

# DRAFT

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“MOA”) has been entered into at Itanagar on this \_\_\_ day of \_\_\_\_\_, 2008:

### Between

The Governor of the **State of Arunachal Pradesh** acting through the Secretary, Public Works Department, Govt. of Arunachal Pradesh, , having its office at Civil Secretariat, Itanagar - 791111, Arunachal Pradesh (hereinafter referred to as “**GoAP**”, which expression shall unless repugnant to the context thereof, include its successors), of the **FIRST PART**

### And

**IL&FS Infrastructure Development Corporation Limited**, a Company incorporated under the Companies Act, 1956, having its Registered Office at “UG Floor, Mahindra Towers , 2-A, Bhikaji Cama Place, New Delhi 110066” and one of its Branch Office at, Office Complex, Hotel Shangri –La, 19 Ashoka Road, New Delhi 110 001 (hereinafter referred to as “**IL&FS IDC**”, which expression shall, unless repugnant to the context thereof, include its affiliates, associates, successors, assigns, and funds under the management of IL&FS) of the **SECOND PART**

GoAP, IL&FS IDC are individually referred to as “**the Party**” and collectively referred to as “**Parties**”.

## WHEREAS

- (A) Government of Arunachal Pradesh (GoAP) through Public Works Department (APPWD) intends to develop various highways (hereinafter referred to as “projects”) in the state of Arunachal Pradesh with funding from Ministry of Shipping, Road Transport and Highways (MoSRTTH ). The Projects include roads identified under Trans Arunachal Highways, Special Accelerated Road Development programme (SARDP-NE) and roads providing connectivity to Hydro Electric Power Projects(HEPs)
- (B) The GoAP is desirous to develop road network in the State of Arunachal Pradesh for development of connectivity and to achieve all round economic growth.
- (C) Infrastructure Leasing & Financial Services Ltd (IL&FS) is an Investment Banking Institution, promoted by Public sector Financial Institutions and Banks including Unit Trust of India (UTI), Central Bank of India (CBI) and Housing Development & Finance Corporation (HDFC) among others, with an objective, inter alia, of developing projects in the infrastructure sector on commercial basis. IL&FS is in a position to render advice, develop projects, identify prospective promoters, undertake mobilisation of financial resources from both the domestic Financial Institutions and multilateral agencies and participate as a co-promoter in specific projects.
- (D) IL&FS Infrastructure Development Corporation Limited (IL&FS IDC), a wholly owned subsidiary company of IL&FS, is engaged in advisory and project development activities across diverse sectors in a Public Partnership (PPP) format in collaboration with Government of India, State Governments and the Private sector. It specialises in providing integrated and comprehensive professional services towards development of infrastructure projects and related components from project conceptualisation to project implementation. The development activities of all the infrastructure projects have been housed by IL&FS in IL&FS IDC.
- (E) Considering the level of project development activities and expertise required in the aforesaid Projects, IL&FS IDC has submitted a proposal before GoAP for carrying out project development activities leading to development of the Projects.

GOA has reviewed the proposal and Parties have expressed their intent to

- Incorporate a Joint Venture Company (JVC) (hereinafter referred as “the JVC”) empowered by the Government of Arunachal Pradesh to undertake project development and implementation of the Projects. The objectives and activities of the JVC is given in **Annexure A**;
- (F) The GoAP and IL&FS IDC further understand that Project Development and effective program management is a must for speedy implementation of projects.

- (G) For the above purpose, GoAP wishes to utilize the resources and expertise of the IL&FS IDC; to structure these Projects, facilitate Project Development activities and introduce Public Private Partnerships wherever possible & appropriate and the IL&FS IDC is in a position and willing to provide all services pertaining to the objectives of GoAP as outlined in Recital A, & B above.
- (H) For the purposes of financing the expenses to be incurred in relation to development of the Projects, the parties have agreed to create a Project Development Fund (PDF), which shall be contributed solely by the GoAP
- (I) In terms of this Agreement, IL&FS IDC along with GoAP will facilitate developing and implementation of the Projects to achieve the aforesaid objectives of GoAP. In undertaking the Projects development activities, IL&FS IDC shall assist and work along with GoAP (i) in Project Development, encompassing project conceptualization to implementation and post-implementation maintenance measures (ii) in facilitating selection of suitable consultants/contractors/developers through the JVC by transparent competitive bidding process (iii) During implementation, undertake measures for timely completion with adherence to technical standards set forth in the Detailed Project Reports and other such technical standards as desired by GoAP and (iv) evolve measures for sustainable operation & maintenance plan for the project facilities.
- (J) The Parties hereto have agreed to record their understanding, agreed terms and conditions as and by way of this Memorandum of Agreement.

