

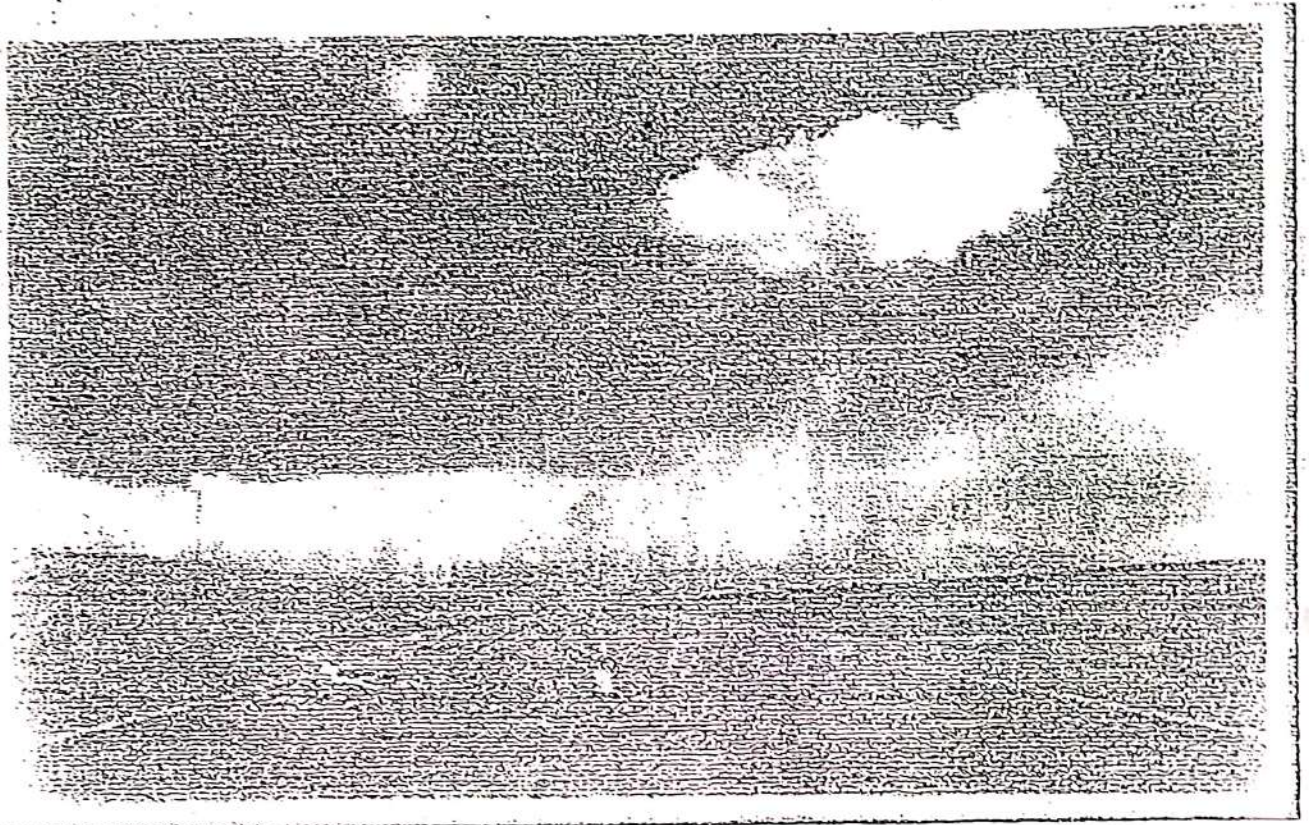
CONCESSION AGREEMENT

BETWEEN

TAJ EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY

AND

JAIPRAKASH INDUSTRIES LIMITED



7th February 2003

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CONCESSION AGREEMENT

This Agreement is entered into on this the 7th day of February 2003

BETWEEN

1. TAJ EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY, a statutory body constituted under U.P. Industrial Development Act, 1976 and having its principal office at J-3, Sector – 41, Noida, Dist. Gautam Budh Nagar – 201 301, Uttar Pradesh, India (hereinafter referred to as TEA which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns) of One Part,

AND

2. JAIPRAKASH INDUSTRIES LIMITED, a company incorporated under the provisions of Companies Act '1956 and having its Registered Office at 5 Park Road, Hazratgunj, Lucknow (UP) and Head Office at JA House, 63 Basant Lok Community Centre, Vasant Vihar, New Delhi – 110 057, India, (hereinafter referred to as the "Concessionaire" or "Company" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes) of the Other Part.



WHEREAS

- A. The Government of UP has set up TEA for anchoring development of Taj Expressway Project which, interalia, includes construction of six lane, 160 Km long Super Expressway with service roads and associated facilities connecting Noida and Agra, passing through a virgin area along the Yamuna River.
- B. TEA had invited bids for development of a Techno Economic Feasibility Report (TEFR) and Detailed Project Report (DPR), arrangement of finance, construction and operation of the said Expressway subject to and on the terms and conditions contained in the Notice Inviting Offers and the Company had also submitted a bid on the due date i.e. 18.01.2003.
- C. After evaluation of the Bids so received, TEA accepted the BID of the Company and issued letter of Acceptance No. TEA/341/2003 dated 23.01.2003 to the Company (Annexure-A).
- D. The Company informed TEA vide its letter No. JIL/302 dated 23.01.2003 (Annexure - B) that:
- a. it opts to take up the Project exclusively by itself without any equity participation by TEA; and
 - b. it opts for "Schedule for land release" as per Option-II specified in Notice Inviting Offer, to develop the Project in three phases.
- E. TEA and the Company have mutually agreed on the terms and conditions of the Concession Agreement to be executed between the Parties.

NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENENTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:



CHAPTER - I
PRELIMINARIES

1.0. DEFINITIONS

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

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

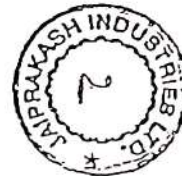
"Agreement" means this Agreement, Appendixes to this Agreement and any amendments thereto made in accordance with the provisions contained in this Agreement.

"Applicable Laws" means all laws, promulgated or brought into force and effect by GOI or GOUP including regulations and rules made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

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

"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.

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



"Bid Security" means the security provided by the Successful Bidder to TEA along with the Bid.

"COD" means the date on which the Expressway is substantially completed for which TEA shall issue the Completion Certificate or the Substantial Completion Certificate in accordance with clause 9.3 read with clause 9.4.

"Change in Law" means the occurrence of any of the following after the date of this Agreement:

- i. The enactment of any new India law;
- ii. The repeal, modification or re-enactment of any existing Indian law;
- iii. The commencement of any India law which has not entered into effect until the date of this Agreement;
- iv. A change in the interpretation or application of any Indian law by a court or any other competent authority as compared to such interpretation or application by a court prior to the date of this Agreement; or
- v. Any change in the rates of any of the taxes, duties, levies, charges etc.
- vi. Applicability of any Indian law over an area where it was not applicable.
- vii. Any applicable order of a competent authority having an effect on the rights and obligations of the Concessionaire.

"Completion Certificate" shall have the meaning ascribed to it in clause 9.3 read with clause 9.4.

"Concession" shall have the meaning ascribed thereto in Chapter - III.



"Concession Period" means the period of 36 (thirty six) years plus any extensions thereto in accordance with the provisions of the Agreement, starting from the Commercial Operations Date (COD).

"Concessionaire" means JIL and its successors, assigns and substitutes.

"Construction Period" means the period of seven years plus extensions, if any, thereto in accordance with the provisions of the Agreement, from the date of signing of the Agreement.

"Contractor" means the contractor or contractors, if any, with whom the Concessionaire has entered into all or any of the Project Agreements.

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

"Drawings" means all the drawings, and documents pertaining to the Expressway and shall include "as built" drawings of the Expressway.

"Encumbrances" means any encumbrance 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.

"Exempted Vehicles" means vehicles that shall be exempted from payment of Fees and include, ambulances, fire tenders, and official vehicles transporting and accompanying the President of India, the Vice-President of India, the Prime Minister of India, Ministers of the Government of India, Governors, I.t. Governors, Chief Ministers, Presiding Officers of Central and the State Legislatures having jurisdiction, leaders of opposition in Lok Sabha, Rajya Sabha and the State legislatures having jurisdiction, Ministers of the GOUP, judges of the Supreme Court of India and of the High Courts,



Secretaries and Commissioners of GOUP, Foreign Dignitaries on State visit to India, Heads of Foreign Missions stationed in India using cars with CD symbol, executive magistrates, officers of TEA, persons required to use the Expressway for discharging their statutory obligations in relation to the Site, Central and State forces in uniform including armed forces, para military forces and police.

"Expressway" means the access controlled 6-lane expressway between Noida and Agra with service roads and associated facilities.

"Expressway Agreements" means this Agreement, the EPC Contract(s), if any, the O&M Contract, if any, the Tolling Contract, if any, and any other agreements or contracts entered into by the Concessionaire with TEA or others relating to the Expressway during the subsistence of this Agreement.

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

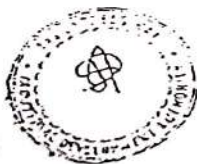
"Fees" means the charges levied on and payable for vehicles using the Expressway in accordance with the Fees as may be settled under this Agreement.

"Financial Arrangements" means arrangements by the Concessionaire of finances required for meeting the expenditure of the Project and shall include its own revenues, accruals, debts, loans, deposits and equity etc.

"GOI" means the Government of India.

