Fee contemplated by the provisions of this Agreement;

"Financial Close" means the fulfillment of all conditions precedent to the initial availability of funds under the Financing Agreements;


Principal Secretary to Government
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Managing Director
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For GVRMP Whagdhari Ribbanpally Tollway Pvt. Ltd.


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"Financial Default" shall have the meaning set forth in Schedule-V;

"Financial Model" means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"Financial Package" means the financing package indicating the total capital cost of Project Road and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, Subordinated Debt and Equity Support, if any;

"Financing Agreements" means the agreements executed by the Concessionaire in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.2;

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Clause 34.1;

"GOI" means the Government of India.

"Government" means the Government of Karnataka.

"Good Industry Practice" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Concessionaire in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

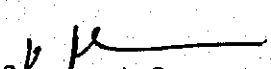
"Government Default" shall have the meaning set forth in Clause 37.2.1;

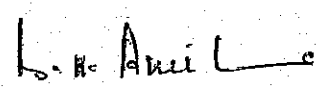
"Government Instrumentality/Agency" means any department, division or sub-division of the Government of India or the Government of Karnataka and includes any commission board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of the Government of India or the Government of Karnataka, as the case may be, and having jurisdiction over all or any part of the Project Road or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;

"Government Representative" means such person or persons as may be authorised in writing by the Government to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Government under this Agreement;

"Grant" shall have the meaning set forth in Clause 25.1.1;

"Gross Vehicle Weight" or "GVW" means in respect of any vehicle the total weight of the vehicle and load certified and registered under the Applicable Laws;


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


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"Heavy Truck" or "Multi-axle truck" means any goods carrier with a Gross Vehicle Weight exceeding 20,000 (twenty thousand) kilograms and includes a truck with three or more axles;

"IRC" means the Indian Roads Congress;

"Indemnified Party" means the Party entitled to the benefit of an indemnity pursuant to Article 42;

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Article 42;

"Independent Engineer" shall have the meaning set forth in Clause 23.1;

"Indirect Political Event" shall have the meaning set forth in Clause 34.3;

"Insurance Cover" means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 32, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

"KRDCL" means Karnataka Road Development Corporation Limited, Bangalore.

"LOA" or "Letter of Acceptance" means the letter of acceptance referred to in Recitals;

"Lenders' Representative" means the person duly authorised by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"Light Commercial Vehicle" or "LCV" means any passenger vehicle or goods carrier with a Gross Vehicle Weight exceeding 7500 (seven thousand five hundred) kilograms and includes a Tractor with Trailer but does not include a Tractor, Bus, Truck or Heavy Truck;

"Local Traffic" shall have the meaning ascribed thereto in Schedule 'R'

"MOSRT&H" means the Ministry of Shipping, Road Transport and Highways or any substitute thereof dealing with highways;

"Maintenance Manual" shall have the meaning ascribed to it in Clause 17.3;

"Maintenance Programme" shall have the meaning ascribed to it in Clause 17.4.1;

"Maintenance Requirements" shall have the meaning set forth in Clause 17.2;

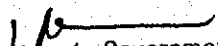
"Material Adverse Effect" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

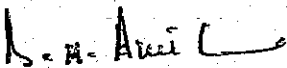
"Medical Aid Post" shall have the meaning set forth in Clause 21.1;

"Motor cycle" means and includes any two wheeled motor vehicle.

"Nominated Company" means a company selected by the Lenders' Representative and proposed to the Government for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;

"NPV" means Net Present Value referred to in clause 41.3;


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Authorised Signatory

"Non-Political Event" shall have the meaning set forth in Clause 34.2;

"O&M" means the operation and maintenance of the Project Road and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities, and collection of Fee in accordance with the provisions of this Agreement;

"O&M Contract" means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of the O&M obligations;

"O&M Contractor" means the person, if any, with whom the Concessionaire has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;

"O&M Expenses" means expenses incurred by or on behalf of the Concessionaire or by the Government, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and fees due and payable for O & M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs (f) payments required to be made under the O&M Contract, Tolling Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this agreement.

"O&M Inspection Report" shall have the meaning set forth in Clause 19.2;

"O&M Support" shall have the meaning set forth in Clause 25.3.1;

"Operation Period" means the period commencing from COD and ending on the Transfer Date;

"PCU" shall have the meaning ascribed to a passenger car unit in the Indian Roads Congress Publication No. IRC-64, 1990 or any substitute or modification thereof, and when used in this Agreement, shall include only motorised vehicles liable to payment of user charges at the Toll Plaza(s) in accordance with the Fee Notification and the Exempted Vehicles specified therein, but does not include Tractors, Tractors with Trailer, Motor Cycles and non-motorised vehicles;

"PWD" / PWP &IWTD" means the Public Works Department / Public Works, Ports and Inland Water Transport Department of the Government of Karnataka or any substitute thereof dealing with State Highways and "Principal Secretary, PWD" means the Secretary to the Government of Karnataka in that Department;