**NOW THEREFORE IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER**

(1) **Vision:**

The Parties share the common vision:

- a. Of development of roads in Arunachal Pradesh to provide a better connectivity.
- b. to provide connectivity to all the district centers
- c. to construct Trans-Arunachal Highway providing a corridor connectivity across the state
- d. to provide connectivity to Hydro-electric power projects in the state
- e. of timely and a coordinated implementation of the projects.
- f. of capacity building of Stakeholders

(2) **Definitions:**

- a) **Affiliate:** means, in relation to any Person, any entity controlled, directly or indirectly, by that Person, any entity that controls, directly or indirectly, that Person, or any entity under common control with that Person or, in the case of a natural Person, any Relative of such Person. Without limiting the generality of the above, a holding or subsidiary company of any entity shall be deemed to be an Affiliate of that entity.
- b) **Agreement:** shall mean this Agreement together with its Annexures signed by the Parties hereto and as amended from time to time in terms of this agreement.
- c) **Board:** The Board of Directors of the Joint Venture Company.
- d) **“Empowered Committee”:** shall have the meaning and functions as detailed in clause 3A herein below
- e) **Force Majeure:** shall mean any event or circumstance or combination of events or circumstances which is beyond the reasonable control of a Party and which prevents such Party from performing any of its obligations or duties under this Agreement. Such events or circumstances shall include, without limitation, the effect of any natural element or other acts of State or God (including but not limited to fire, flood, earthquake, lightning, cyclone, landslides or other natural disasters), strikes or other industrial disturbances, war, riots, civil commotion, terrorist attacks, embargoes, blockades, governmental restriction, intervention of civil, naval or military authorities, change in Applicable Law
- f) **Implementing Agency:** shall mean APPWD unless mentioned specifically otherwise.
- g) **Joint Venture Company (“JVC”):** The Company to be set up pursuant to the execution of this MOA for the implementation of the Projects enumerated at **Annexure B.**
- h) **Material Adverse Effect:** means material adverse effect on:
  - I. the ability of any Party to observe and perform any of its rights and obligations under and in accordance with the provisions of this Agreement and/or
  - II. the legality, validity, binding nature or enforceability of this Agreement.
- i) **Material Breach:** means a breach by either Party of any of its obligations under this Agreement which has/ likely to have a Material Adverse Effect on the Project(s)
- j) **Project(s):** Refers to road stretches identified under SARDP-NE, Trans Arunachal Highways and roads identified for provide connectivity to HEPs in Arunachal Pradesh or any other road that may be selected for development

under the provisions of this MOA (collectively called the “Projects” and individually referred to as the “Project”).

- I. The Projects initially identified for development under the provisions of this MoA are as detailed in the **Annexure B** hereto.
  - II. In addition to the initially identified projects, as listed herein, other road projects as and when identified may be taken up by the JVC.
- k) **Project Development:** All the activities in respect of a Project commencing from project conceptualization up to bid process management for selection of bidders from private / public sector through transparent competitive bidding process for preparation of DPRs, construction supervision and implementation, operation & maintenance of the Projects.

Project development would commence with preparation of an overall masterplan comprising of identification and finalisation of road stretches to be taken up for development, bundling of road stretches for creation of packages, implementation phasing plan and measures for capacity building of APPWD. After the master plan has identified the long term vision for the State and the projects to be implemented as a part of the program, the project development activities include bid process management for procurement of consultant for preparation of DPR, preparation of all contractual documentation, selection of contractors/developers for implementation through transparent bidding, selection of supervision consultant, preparation of operation and management plan, preparation of project and contractual documentation for availing funding support from MoRT&H and multilateral organisation like ADB, World Bank.

- l) **Premium:** The rate of return equal to the Prime Lending Rate (PLR) of SBI prevailing during the year plus 2% p.a. to be charged on the allocated Project Development cost in respect of each Project.
- m) **Project Development Fund (PDF):** The PDF will be created to meet the project development expenses. The funds received from MoRTH for project development activities will be routed to the PDF through GoAP.
- n) **Project Implementation:** All the activities in respect of a Project commencing from the end of development stage and including land acquisition, construction, operation and maintenance, to be taken up by an Implementing Agency selected to do so.
- o) **“Shareholder’s Agreement”** shall mean the agreement to be entered between the shareholders of JVC, inter alia, setting out the privileges, regulations, rights, obligations of the shareholders and ownership and management of the JVC, the provisions whereof would be incorporated in the Articles of Association of the JVC.

**(3) Formation of a Joint Venture Company (JVC):**

Pursuant to the execution of this Agreement, the