"GOUP" means the Government of the State of Uttar Pradesh.

"Good Industry Practice" means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of a reasonably skilled and experienced operator engaged in the



same type of undertaking as envisaged under this Agreement and would mean good engineering practices in the design, engineering, procurement, construction and project management and which would be expected to result in the performance of its obligations by the Concessionaire and in the operation and maintenance of the Expressway in accordance with this Agreement, Applicable Laws, reliability, safety, environment protection, economy and efficiency.

"Indemnifying Party" means the Party obligated to indemnify the other Party.

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

"Material Breach" means a breach by either Party of any of its obligations in this Agreement which shall have a Material Adverse Effect on the Project and which it shall have failed to cure within the specified Cure Period.

"O&M" means the operation and maintenance of the Expressway during the Concession Period and includes but is not limited to functions of maintenance, collection and appropriation of Fees and performance of other services incidental hereto.

"O&M Contract" means the Operation and Maintenance Contract that may be entered into between the Concessionaire and the O&M Contractor for O&M of the Expressway.

"O&M Contractor" means the person or entity with whom the Concessionaire has entered into an O&M Contract for discharging O&M functions for and on behalf of the Concessionaire.

"O&M Works" means all works necessary to keep the Expressway in operation during the Concession Period.



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

"Project" means preparation of TEFR and DPR, design, engineering, financing, procurement, construction, operation and maintenance of the Expressway and management of land for development in accordance with the provisions of this Agreement and shall include all works relating to or in respect of the Expressway and the land for development.

"RBI" means the Reserve Bank of India as constituted and existing under the Reserve Bank of India Act, 1946 including any statutory modification or replacement thereof, and its successors etc.

"Rs." or "Rupees" means the lawful currency of the Republic of India.

"SBI PLR" means the prime lending rate per annum for loans with 1 (one) year maturity as fixed from time to time by the State Bank of India, and in the absence of such rate, the average of the prime lending rates for loans with 1 (one) year maturity fixed by the Bank of India and the Bank of Baroda and failing that any such prime lending rate as may be mutually agreed between the Parties.

"Scheduled Completion Date" means the last date of the Construction Period.

"Site" means the area for the Expressway and enabling facilities thereto.

"Specifications and Standards" means the specifications and standards relating to the quality, capacity and other requirements for the Expressway.

"Substantial Completion Certificate" shall have the meaning ascribed to it in clause 9.3 read with clause 9.4.



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

"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 any one Party to the other Party terminating this Agreement.

"Tests" means the tests to be carried out to determine the Expressway Completion and its certification by TEA for commencement of commercial operation of the Expressway.

"Toll Plaza" means the structures and barriers erected on the Expressway for the purpose of regulating the entry / exit of vehicles in accordance with the provisions of this Agreement.

"Tolling Contract" means the contract, if any, entered into by the Concessionaire with the Tolling Contractor for operation of the Toll Plazas, including collection of Fees for and on behalf of the Concessionaire.

"Tolling Contractor" means the person, if any, with whom the Concessionaire has entered into a Tolling Contract for operation of Toll Plazas and collection of Fees for and on behalf of the Concessionaire.



1.1 In this Agreement, unless the context otherwise requires,

- (a) Any reference to a statutory provision shall include such provision as from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder.
- (b) The words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (c) The headings are for convenience of reference only and shall not be used in and shall not affect the construction or interpretation of this Agreement.
- (d) The words "include" and "including" are to be construed without limitation;
- (e) Any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (f) Any reference to day shall mean a reference to a calendar day;
- (g) Any reference to month shall mean a reference to a calendar month;
- (h) Any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party, as the case may be, in this behalf and not otherwise;



- (i) Unless otherwise expressly provided in this Agreement any Documentation required to be provided or furnished by the Concessionaire to TEA shall be provided free of cost and in three copies and if TEA are required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2 Priority of contract documents and errors/discrepancies

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

- (i) This Agreement
 - (ii) All other documents forming part of this Agreement
- i.e. document at (i) above shall prevail over the documents at (ii) above.

1.2.2 In case of ambiguities or discrepancies within this Agreement, the following shall apply.

- (i) Between two Clauses of this Agreement, the provisions of the specific clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (ii) Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- (iii) Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;
- (iv) Between any value written in numerals and that in words, the latter shall prevail.



CHAPTER - II

SCOPE OF WORK

- 2.1 The 'Work' shall include preparation of TEFR and Detailed Project Report (DPR), arrangement of finances, design, engineering, construction and operation of six-lane Expressway alongwith service roads and associated structures as per requirement, between Noida and Agra in Uttar Pradesh, India except the construction of Expressway between Noida and Greater Noida, which is already under execution jointly by NOIDA and GNIDA and shall be completed in all respects, operated and maintained jointly by NOIDA and GNIDA at its own cost till the start of the Concession Period. This road would have provision for expansion to 8-lane in future based on traffic volume.
- 2.2 The scope of Work also includes operation and maintenance of the Expressway, including collection and retention of Fees during the term of the Concession Period.
- 2.3 The Expressway shall be developed in following 3 phases: -
- Phase 1: Expressway stretch between Greater Noida and the proposed Taj International Airport
 - Phase 2: Expressway stretch between the proposed Taj International Airport and an intermediate destination between the proposed Taj International Airport and Agra as may be mutually agreed between the Parties
 - Phase 3: Expressway stretch between the aforesaid intermediate destination and Agra



CHAPTER – III
GRANT OF CONCESSION

- 3.1 Subject to and on the terms and conditions set forth in this Agreement, TEA hereby undertakes to cause GOUP to grant to the Concessionaire and the Concessionaire hereby accepts the Concession for a period of thirty six years commencing from the COD including the exclusive right, license and authority during the subsistence of this Agreement to implement the Project.
- 3.2 Subject to and on the terms and conditions set forth in this Agreement, the Concession hereby granted shall oblige the Concessionaire to undertake the following in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits.
- i. To develop, design, engineer, finance, procure and construct the Expressway within the Construction Period;
 - ii. Upon completion of the Expressway and during the Concession Period to manage, operate & maintain the Expressway and regulate the use thereof by third parties;
 - iii. Demand, manage and collect appropriate Fees from vehicles and persons liable to payment of Fees for using the Expressway or any part thereof and refuse entry of any vehicle to the Expressway if the due Fees is not paid;
 - iv. Perform and fulfill all of the Concessionaire's obligations under this Agreement;
 - v. Bear and pay all expenses, costs and charges incurred in the fulfillment of all the Concessionaire's obligations under this Agreement.



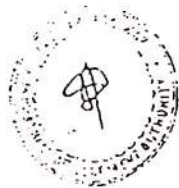
- 3.3 The Concessionaire shall be granted, by TEA, rights for land development of 25 million sq. mtrs of land along the proposed Expressway for commercial, amusement, industrial, institutional and residential development. The land for the purpose of development shall be provided by TEA along the Expressway at five or more locations of which one location shall be in Noida or Greater Noida with an area of 5 million sq. mtrs. The aforesaid land for development shall be in addition to the land for construction of Expressway.
- 3.4 The Expressway between Noida Toll Bridge and Greater Noida (about 25 Kms) has already been constructed and opened for general public by GOUP. In consideration of capital cost of this Expressway between Noida and Greater Noida, the TEA shall grant leave and license to the Concessionaire to use it for concession during the Concession Period. The capital cost of this already constructed Noida - Greater Noida Expressway shall be treated as interest free loan to the Concessionaire, which shall be repaid by the Concessionaire to TEA in 15 equal yearly installments starting from 11th year of the Concession Period.
- 3.5 The Concessionaire shall submit TEFRR / DPR within 2 years of signing the Concession Agreement.
- 3.6 The Concession Period shall commence on COD and shall end on the date of expiry of period of 36 (thirty six) years plus any extensions thereto provided in accordance with the provisions of this Agreement. However in case COD is not achieved within 7 (Seven) years or such extended period as may be approved by TEA, after signing of this Agreement solely on account of Concessionaires default, the Concession Period shall be reduced by the period of delay in achieving the COD.
- 3.7 Concessionaire shall be entitled to collect and retain the Fee from the users of the Expressway between Noida and Greater Noida during the terms of the Concession Agreement.



3.8

The alignment of the Expressway between Greater Noida and Agra shall be finalised by the Concessionaire in consultation with TEA.

भारतीय वायुसेवा निगम लि. (भारत सरकार)



CHAPTER - IV

LAND

4.1 Land for construction of Expressway shall be provided by TEA to the Concessionaire, generally in a width of 100 meters along the alignment of the Expressway with additional land width, where required, for developing other facilities like Toll Plazas etc., on following terms & conditions.

a. The land for construction of Expressway shall be released as per following 3 stages:

Stage - 1 - Land for Phase 1 of Expressway within 6 (six) months of finalisation of Alignment of the Expressway

Stage - 2 - Land for Phase 2 of Expressway within 12 (twelve) months of finalisation of Alignment of the Expressway

Stage - 3 - Land for Phase 3 of Expressway within 18 (eighteen) months of finalisation of alignment of the Expressway

b. The land shall be leased for a period starting from the date of transfer till the end of the Concession Period through such lease deed as may be mutually agreed between the Parties.

c. The land shall be free from Encumbrances.

d. The sole premium of the transferred land shall be equivalent to the acquisition cost plus a lease rent of Rs. 100.00 (Rupees one hundred) only per hectare per year. The acquisition cost shall be the actual compensation paid to the land owners without any additional charge and shall be payable by the Concessionaire as per applicable rules. The lease rent shall be payable annually.