"Panel of Chartered Accountants" shall have the meaning set forth in Clause 33.2.1;

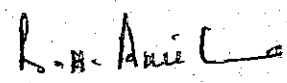
"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually;

"Performance Security" shall have the meaning set forth in Clause 9.1;

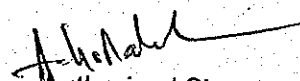
"Political Event" shall have the meaning set forth in Clause 34.4;

"Premium" shall have the meaning set forth in Clause 25.4;


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
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For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

"Project" means the construction, operation and maintenance of the Project Road in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

"Project Agreements" means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, Tolling Contract, and any other agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project during the subsistence of this Agreement, but does not include the Escrow Agreement and the Substitution Agreement;

"Project Assets" means all physical and other assets relating to and forming part of the Site, including (a) rights over the Site in the form of licence, Right of Way or otherwise; (b) tangible assets such as civil works and equipment including foundations, embankments, pavements, road surface, interchanges, bridges, culverts, road over-bridges, drainage works, traffic signals, sign boards, kilometre-stones, toll plazas, electrical systems, communication systems, rest areas, relief centres, maintenance depots and administrative offices; (c) Project Facilities situated on the Site; (d) all rights of the Concessionaire under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Permits and authorisations relating to or in respect of the Project Road, but does not include Additional Facilities;

"Project Completion Date" means the date on which the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Article 14;

"Project Completion Schedule" means the progressive Project Milestones set forth in Schedule-G for completion of the Project Road on or before the Scheduled Date;

"Project Facilities" means all the amenities and facilities situated on the Site, as described in Schedule-C;

"Project Road" means Improvements to Waghdhari-Ribbanpally Road (SH-10) in the State of Karnataka and shall include the Project Assets and the Project Facilities including work added through Change of Scope or through Value Addition to be designed, engineered, built and improved on Site and to be operated and maintained during the Concession Period in accordance with the provisions of this Agreement.

"Project Milestones" means the project milestones set forth in Schedule-G;

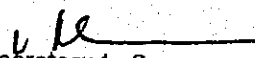
"Provisional Certificate" shall have the meaning set forth in Clause 14.3;


"Punch List" shall have the meaning ascribed to it in Clause 14.4;

"RBI" means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;

"Reference Exchange Rate" means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Bangalore by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Bangalore by the Bank of India and the Bank of Baroda;

"Re.", "Rs." or "Rupees" or **"Indian Rupees"** means the lawful currency of the Republic of India;


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"Realisable Fee" means all the Fee due and realisable under this Agreement, but does not include fees that the Concessionaire has not been able to realise after due diligence and best efforts. For the avoidance of doubt, Realisable Fee shall, save as provided in MCA, be the amount so declared by the Concessionaire on the basis of its provisional accounts or the audited accounts, as the case may be, and in the event of a dispute thereto, the Dispute Resolution Procedure shall apply;

"Right of Way" means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Project Road in accordance with this Agreement;

"Safety Consultant" shall have the meaning set forth in Clause 18.1.2;

"Safety Requirements" shall have the meaning set forth in Clause 18.1.1;

"Safety Fund" shall have the meaning set forth in Clause 18.2.;

"Scheduled Date" shall have the meaning set forth in Clause 12.4.1;

"Scope of the Project" shall have the meaning set forth in Clause 2.1;

"Senior Lenders" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold *pari passu* charge on the assets, rights, title and interests of the Concessionaire;

"Site" shall have the meaning set forth in Clause 10.1;

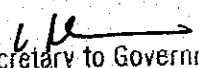
"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project Road, as set forth in Schedule-D, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project Road submitted by the Concessionaire to, and expressly approved by, the Government;

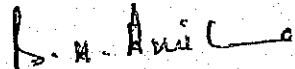
"State" means the State of Karnataka and **"State Government"** means the government of that State;

"Statutory Auditors" means an independent, recognized and a reputable firm of chartered accountants duly licensed to practice in India as independent statutory auditors of the Concessionaire under the provisions of the Companies Act, 1956 including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 33.2.1;

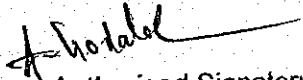
"Subordinated Debt" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Transfer Date:

- (a) the principal amount of debt provided by lenders or the Concessionaire for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and
- (b) all accrued interest on the debt referred to in Sub-clause (a) above but restricted to the lesser of actual interest rate and a rate equal to 5% (five per cent) above the


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Bank Rate in case of loans expressed in Indian Rupees and lesser of the actual interest rate and six-month LIBOR (London Inter Bank Offer Rate) plus 2% (two per cent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due one year prior to the Transfer Date;