The land for development shall be released as per following 3 stages:

Stage 1. 10% land (250 hectare) for development would be made available after Concessionaire makes financial arrangements for Phase-1 to the satisfaction of TEA.

Stage 2. 10% land (250 hectare) for development would be made available within 6 (six) months of stage - 1, provided the Concessionaire

- finalises the DPR / TEFR study
- commences construction of Phase - 1
- makes financial arrangement for Phase-2 to the satisfaction of TEA

Stage 3: balance 80% land (2000 hectare) for development would be made available within 12 (twelve) months of stage-1, provided

- TEA accepts the DPR/TEFR study prepared by Concessionaire.
- TEA is satisfied with the physical progress of Phase-1 and Phase-2.
- Concessionaire makes financial arrangement for Phase-3 to the satisfaction of TEA.

For the purpose of satisfaction of TEA in respect of Financial Arrangement as aforesaid, the Concessionaire shall submit phasing of estimated expenditure, source of funds including own funds and copies of communication from the lenders in case of debt by way of term loan, NCD or any other instrument showing their intention for providing the debt.

1.3 Land for development shall be transferred by TEA to the Concessionaire free from all Encumbrances on following terms & conditions:



- Conc
- a. It shall be on lease for a period of 90 (ninety) years from the date of transfer through such lease deeds as may be mutually agreed between the Parties.
- b. The land to be transferred shall be as per the request and choice of the Concessionaire subject to availability, in such a manner that the Concessionaire is entitled to achieve 150 Floor Area Ratio (FAR) on such land. If due to local byelaws or other statutory provisions, it shall not be possible to achieve 150 FAR, then TEA shall evolve suitable mechanism, as may be mutually agreed between the TEA and the Concessionaire, so as to enable the Concessionaire to achieve 150 FAR.
- c. The sole premium of the transferred land shall be equivalent to the acquisition cost plus a lease rent of Rs. 100.00 (Rupees one hundred) only per hectare per year. The acquisition cost shall be the actual compensation paid to the land owners without any additional charge and shall be payable by the Concessionaire as per applicable rules. The rent shall be payable annually for 90 (Ninety) years from the date of transfer of land.
- d. The Concessionaire shall be entitled to further sub-lease developed / undeveloped land to sub-lessees / end-users in its sole discretion without any further consent or approval or payment of any charges / fee etc. to TEA or any other relevant authority.
- e. After sub-lease of part of the land by the Concessionaire, the same can be transferred / assigned without requiring any consent or approval of or payment of any additional charges, transfer fee, premiums etc. to TEA or to any other relevant authority and/or there can be subsequent multiple sub-leases of the land in smaller parts. The lease rent of the respective sub-leased portion of land shall be paid by the sub-lessees / transferees to TEA directly on pro-rata basis @ Rs. 100.00 (Rupees one hundred) per hectare per year. The



Concessionaire shall be required to pay lease rent to TEA for the portion of land remaining in its possession after sub-lease, on pro-rata basis at the aforesaid prescribed rate. Total lease rent paid by the Concessionaire and various sub-lessees / transferees shall be Rs. 100.00 (Rupees one hundred) per hectare per year.

- f. Each sub-lease and/or transfer shall after the execution thereof be notified by the transferor or the transferee or the sub-lessor / sub-lessee to TEA and till such time it is so notified the transferor / sub-lessor shall remain jointly and severally liable alongwith the transferee / sub-lessee for payment of lease rent to TEA.
- g. The Concessionaire may make a request to TEA to execute the lease deed directly in favour of Concessionaire's subsidiaries, assigns, transferees etc. in respect of any portion of the land on the same terms and conditions as mentioned above, and on receipt of such request TEA shall execute the lease deed in respect of such portion of land directly in favour of such subsidiaries, assigns and transferees.
- h. In case TEA and the Concessionaire consider it appropriate, tripartite agreement for sub-lease deed may be executed between the TEA, Concessionaire and the Sub-Lessee.
- 4.4 The Concessionaire shall be free to decide the purpose for which transferred land will be used i.e. for commercial, amusement, industrial, institutional, residential etc. and also for the area of land to be allocated for different uses. The Concessionaire shall also be free to decide whether the sub-leased land shall be in the form of plots or constructed properties. No permission of TEA shall be required either for the land use or for transfer of leasehold / sub-leasing / multiple sub-leasing of land. The land use shall however be as per applicable Master Plan and other regulations.
- 4.5 The rights of the sub-lessees / end-users shall not be affected by termination of this Agreement, or expiry of Concession Period and subsequent renewals



shall be granted by TEA without any additional cost to transferees / sub-lessees / end users, standard terms and conditions notwithstanding. The Concessionaire / sub-lessees / end-users shall follow the statutory laws / byelaws etc. for the land use.

- 4.6 If the land is not made available by TEA to the Concessionaire at Stages 1, 2 & 3 according to the schedule mentioned in Clause 4.1 and 4.2 above for any reason other than attributable to the Concessionaire, TEA, at its discretion, shall either reimburse to the Concessionaire the additional cost and loss of revenue occasioned to the Concessionaire on account of the said delay or the Concessionaire shall be compensated by suitably extending the Concession Period.



FEES

- 5.1 The Concessionaire shall be entitled during the Concession Period to demand, manage and collect Fees from the users of the Expressway at each of the Toll Plaza.
- 5.2 Subject to applicable law, the Fee structure for different types of vehicles using the Expressway shall be decided by the Concessionaire from time to time. Such Fee shall, however, not exceed the Fee as may have been notified by GOUP in this behalf under similar situations. The location of Toll Plazas shall also be decided by the Concessionaire.
- 5.3 The Concessionaire shall not collect any Fee in relation to Exempted Vehicles.
- 5.4 The Concessionaire may delegate its right to collect Fee to the O & M Contractor or the Tolling Contractor or to any other person, provided however, that notwithstanding such delegation, the Concessionaire shall be and remain solely liable and responsible for collection of Fee and implementation of the provisions in this Agreement in this regard.



CHAPTER - VI

COMPETING ROAD FACILITIES

- 6.1 TEA, GOUP or any government organization or local body, shall not construct and operate either itself or have the same, inter alia, built and operated on BOT basis or otherwise, any expressway or other road between, inter alia, Noida and Agra (the "Competing Road Facility") without mutual agreement of the Parties, if, construction of 'Competing Road Facility' in anyway, is likely to adversely affects the revenue of the Concessionaire. In case, 'Competing Road Facility' is provided, and it is found by the Concessionaire that it is adversely affecting the revenue of the Concessionaire, then the Concession Period shall be so increased as to place the Concessionaire in the same financial position as it would have occupied, had there been no 'Competing Road Facility'.



OBLIGATIONS AND UNDERTAKINGS

7.1 Obligations of the Concessionaire

7.1.1 The Concessionaire shall, at its own cost and expense, observe, undertake, comply with and perform, in addition to and not in derogation of its obligations elsewhere set out in this Agreement, the following:

- i. Make necessary arrangements of finance, design, engineering, construction and operation of the Project in accordance with the provisions of this Agreement.
- ii. Make necessary and appropriate financial arrangements for implementation of different phases of the Project to the satisfaction of TEA.
- iii. Make or cause to be made, necessary applications to the relevant Government Agencies or local bodies or other authorities, with such particulars and details, as may be necessary for obtaining Applicable Permits and clearance and obtain them in conformity within the Applicable Laws and keep them in force and effect for the relevant period during the subsistence of this Agreement.
- iv. Procure, as required, the appropriate proprietary rights, licenses, agreements and permission for materials, methods, processes and systems used or incorporated into the Expressway.
- v. Make its own arrangement for quarrying, observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits at Concessionaire's own cost and expense.



- vi. Be responsible for soundness and durability of the Expressway including other structures forming part thereof and compliance with the relevant specifications and standards.
- vi. Take all reasonable precautions for prevention of accidents on or about the Expressway.
- viii. Remove promptly from the Expressway all surplus construction materials, machineries, rubbish and other debris and keep the Expressway in a reasonably neat and clean condition and conformity with Applicable Laws and Applicable Permits.
- ix. Indemnify the TEA against all actions, suits, claims, demands and proceedings and any loss or damage or cost or expense that may be suffered by them on account of anything done or omitted to be done by the Concessionaire in connection with the performance of its obligations under the Agreement.
- x. Observe and comply with its obligations set forth in this Agreement.

7.1.2 The Concessionaire shall before commencement of Expressway:

- i. Submit to TEA for information, Project Completion Schedule, including time schedule for its design, engineering and construction and formulate and provide CPM/PERT charts for the completion of the said activities.
- ii. Appoint a project manager and such other managers, officers and representatives, as may deem appropriate, to supervise the Works and to deal with TEA. The representatives / managers shall be responsible for all necessary exchange of information required pursuant to this Agreement.



1.3 In respect of Concessionaire's obligations with respect to the Drawings of the Expressway, the following shall apply.

- i. The Concessionaire shall prepare and submit with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, 2 copies of the drawings to TEA for information.
- ii. All the design and drawings shall be prepared to meet the technical requirements of IRC / MOST (Ministry of Surface Transport).
- iii. Submission of drawings to TEA shall not absolve the Concessionaire of his responsibility for correctness and suitability of the drawings for the purposes. However, in case TEA has any observations/comments on such drawings, that shall be communicated by TEA to the Concessionaire within 15 days of the receipt of the drawings which shall be duly considered by the Concessionaire while finalising such drawings to ensure its conformity with the requirements of IRC / MOST. If the comments / observations from TEA are not received within 15 days time as aforesaid, it shall be deemed that TEA has no comments / observations on the drawings.
- iv. Within 90 (ninety) days of the COD, the Concessionaire shall furnish TEA with "as built" drawings reflecting the Expressway as actually designed, engineered and constructed.
- v. The Concessionaire shall, at all times, afford access to the Site to the authorised representatives of TEA and to the persons duly authorised by any Governmental Agency having jurisdiction over the Project. The Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions with minimum disruption to the construction, operation and maintenance of the Expressway consistent with the purposes for which such persons have gained such access to the Site.



7.2 Obligations of TEA

7.2.1 TEA agrees to observe, comply and perform the following:

- a) Provide to the Concessionaire the Site and right of way and access to the Site, free from Encumbrances, in accordance with this Agreement, for execution of the Project.

In case of delay on the part of TEA to provide to the Concessionaire right of way and access to the Site as aforesaid, TEA shall be liable to pay reasonable damages to the Concessionaire. Provided, however, that no such damages shall be payable by TEA to the Concessionaire, if such a delay on the part of TEA has resulted as a consequence of prior failure on the part of the Concessionaire to fulfill its obligations under this Agreement.

- b) Cause the GOUP to grant the right to the Concessionaire to demand, manage, collect and retain toll from vehicles using the Expressway during the entire Concession Period.
- c) Assist the Concessionaire in getting the Applicable Permits and clearances required from Govt. of India and other State Governments, required for the implementation of the Project.
- d) The Concessionaire shall apply for sanctions/approvals/licenses, etc. from Government of UP/local bodies as may be necessary and the TEA shall help and cause GOUP/local bodies to grant such sanctions/approvals/licenses, etc. to the Concessionaire.
- e) Permit peaceful use of the Site by the Concessionaire under and in accordance with the provisions of this Agreement without any let or hindrance from TEA or persons claiming through or under it;
- f) Upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure



facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to the commercial customers receiving substantially equivalent services.

- g) Ensure that no barriers are erected or placed by GOUP or any Govt. agency on the Expressway that interrupt free flow of traffic except on account of any law and order situation or upon national security consideration.
- h) Provide the Concessionaire when required, with assistance through a dedicated team against payment of prescribed fee and charges, if any, for regulating the traffic on Expressway.
- i) Ensure, subject to and in accordance with applicable Laws, that relevant municipal and other local authorities and bodies including Panchayats in State of Uttar Pradesh do not put any barriers or other obstructions that interrupt free flow of traffic on the Expressway.
- j) External development including electric supply, water supply, drainage arrangements etc. in relation to land which are already developed specially in Noida or Greater Noida released by TEA in accordance with this Agreement, shall be by TEA without any cost to the concessionaire within a reasonable period of handing over of such land. For external development of other undeveloped land released by TEA in accordance with this Agreement, TEA shall assist the Concessionaire, on best effort basis, to arrange it through other authorities who may be involved in development of nearby lands, without any cost to TEA. However, internal development within such land shall be carried out by the Concessionaire at its own cost.
- k) Ensure that the Expressway between Noida Toll Bridge and Greater Noida is completed in all respects by Noida/ Greater Noida, transferred by Noida/ Greater Noida to TEA and handed over to the concessionaire before COD.
- l) Observe and comply with its obligations set forth in this Agreement.



REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to TEA that:

- i) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation;
- ii) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- iii) It has the financial standing and capacity to undertake the Project.
- iv) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- v) It is subject to civil laws of India with respect to this Agreement;
- vi) All rights and interests of the Concessionaire in and to all assets and receivable related to the Expressway shall pass to and vest in TEA on the Termination Date, free and clear of all liens, claims, and Encumbrances;
- vii) No representation or warranty by the Concessionaire contained herein or in any other document furnished by it to TEA or to any Governmental Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading.



8.2 Representations and Warranties of TEA

TEA represents and warrants to the Concessionaire that:

- i) TEA is duly organized and validly existing under the laws of GOUP;
- ii) TEA has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- iii) TEA has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- iv) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof, and
- v) TEA is subject to civil laws of India with respect to this Agreement.



PROJECT DEVELOPMENT AND OPERATION

9.1 Use and Development of the Site

9.1.1 TEA hereby grants to the Concessionaire access to the Site for carrying out such surveys, investigations, soil tests and construction works as the Concessionaire may deem necessary at the Concessionaire's cost, expense and risk for executing the Works of the Project.

9.1.2 TEA hereby grants to the Concessionaire for the Construction Period and Concession Period the right to enter upon the Site to survey, design, procure, construct, operate and maintain the Expressway including the other facilities in accordance with the provisions of this Agreement. Such right of the Concessionaire to the use of the Site shall be subject to:

- i. Any existing utilities on, under or above the Site are kept in continuous satisfactory use, if necessary, by the use of suitable temporary or permanent diversions with the permission of the authority of the controlling body of that utility;
- ii. Any existing roads or right of ways are kept in continuous use, if necessary, by the use of suitable temporary or permanent diversions with the authority of the controlling body of that road or right of way. For any diversion or construction of temporary roads, TEA shall assist the Concessionaire in acquiring the right of way;
- iii. The rights of the road users to use the road in accordance with this Agreement;
- iv. A right of access by the TEA itself and any of its agents to perform their obligations and rights under the Concession Agreement or any other functions that they have and to conduct any study or trial.



9.1.3 The right to use the Site shall be granted for the purpose of carrying out the functions placed upon the Concessionaire under this Agreement and not for any other purposes.

9.1.4 The Site shall be made available to the Concessionaire pursuant hereto by TEA free from all Encumbrances and occupation and without the Concessionaire's being required to make any payment to TEA on account of any costs, expenses and charges for the use of such Site for the duration of this Agreement save and except as otherwise expressly provided in this Agreement. TEA shall procure for the Concessionaire access to the Site, free of Encumbrances, on best effort basis until such time as the land acquisition has been completed.

9.1.5 On or after the signing of this Agreement, the Concessionaire shall commence, undertake and complete all Works in accordance with this Agreement.

9.2 Monitoring and Supervision of Construction

9.2.1 During the Construction Period, the Concessionaire shall furnish to TEA monthly progress reports of actual progress of the Works of the Expressway and shall give all such other relevant information as may be reasonably required by TEA.

9.2.2 TEA or its representatives shall inspect the Works and may issue inspection reports. The Concessionaire shall take prompt action to remedy the deficiencies pointed out in the inspection report and report compliance to TEA. Such inspections or submission of inspection reports by TEA shall not relieve or absolve the Concessionaire of its obligations and liabilities in any manner.

9.2.3 For the purposes of determining that Works are being undertaken in accordance with specifications and standards and Good Industry Practice, the



TEA shall require the Concessionaire to carry out such Tests at such time and frequency and in such manner as may be necessary in accordance with Good Industry Practice for quality assurance. The Concessionaire shall with due diligence carry out, or cause to be carried out, all such Tests in accordance with the instructions of the TEA and furnish the results of such Tests forthwith to TEA. The Concessionaire shall promptly carry out such remedial measures as may be necessary to cure the defects or deficiencies, if any, indicated in such test results and furnish a report to the TEA in this behalf.

Tests

9.3

9.2.4 If TEA shall reasonably determine that the rate of progress of the construction of the Expressway is such that the Project Completion is not feasible on or before the Schedule Project Completion Date by the Concessionaire, it shall so notify the Concessionaire about the same and the Concessionaire shall within 30 (thirty) days thereof notify the TEA about the steps it proposes to take to expedite progress and the period within which it shall achieve COD.

9.3 Completion

9.3.1 The execution of Expressway shall deemed to be completed and opened to traffic only when Completion Certificate or the Substantial Completion Certificate is issued by TEA.

9.3.2 The Date of Completion of the Expressway shall be the date on which TEA has issued the Completion Certificate or the Substantial Completion Certificate, as the case may be, under this Agreement and the Concessionaire shall not demand, manage and collect any Fee until it has received such Completion Certificate or Substantial Completion Certificate.

9.3.3 If completion of Expressway is delayed for the reasons not attributable to the Concessionaire or extension in time is applicable to the Concessionaire as per provisions in other clauses of this Agreement, the Schedule Project Completion Date shall be extended accordingly without any liability on the Concessionaire. The Concession Period shall start from such extended Project Completion Date.



9.4 Tests

9.4.1 Upon completion of the Works, various Tests shall be carried out or caused to be carried out by the Concessionaire in accordance with relevant I.S. Code / Standard Practices. TEA shall designate its representative to witness and observe the Tests. All the Tests shall be held in accordance with the schedule notified by the Concessionaire to TEA from time to time. Failure of such TEA representative to witness and observe the Tests shall not preclude the Concessionaire from conducting such Tests

9.4.2 TEA shall monitor the results of the Tests to determine the compliance of the Expressway with the specifications and standards. The Concessionaire shall provide to TEA with copies of all Test data including detailed Test results.

9.4.3 Atleast 30 (thirty) days prior to the likely completion of the Expressway, the Concessionaire shall notify TEA of the same and shall give notice of its intention to conduct final Tests. The Concessionaire shall give to TEA atleast 10 (ten) days prior notice of the actual date on which it intends to commence the Tests.

TEA shall have the right to suspend or delay any Tests if it is reasonably anticipated or determined during the course of the Tests that the performance of the Expressway or any part thereof does not meet the specifications and standards.