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

"Subsistence Revenue" means the total amount of Fee revenue that is required by the Concessionaire in an Accounting Year to meet the sum of (a) O&M Expenses, subject to an annual ceiling of 3% (three per cent) of the Total Project Cost, [plus Grant, if any,] during the first Accounting Year after COD, to be revised for each subsequent year to reflect the variations in WPI occurring between COD and commencement of such Accounting Year, and (b) Debt Service in such Accounting Year, but excluding any interest paid by the Government under clause 34.7.2 or 35.2;

"Substitution Agreement" shall have the meaning set forth in Clause 40.3;

"Suspension" shall have the meaning set forth in Clause 36.1;

"Taxes" means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project Road and Project Facilities charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

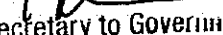
"Tender Notice" shall have the meaning set forth in Recitals;

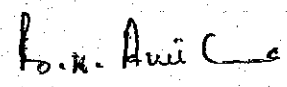
"Termination" means the expiry or termination of this Agreement and the Concession hereunder;

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

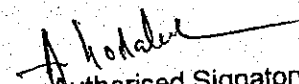
"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Termination Payment" means the amount payable by the Government to the Concessionaire upon Termination and may consist of payments on account of and restricted to the Debt Due and Adjusted Equity, as the case may be, which form part of the Total Project Cost in accordance with the provisions of this Agreement; provided that the amount payable in respect of any Debt Due expressed in foreign currency shall be computed at the Reference Exchange Rate for conversion into the relevant foreign currency as on the date of Termination payment. For the avoidance of doubt, it is agreed that within a period of 60 (sixty) days from COD, the Concessionaire shall notify to the Government, the Total Project Cost as on COD and its disaggregation between Debt Due and Equity, and only the amounts so conveyed shall form the basis of computing Termination Payment, and it is further agreed that in the event such disaggregation is not


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notified to the Government, Equity shall be deemed to be the product arrived at by subtracting Debt Due from Total Project Cost;

"Tests" means the tests set forth in and in accordance with Schedule-I and their certification by the Independent Engineer in order to achieve commercial operation of the Project Road.

"Toll Plaza" means the structures and barriers erected [near each of the two ends] of the Project Road for the purpose of regulating the entry and exit of vehicles in accordance with the provisions of this Agreement and shall include all land, buildings, equipment, and other facilities required in accordance with or incidental to the provisions of this Agreement;

"Tolling Contract" means the contract, if any, entered into by the Concessionaire with the Tolling Contractor collection of Fee for and on behalf of the Concessionaire and matters incidental thereto;

"Tolling Contractor" means the person, if any, with whom the Concessionaire has entered into a Tolling Contract.

"Total Project Cost" means the lowest of :

- (a) the capital cost of the Project, less Equity Support as set forth in the Financial Package;
- (b) the actual capital cost of the Project upon completion of the Project Road less Equity Support; and
- (c) a sum of Rs. 238.58 Crores (Rupees Two Hundred Thirty Eight Crores and Fifty Eight Lakhs only), less Equity Support; provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement;

"Traffic Aid Post" shall have the meaning set forth in Clause 20.2;

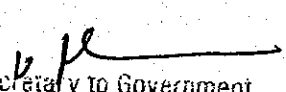
"Transfer Date" means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

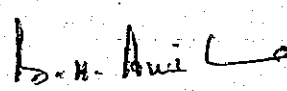
"Truck" means any goods carrier with a Gross Vehicle Weight exceeding 12,000 (twelve thousand) kilograms and includes a road roller, but does not include a Heavy Truck;

"User" means a person who travels on the Project Road or any part thereof in/on any vehicle;

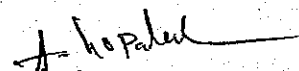
"Vesting Certificate" shall have the meaning set forth in Clause 38.3; and

"WPI" means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI. and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month.


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of

1. PUBLIC WORKS DEPARTMENT,
GOVERNMENT OF KARNATAKA

By

(Signature)

(Name)

PRINCIPLE SECRETARY (Designation)

SIGNED SEALED AND DELIVERED

For and on behalf of

2. KARNATAKA ROAD DEVELOPMENT CORPORATION LIMITED.

By

(Signature)

(Name)

MANAGING DIRECTOR (Designation)

SIGNED SEALED AND DELIVERED

For and on behalf of

3. CONCESSIONAIRE by:

(Signature)

(Name)

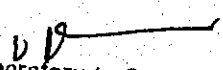
(Designation)

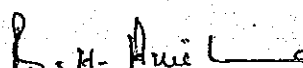
In the presence of:

Witness

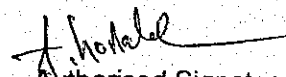
1. _____ (Name and Designation)

2. _____ (Name and Designation)


Principal Secretary to Government
Public Works, Ports & IWT Deptt.


Managing Director
Karnataka Road Development Corporation Ltd.
1st Floor, 16/J, Miller Tank Bed Area,
BANGALORE - 560 052.

For GVRMP Whagdhari Ribbanpalli Tollway Pvt. Ltd.


Authorised Signatory