9.4.4 Upon the TEA determining the Tests to be successful and being satisfied that the Expressway can be safely and reliably placed in commercial operation, TEA shall forthwith issue to the Concessionaire the Completion Certificate.

9.4.5 TEA may, at the request of the Concessionaire, issue a Substantial Completion Certificate if the Tests are successful and parts of the Expressway can be safely and reliably placed in commercial operation though certain works or things forming part thereof are not yet complete. In such an event, such



Substantial Completion Certificate shall have appended thereto a list of outstanding items signed jointly by TEA and the Concessionaire. All such outstanding items shall be completed by the Concessionaire within 180 (one hundred and eighty) days of the date of issue of such Substantial Completion Certificate. Upon completion of the outstanding items to the satisfaction of TEA, the TEA shall issue Completion Certificate to the Concessionaire.

9.4.6 If TEA is unable to issue the Completion Certificate or Substantial Completion Certificate because of the events and circumstances which excuses the performance of the Concessionaire's obligations in accordance with this Agreement and as a consequence thereof the Tests could not be held or had to be suspended, the Concessionaire shall reschedule the Tests and hold the same as soon as reasonably practicable. The Completion Certificate or the Substantial Completion Certificate shall not be issued till such Tests have been completed to the satisfaction of TEA.

9.4.7 The Concessionaire shall bear all expenses related to the Tests under this Agreement.

9.5 Operation and Maintenance

9.5.1 The Concessionaire shall operate and maintain the Expressway by itself, or through O&M Contractors and if required repair or otherwise make improvements to the Expressway to comply with specifications and standards, and other requirements set forth in this Agreement and more specifically:

- (i) Permitting safe, smooth and reasonably uninterrupted flow of traffic during normal operating conditions;
- (ii) Charging, collecting and retaining the Fees in accordance with this Agreement.
- (iii) Minimizing disruption to traffic in the event of accidents or other incidents affecting the safety and use of the Expressway by providing



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rapid and effective response and maintaining liaison procedures with emergency services;

- (iv) Undertaking routine maintenance including prompt repairs of potholes, cracks, joints, drains, lighting and signage etc.;
- (v) Undertaking major maintenance such as resurfacing of pavements, repairs to structures, repairs and refurbishment of tolling system and hardware and other equipment;
- (vi) Carrying out periodic preventive maintenance to Expressway including tolling system;
- (vii) Adherence to the standard safety requirements.

9.5.2 The Concessionaire shall, not later than 180 (one hundred and eighty) days before the Schedule Project Completion Date, prepare the Maintenance Manual for the regular and periodic maintenance, and shall ensure and procure that at all times during the Concession Period, the Expressway is maintained in a manner that it complies with the specifications and standards. The Concessionaire shall supply, at least two months before the COD, 10 (ten) copies of the Maintenance Manual to TEA.

9.5.3 The Concessionaire shall keep the carriageways and other facilities and Toll Plazas in a reasonably clean, tidy and orderly condition free of litter and debris.

9.5.4 During the Concession Period, the Concessionaire shall not carry out any material modifications to the Expressway save and except where such:

- (i) Modification is required by Good Industry Practice; or



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- (ii) Modification is necessary for the Expressway to operate in conformity with the Specifications and standards prescribed under this Agreement.

Provided that the Concessionaire shall notify TEA of the proposed modifications along with details thereof at least fifteen days before commencing work on such modifications and shall reasonably consider such suggestions as TEA may make within 15 (fifteen) days of receipt of such details by TEA.

9.5.5 Safety, Vehicle Breakdown and Accident.

- i. In the case of unsafe conditions, vehicle breakdowns and accidents, the Concessionaire shall follow the relevant operating procedures, which shall include the setting up of temporary traffic cones and lights as well as the removal of obstruction and debris expeditiously. Such procedures shall be in accordance with Applicable Laws, and provisions of this Agreement.
- ii. The Concessionaire shall ensure that any diversion or interruption of traffic is remedied without delay. The Concessionaire's responsibility for rescue operations on the Expressway shall be limited to the removal of vehicles or debris or any other obstruction, which may endanger or interrupt the smooth traffic flow on the Expressway.

9.5.6 Emergency De-commissioning.

- i. If, in the reasonable opinion of the Concessionaire, there exists an emergency, which warrants decommissioning and closure to traffic of whole or any part of the Expressway, the Concessionaire shall be entitled to de-commission and close the whole or the relevant part of the Expressway to traffic for so long as such emergency and the consequences thereof warrant, provided however that such emergency de-commissioning will be notified to TEA promptly. TEA may issue



directions to the Concessionaire for dealing with such situations and the Concessionaire shall abide by such directions.

- ii. The Concessionaire shall re-commission the Expressway or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist.



CHAPTER - X

FORCE MAJEURE

10.1 Force Majeure Event:

Force Majeure Event shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and/or Political Event as defined in clauses 10.2, 10.3 and 10.4 respectively hereinafter which prevent the Party claiming Force Majeure (the "Affected Party") from performing its obligations under this Agreement and which act or event is

- (i) Beyond the reasonable control and not arising out of the fault of the Affected Party;
- (ii) The Affected Party has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts skill and care, including through expenditure of reasonable sums of money; and
- (iii) Has a Material Adverse Effect on the Project.

10.2 Non-Political Force Majeure Events:

For purposes of clause 10.1 Non-Political Events shall mean one or more of the following acts or events:

- (i) Acts of God or events beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, exceptionally adverse whether conditions, lightning, earthquake, cyclone, flood, volcanic eruption or fire (to the extent originating from a source external to the Site or beyond design specifications for the Construction Works) or landslide;
- (ii) Radioactive contamination or ionizing radiation;

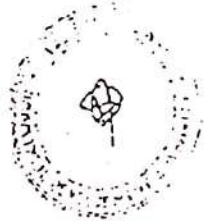


- (iii) Strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees / representatives or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a period exceeding a continuous period of 7 (seven) days in an Accounting Year, and not being an Indirect Indian Political Event set forth in clause 10.3 hereof;
- (iv) Any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor.
- (v) Any judgement or order of any court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings for reasons other than failure of the Concessionaire to comply with any Applicable Law or Applicable Permits or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement by TEA; or
- (vi) Any event or circumstances of a nature analogous to any of the foregoing.

10.3 Indirect Political Force Majeure Events:

For purposes of clause 10.1, Indirect Political Event shall mean one or more of the following acts or events:

- (i) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage which prevents collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year.



(ii) Industry wide or state wide or India wide strikes or industrial action which prevent collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year, or

(iii) Any public agitation which prevents collection of Fees by the Concessionaire for a period exceeding a continuous period of 7 (seven) days in an Accounting Year.

10.4 Political Force Majeure Events:

For purposes of clause 10.1, Political Event shall mean one or more of the following acts or events by or on account GOUP, GOI or any other Governmental Agency:

- (i) Change in Law, only when provisions of Chapter. XIV cannot be applied;
- (ii) Expropriation or compulsory acquisition by any Governmental Agency of any Project assets or rights of the Concessionaire or of the Contractor; or
- (iii) Unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause any consent or approval required by the Concessionaire or any of the Contractors to perform their respective obligations under the Project Agreements (other than a consent the obtaining of which is Conditions Precedent) provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such consents or permits.



10.5 Effect of Force Majeure Event

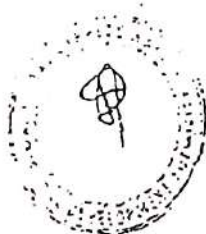
Upon the occurrence of any Force Majeure Event, the following shall apply:

- i) There shall be no Termination except as provided in clause 10.7.
- ii) Where the Force Majeure Event occurs before COD, the dates set forth in the Project Completion Schedule, and the Concession Period shall be extended by the period for which such Force Majeure Event shall subsist.
- iii) Where a Force Majeure Event occurs after COD, the Concessionaire shall continue to make all reasonable efforts to collect Fees, but if he is unable to collect Fees during the subsistence of such Force Majeure Event, the Concession Period shall be extended by the period for which collection of Fees remain suspended on account thereof; and
- iv) Costs arising out of or concerning such Force Majeure Event shall be borne in accordance with the provisions of clause 10.6.

10.6 Allocation of Costs

Allocation of costs during subsistence of Force Majeure: Subject to the provisions of clause 10.5, upon occurrence of a Force Majeure Event, the costs arising out of such event shall be allocated as follows:

- i) When the Force Majeure Event is a Non-Political Event, the Parties shall bear their respective costs and neither Party shall be required to pay to the other Party any costs arising out of any such Force Majeure Event;
- ii) Where the Force Majeure Event is an Indirect Political Event, the costs attributable to such Force Majeure Event and directly relating to the Project (the "Force Majeure Costs") shall be borne by the Concessionaire to the extent of the Insurance Claims, and to the extent such Force Majeure Costs exceeds the Insurance Claims, one



half of the same to the extent actually incurred and duly certified by the statutory Auditors of Concessionaire shall be reimbursed by TEA to the Concessionaire in one lump sum or paid in three equal annual installments with interest @ SBI PLR plus two percent; and

- iii) Where the Force Majeure Event is a Political Event, the Force Majeure Costs to the extent actually incurred and certified by the Statutory Auditors of Concessionaire shall be reimbursed by TEA to the Concessionaire in one lump sum or paid in three equal annual installments with interest @ SBI PLR plus two percent, provided that no Force Majeure Costs shall be payable by TEA if the Concession Period is increased under clause 10.5.
- iv) For avoidance of doubt, Force Majeure Costs shall not include loss of Fees revenues or any debt repayment obligations but shall include interest payments on such debt, O&M expenses and all other costs directly attributable to the Force Majeure Event.

10.7 Prolonged Force Majeure:

If a Force Majeure Event subsists for a period of 180 days or more within a continuous period of 365 days, the Concessionaire, in its sole discretion, shall be entitled to terminate this Agreement by giving 30 (thirty) days Notice to TEA.

10.8 Termination Payment for Force Majeure Event

In the event of Termination of this Agreement in accordance with clause 10.7 above, the Concessionaire shall be entitled for the following:

10.8.1 In respect of land for development:

- a. The rights of the Concessionaire in relation to the land for development as per clause 4.2 of this Agreement to the extent such



land has been transferred to the Concessionaire shall not be affected and shall survive. However, subject to foregoing, the Concessionaire shall not be entitled to any further land for development after the Termination of this Agreement.

- b. The Concessionaire shall have the option, to return to TEA, part or full land already transferred by TEA to the Concessionaire in accordance with clause 4.2 of this Agreement. Should the Concessionaire opt to return to TEA any such land (either in part or in full), TEA shall pay to the Concessionaire:
- i) acquisition cost of the land paid by the Concessionaire.
 - ii) all the development costs, including but not limited to the cost of development of land, construction of buildings and roads, and other facilities;
 - iii) all the incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.
 - iv) financing costs including interest @ SBI PLR plus two percent on the costs under (i), (ii) & (iii) above.
- c. TEA shall also be responsible and liable to refund all payments as may have been made by the Concessionaire towards such land for acquisition which is not transferred to the Concessionaire.

10.8.2 In respect of Expressway:

The land for Expressway along with the construction done on this land shall be transferred by the Concessionaire to TEA and TEA shall pay to the Concessionaire:



- (i) Acquisition cost of the land paid by the Concessionaire.
- (ii) All development costs, including but not limited to the cost of development of land, cost of the works executed on the land and cost of other facilities;
- (iii) All incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.
- (iv) financing costs including interest @ SBI PLR plus two percent on the costs under (i), (ii) & (iii) above.

10.8.3 Repayment of Loan

The Concessionaire shall not be liable to repay the balance amount of the loan in respect of Noida – Greater Noida Expressway mentioned in clause 3.6 of this Agreement.

10.8.4 Termination Payments

The Termination payments as in clause 10.8.1 (b) (i) to (iv) and 10.8.2 (i) to (iv) shall become due and payable to the Concessionaire by TEA within 60 (sixty) days of the demand made by the Concessionaire with necessary details duly certified by the Statutory Auditors of the Concessionaire. If TEA fails to disburse the full Termination payment as aforesaid, within 60 (sixty) days, the amount remaining unpaid shall be disbursed along with interest @ SBI PLR plus four percent for the period of delay on such amount starting from the due date.



TERMINATION

11.1 Termination for the Concessionaire Event of Default

11.1.1 Concessionaire Event of Default

The following event shall constitute an event of default by the Concessionaire (a "Concessionaire Event of Default") unless such Concessionaire Event of Default has occurred as a result of TEA Event of Default or a Force Majeure Event;

- (i) If the Concessionaire shall become bankrupt, or have a receiving order made against him or shall present his petition in bankruptcy, or shall make arrangement with or assignment in favour of his creditors, or shall agree to carry out this Agreement under a committee of inspectors of his creditors, or shall go into liquidation (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or a petition for winding up is filed by or against the Concessionaire.
- (ii) The Concessionaire is in Material Breach of this Agreement which has caused Material Adverse Effect on the performance of the Project.
- (iii) A resolution is passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire except in case of amalgamation / merger or any scheme of arrangement;
- (iv) The Concessionaire is adjudged bankrupt or insolvent or if a trustee or receiver is appointed for the Concessionaire or for any of its property that has a material bearing on the Project;



(v) The Concessionaire abandons the operations of the Expressway for more than 60 (sixty) consecutive days without the prior consent of TEA, provided that the Concessionaire shall be deemed not to have abandoned such operation if such abandonment was a result of Force Majeure Event and is only for the period such Force Majeure is continuing or on account of a breach of its obligations by TEA;

(vi) The Concessionaire repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement;

(vii) The Concessionaire suffers an execution being levied on any of its assets / equipment causing a Material Adverse Effect on the Project and allows it to be continued for a period of 60 (sixty) days.

11.1.2 Upon the occurrence of any Concessionaire Event of Default mentioned in clause 11.1.1 above, TEA shall give written notice to the Concessionaire, which shall not be less than 180 (one hundred and eighty) days to cure ('Cure Period') the said Default.

11.1.3 The Concessionaire shall make all reasonable endeavour to cure the default within the 'Cure Period' mentioned in clause 11.1.2 and in case even after making genuine efforts to cure the breach, in the opinion of the Concessionaire, longer 'Cure Period' is needed than specified by TEA as aforesaid, the Concessionaire, within 180 (one hundred and eighty) days of the receipt of notice from TEA, shall make representation to TEA giving justification for longer 'Cure Period'. TEA, shall give due consideration to the matter and shall communicate its decision to the Concessionaire within 15 (fifteen) days of the receipt of the representation from the Concessionaire. In case no communication is received by the Concessionaire from TEA on its aforesaid request for extension of 'Cure Period' within 15 (fifteen) days of the request made by the Concessionaire for such extension, the extended Cure Period as requested by the Concessionaire shall be deemed to have been accepted by TEA.



11.1.4 Should the Concessionaire fails to cure the Concessionaire Event of Default even within the extended Cure Period as aforesaid, TEA shall be entitled to terminate this Agreement by giving 60 (sixty) days notice in writing to the Concessionaire.

11.1.5 In the event of Termination of this Agreement in accordance with Clause 11.1.4 above, the Concessionaire shall be entitled for the following:

11.1.5.1 In respect of land for development:

- a. The rights of the Concessionaire in relation to the land for development as per clause 4.2 of this Agreement to the extent such land has been transferred to the Concessionaire shall not be affected and shall survive. However, subject to foregoing the Concessionaire shall not be entitled to any further land for development after the Termination of this Agreement.
- b. The Concessionaire shall have the option, to return to TEA, part or full land already transferred by TEA to the Concessionaire in accordance with clause 4.2 of this Agreement. Should the Concessionaire opts to return to TEA any such land (either in part or in full), TEA shall pay to the Concessionaire:
 - i) acquisition cost of the land paid by the Concessionaire.
 - ii) all the development costs, including but not limited to the cost of development of land, construction of buildings and roads, and other facilities;
- c. TEA shall also be responsible and liable to refund all payments as may have been made by the Concessionaire towards such land for acquisition which is not transferred to the



Concessionaire, along with financing costs including interest @ SBI PLR.

iii) all the incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.

iv) financing costs including interest @ SBI PLR on the costs under (i), (ii) & (iii) above.

11.1.5.2 In respect of Expressway:

The land for Expressway along with the construction done on this land shall be transferred by the Concessionaire to TEA and TEA shall pay to the Concessionaire:

- (i) Acquisition cost of the land paid by the Concessionaire.
- (ii) All development costs, including but not limited to the cost of development of land, cost of the works executed on the land and cost of other facilities;
- (iii) All incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.
- (iv) financing costs including interest @ SBI PLR on the costs under (i), (ii) & (iii) above.

11.1.5.3 Repayment of Loan

The Concessionaire shall not be liable to re pay the balance amount of the loan in respect of Noida – Greater Noida Expressway mentioned in clause 3.4 of this Agreement.



11.1.6.

In the event of Termination of this Agreement in accordance with clause 11.1.4 above, the Concessionaire shall, without prejudice to the Concessionaires and TEAs rights under the terms of this Agreement, be liable to pay Rupees Ten crore to TEA.

11.2 Termination for TEA Event of Default

11.2.1 TEA Event of Default

The following event shall constitute an event of default by TEA ("TEA Event of Default") unless any such TEA Event of Default has occurred as a result of Concessionaire Event of Default or due to a Force Majeure Event.

- i. TEA is in Material Breach of this Agreement and which has caused Material Adverse Effect on the performance of the Project by the Concessionaire;
- ii. TEA repudiates this Agreement or otherwise evidences an irrevocable intention not to be bound by this Agreement;
- iii. GOI, GOUP or any Governmental Agency have by an act of commission or omission created circumstances that have a Material Adverse Effect on the performance of its obligations by the Concessionaire.

11.2.2 Upon the occurrence of any TEA Event of Default mentioned in clause 11.2.1 above, the Concessionaire shall give written notice to TEA to cure ("Cure Period") the said default within 90 (ninety) days or as mutually agreed by the Parties of the receipt of notice.

11.2.3 Should TEA fails to cure TEA Event of Default within the "Cure Period" given in clause 11.2.2, the Concessionaire shall be entitled to terminate this Agreement by giving 60 (sixty) days notice in writing to TEA.

11.2.4 In the event of Termination of this Agreement in accordance with clause 11.2.3 above, the Concessionaire shall be entitled for the following:



11.2.4.1

In respect of land for development:

- a. The rights of the Concessionaire in relation to the land for development as per clause 4.2 of this Agreement and has been transferred to the Concessionaire shall not be affected and shall survive. However, subject to foregoing the Concessionaire shall not be entitled to any further land for development after the Termination of this Agreement.
- b. The Concessionaire shall have the option, to return to TEA, part or full land already transferred by TEA to the Concessionaire in accordance with clause 4.2 of this Agreement. Should the Concessionaire opts to return to TEA any such land (either in part or in full), TEA shall pay to the Concessionaire:
- i) acquisition cost of the land paid by the Concessionaire.
 - ii) all the development costs, including but not limited to the cost of development of land, construction of buildings and roads, and other facilities;
 - iii) all the incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.
 - iii) financing costs including interest @ SBI PLR plus 4% (four per cent) on the costs under (i), (ii) & (iii) above.
- c. TEA shall also be responsible and liable to refund all payments as may have been made by the Concessionaire towards such land for acquisition which is not transferred to the



Concessionaire, along with financing costs including interest @ SBI PLR plus four percent

11.2.4.2

In respect of Expressway:

The land for Expressway along with the construction done on this land shall be transferred by the Concessionaire to TEA and TEA shall pay to the Concessionaire:

- (i) Acquisition cost of the land paid by the Concessionaire.
- (ii) All development costs, including but not limited to the cost of development of land, cost of the works executed on the land and cost of other facilities;
- (iii) All incidental costs including liabilities created on the Concessionaire on account of the Termination of this Agreement.
- (iv) financing costs including interest @ SBI PLR plus 4% (four per cent) on the costs under (i), (ii) & (iii) above.

11.2.4.3

Repayment of Loan

The Concessionaire shall not be liable to re pay the balance amount of the loan in respect of Noida – Greater Noida Expressway mentioned in clause 3.4 of this Agreement.

11.3 Termination Payments

The Termination payments as per clause 11.1 and 11.2, as the case may be, shall become due and payable to the Concessionaire by TFA within 60 (sixty) days of the demand made by the Concessionaire with necessary details duly certified by the Statutory Auditors of the Concessionaire. If TEA fails to



disburse the full Termination payment as aforesaid, within 60 (sixty) days, the amount remaining unpaid shall be disbursed along with interest @ SBI PLR plus four percent for the period of delay on such amount starting from the due date.



DIVESTMENT OF RIGHTS AND INTERESTS IN CASE OF TERMINATION

12.1 Upon Termination of this Agreement and fulfillment by TEA of its obligations under this Agreement, the Concessionaire shall comply with the following:

(a) Notify to TEA forthwith the location and particulars of relevant assets related to:

i) Expressway; and

ii) Land for development (only if applicable in case of Termination before expiry of the Concession Period)

(b) Deliver forthwith actual or constructive possession of relevant assets as per (a) above and execute such deeds, writings and documents as may be required by the TEA for fully and effectively divesting the Concessionaire of all of the rights, title and interest in such assets to TEA; and

(c) Comply with the Divestment Requirements set out in clause 12.2.

12.2 Upon Termination of this Agreement, the Concessionaire shall comply and conform to the following Divestment Requirements:

(i) The Concessionaire delivers relevant records and reports pertaining to the Expressway and its design, engineering, construction, operation and maintenance including all operation and maintenance records and programmes and manuals pertaining thereto and complete as build Drawings on the Termination Date;

(ii) The Concessionaire executes such deeds of conveyance, documents and other writing as the TEA may reasonably require to convey, divest



and assign all the rights, title and interest of the Concessionaire in the assets mentioned in clause 12.1(a) to TEA or its nominee, and-

- (iii) The Concessionaire complies with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all the rights, title and interest of the Concessionaire in the assets mentioned in clause 12.1(a) to TEA.

12.3 Not earlier than 3 (three) months before the expiry of the Concession Period but not later than 30 (thirty) days before such expiry, or in the event of earlier Termination of this Agreement, immediately upon but not later than 60 (sixty) days from the date of Termination, TEA shall verify, in the presence of a representative of the Concessionaire, compliance by the Concessionaire with the Divestment Requirements set forth in clause 12.2 and, if required, cause appropriate Tests to be carried out at the Concessionaire's cost for determining the compliance therewith. If any shortcomings in the Divestment Requirements are found by either Party, it shall notify the other of the same and the Party shall rectify the same at its cost.

12.4 Upon the Concessionaire conforming to all Divestment Requirements and handing over actual or constructive possession of the assets mentioned in para 12.1(a) to TEA or a person nominated by TEA in this regard, TEA shall issue a certificate "Vesting Certificate" which will have the effect of constituting evidence of divestment of all rights, title and lien in the said assets by the Concessionaire and their vesting in TEA pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by TEA. The divestment of all rights, title and lien in the said assets shall be deemed to be complete on the date when all the Divestment Requirements have been fulfilled or the Vesting Certificate has been issued, whichever is earlier, it being expressly agreed that any defect or deficiency in any Divestment Requirement shall not in any manner be construed or interrupted as restricting the exercise of any rights by TEA or its nominee on or in respect of the said assets on the footing as if all Divestment Requirements have been complied with by the Concessionaire.



CHAPTER - XIII

ACTION PRIOR TO EXPIRY OF CONCESSION PERIOD

- 13.1 Not less than 30 (thirty) months nor more than 36 (thirty six) months prior to the expiry of the Concession Period, the Concessionaire and TEA shall conduct a joint inspection of the Expressway and all Project facilities.
- 13.2 Within 90 (ninety) days after the completion of the said inspection, the Concessionaire shall provide to TEA a report on the condition of the Expressway and the Project facilities including its proposals for maintenance during remaining Concession Period.
- 13.3 The TEA may, within 90 (ninety) days after receipt of the report from the Concessionaire in accordance with clause 13.2, by notice to the Concessionaire give its comments on the report received from the Concessionaire.
- 13.4 The Concessionaire and TEA shall mutually agree on the proposals for maintenance during remaining Concession Period, within 30 (thirty) days of furnishing of comments by TEA as per clause 13.3, failing which either the Concessionaire or TEA may refer the matter to the Disputes Resolution.
- 13.5 Upon agreement or determination in accordance with the Disputes Resolution Procedure, Parties shall take action accordingly.



CHAPTER XIV

CHANGE IN LAW

14.1 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 Rs. 10 million (Rupees ten million) in any Accounting Year, the Concessionaire may notify TEA and propose amendments to this Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden as aforesaid. Upon notification by the Concessionaire as aforesaid, the Parties shall meet as soon as reasonably practicable but not later than 30 (thirty) days and either agree on amendments to this Agreement or on alternative arrangements to implement the foregoing.

Provided that if no agreement is reached as aforesaid by the Parties within 90 (ninety) days of the meeting pursuant to the clause 14.1, the Concessionaire may by notice in writing, require TEA to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden as aforesaid. Such notice shall be accompanied by necessary particulars duly certified by the Statutory Auditors of the Concessionaire. TEA shall make payment of such compensation within 30 (thirty) days of receiving such notice or with interest @ SBI PLR if the payment thereof is delayed beyond such 30 (thirty) days. If TEA shall dispute the quantum of such compensation claim of the Concessionaire, the same shall be finally settled in accordance with the Dispute Resolution Procedure.

14.2 If as a result of Change in Law, the Concessionaire enjoys a reduction in costs or increase in net after tax return or other financial benefit, TEA may so notify the Concessionaire and propose amendments to this Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been so such Change in Law resulting in such decreased cost,



increase in return or other financial benefit as aforesaid. Upon notification by the TEA as aforesaid, the Parties shall meet as soon as reasonably practicable but no later than 30 (thirty) days and either agree on such amendments to this Agreement or on alternative arrangements to implement the foregoing.

Provided that if no agreement is reached as aforesaid by the Parties within 90 (ninety) days of the meeting pursuant to this Clause 14.2, TEA may by notice in writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such decreased cost, increase in return or other financial benefit as aforesaid. Such notice shall be accompanied by necessary particulars duly certified by the TEA Representative. The Concessionaire shall make such payment within 15 (fifteen) days of receiving such notice or with interest @ SBI PLR if the payment is delayed beyond such 15 (fifteen) days. If the Concessionaire shall dispute such claim of TEA, the same shall be finally settled in accordance with the Dispute Resolution Procedure.

- 14.3 Notwithstanding anything to the contrary contained in this Agreement, TEA shall not be liable to reimburse to the Concessionaire any sums on account of any change in taxes if the same are recoverable from the users of the Expressway.



CHAPTER - XV

DISPUTE RESOLUTION & ARBITRATION

15.1 Amicable Resolution

15.1.1 Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature, howsoever arising under, out of or in relation to this Agreement, between the Parties and so notified in writing by either Party to the other (the "Dispute") in the first instance shall be attempted to be resolved amicably.

15.1.2 For amicable settlement of any Dispute between the Parties, either Party may refer it to the Chairman of TEA and the Chairman of the Board of Directors of the Concessionaire. Upon such reference, the said two Chairmen shall meet not later than 15 (fifteen) days of the date of such request to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the said period or the Dispute is not amicably settled within 30 (thirty) days of such meeting between the said two Chairmen, the two Chairmen may agree to refer the Dispute to a mutually agreed independent person, with appropriate background for the decision of the Dispute and his decision shall be final and binding on the Parties.

15.2 Arbitration

15.2.1 Any Dispute, which is not resolved as provided in clause 15.1 shall be decided by reference to arbitration by three Arbitrators. Each Party shall appoint one arbitrator and the third shall be nominated by the said two arbitrators.

Such arbitration shall be held in accordance with the Indian Arbitration and Conciliation Act, 1996 and amendments thereto.

15.2.2 The arbitrators shall give a reasoned award.



15.2.3 The venue of such arbitration shall be New Delhi, or any other place in India, as may be mutually agreed between the Parties.

15.2.4 The Concessionaire and TEA undertake to carry out any decision or award of the arbitrators (the "Award") without delay. Awards relating to any Dispute shall be final and binding on the Parties as from the date they are made.

15.2.5 The rights and obligations of the Parties under this Agreement shall remain in full force and effect pending the Award in any arbitration proceedings hereunder.



CHAPTER - XVI

LIABILITY AND INDEMNITY

16.1 General Indemnity

16.1.1 The Concessionaire will indemnify, defend and hold TEA harmless against any and all proceedings, actions and third party claims (other than a claim by TEA or GOUP for loss damage and expense of whatever kind and nature arising out of the design, engineering, construction, procurement, operation and maintenance of the Expressway or arising out of a breach by Concessionaire of any of its obligations under this Agreement except to the extent that any such claim has arisen due to TEA Event of Default).

16.1.2 TEA will, indemnify, defend and hold harmless the Concessionaire against any and all proceedings, actions, third party claims for loss, damage and expense of whatever kind and nature arising out of defect in title and/or the rights of TEA in the land transferred to the Concessionaire adversely affecting the performance of the Concessionaire's obligations under this Agreement and/or arising out of acts done in discharge of their lawful functions by TEA, its officers, servants, agents, subsidiaries and contractors ("TEA Indemnified Persons") including TEA Events of Default except to the extent that any such claim has arisen due to a negligent act or omission, breach of contract or breach of statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents including due to Concessionaire Event of Default.

16.2 Without limiting the generality of clause 16.1, the Concessionaire shall fully indemnify and defend TEA including its authorised officers, servants and agents from and against any and all loss and damages arising out of or with respect to (a) failure of the Concessionaire to comply with Applicable Laws, (b) payments of taxes relating to the Concessionaire contractors, suppliers and representatives, income or other taxes required to be paid by the Concessionaire without reimbursement hereunder, 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.

16.3 Without limiting the generality of the provisions of this Chapter XVI, the Concessionaire shall fully indemnify, and defend the TEA indemnified Person from and against any and all damages which the TEA indemnified person may hereafter suffer, or pay by reason of any demands, claims or proceedings arising out of claims of infringement of a 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.

16.4 In the event that either Party receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under this Chapter XVI (the Indemnified Party) it shall notify the other Party (Indemnifying Party) within 14 (fourteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim it may conduct the proceedings in the name of the Indemnified Party subject the Indemnified Party being secured against any costs involved to its reasonable satisfaction.



CHAPTER - XVII

GENERAL

17.1 Notwithstanding the provisions of this Agreement, the Concessionaire shall be entitled to do the following:

- a. To transfer, handing over of possession of land given by TEA to the Concessionaire for development, either in part or in full, by executing the license / lease deed / sub-lease deed / or any document, as may be deemed fit and as required for the development of land in its ordinary course of business;
- b. To mortgage, pledge or hypothecate the land and the assets created thereon to the financial institutions and other lenders for financial assistance;
- c. To manage the land for development and the Expressway and to make necessary arrangements in this regard and to appoint the Contractor / Sub-Contractor or any other agency for the said purposes and to do any other thing which may be deemed necessary by the Concessionaire.



TRANSFER OF CONCESSIONAIRE'S RIGHTS AND OBLIGATIONS TO SPV

18.1 In case the Concessionaire and the TEA consider it necessary to transfer Concessionaire's rights and obligations under this Agreement to a SPV, the Concessionaire shall, in a reasonable time, transfer all its rights and obligations under this Agreement to a SPV for which documents as may be required shall be executed between the Concessionaire, the TEA and the SPV without additional cost to the Concessionaire or the SPV.



CHAPTER – XIX

MISCELANEOUS

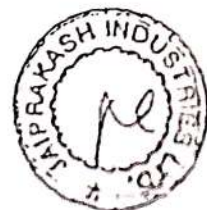
19.1 Waiver

19.1.1 Waiver by either Party of any default by other Party in the observance and performance of any provision of or obligations of or under this Agreement:

- (i) 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;
- (ii) Shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (iii) Shall not affect the validity or enforceability of this Agreement in any manner.

19.1.2 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.

19.1.3 TEA is subject to the civil and commercial laws of India and acknowledges that this Agreement is its commercial enterprise and it hereby expressly and irrevocably waives any immunity in any jurisdiction in regard to matters set forth in this Agreement.



19.2 Survival

19.2.1 Termination of this Agreement

- i) Shall not relieve the Concessionaire or TEA of any obligations hereunder which expressly or by implication survives Termination hereof, and
- ii) Except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall 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.

19.3 Notices

Any notice, order or other communication to be given by one Party to the other under or in connection with the matters contemplated by this Agreement shall be valid when given in writing by mail, first class postage prepaid, or by Fax or delivery against receipt to the following address:

To

TAJ EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY (TEA)
J-3, SECTOR 41, NOIDA
DISTT. GAUTAM BUDH NAGAR – 201 301
UTTAR PRADESH
Tel. No.: 0120-2573733
Fax No.: 0120-2501851



To

JAIPRAKASH INDUSTRIES LIMITED

'JA HOUSE', 63, BASANT LOK

VASANT VIHAR

NEW DELHI - 110 057

Tel. No.: 011-26141540

Fax No.: 011-26145389

or such other address(s) as either Party may notify from time to time to the other.

19.4 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 Parties will negotiate in good faith with a view to agreeing 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.

19.5 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.

19.6 Advertising on the Site

The Concessionaire shall be entitled to undertake or permit advertising, display or hoarding at various places on the Site within applicable rules of relevant authority.



19.7 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 Gautam Budh Nagar and High Court at Allahabad shall have the jurisdiction over all matters arising out of or relating to this Agreement.

19.8 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.

19.9 No Partnership

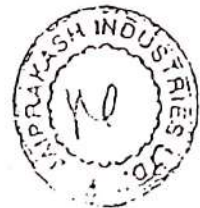
Nothing contained in this Agreement shall be constituted or interpreted as constituting a partnership between the Parties. Neither Party shall have the authority to bind the other in any manner whatsoever.

19.10 Consequential Loss etc.

Neither Party shall be liable to other for any indirect, consequential, incidental or punitive loss, damage, cost or expenses.

19.11 Effectiveness

This Agreement shall come into force and effect upon the execution hereof by the Parties hereto.



19.12 Counterparts

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


IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

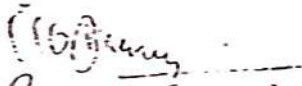
For and on behalf of
TAJ EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY



(LALIT SRIVASTAVA)
Chairman & Chief Executive Officer

Witness:

1. 
(RAVI SRIVASTAVA)
314 Sector 28
NOIDA.

2. 
(RAM PRAKASH SINGH)
B-90, Kanchhija Vihar
Sector- 51,
Noida (U.P.)





For and on behalf of
JAIPRAKASH INDUSTRIES LTD



(MANOJ GAUR)
Managing Director

Witness:

1. 
(Suresh Kumar)
B-67 Sarvodaya Enclave,
New Delhi - 110017

2. 
(VIRENDRA KUMAR MITTAL)
C-8/8682, Vasant Kunj
New Delhi - 110070



Taj Expressway Industrial Development Authority

J-1, Sector-41, Noida, Distt. Gautam Budh Nagar, (U.P.)

Phone: 0120-2573733/2573707

Fax: 0120-2501851

Letter No.: TEA/341/2003

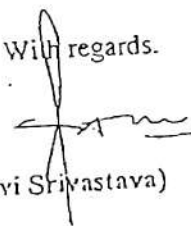
Date: 23-01-2003

RAVI SRIVASTAVA
G.M. (Project)

Dear Mr. Gaur:

I am pleased to inform you that your offer dated 15-01-2003 submitted on 18-01-2003 for Taj-Expressway Project has been accepted by the State of U.P. As per terms and conditions of the Bid Document, you are requested to proceed further for signing of Promoters Agreement.

With regards.


(Ravi Srivastava)

Mr. Manoj Gaur
Managing Director
Jaiprakash Industries Ltd.
"JA House", 63, Basant Lok,
Vasant Vihar,
New Delhi - 110 057.





JAIPRAKASH
INDUSTRIES LIMITED

III/202
23rd January 2003

Taj Expressway Industrial Development Authority
J-3, sector-41, Noida
Distt - Gautam Budh Nagar (U.P.)
(Fax No. 95120 2591851)

Kind Attn : Shri Ravi Srivastava, General Manager (Project)

Sub : Taj Expressway Project

Ref : Your letter No. TEA/34/2003 dated 23.01.2003

Dear Sir,

We thank you for your letter under reference on the subject matter informing us that our offer submitted on 18th January 2003 for Taj Expressway Project has been accepted by the Govt. of Uttar Pradesh

We hereby exercise our option, mentioned in para 1.8 of SECTION - I PROJECT CONCEPT of the Bid Documents, to take up the Project without any equity participation by Taj Expressway Industrial Development Authority. As such Promoters Agreement is not required to be executed.

We also select Option II mentioned in para 1.6 of SECTION - I PROJECT CONCEPT of Bid Documents for "schedule for land release" in which the Project is proposed to be developed in three phases

Pursuant to para 10.16 of SECTION - II TERMS AND CONDITIONS OF BIDDING of the Bid Documents, we shall sign the Concession Agreement as may be mutually settled between us and Taj Expressway Industrial Development Authority within the specified period

Thanking you

Yours faithfully,
For Jaiprakash Industries Ltd


MANOJ GAUR
MANAGING DIRECTOR

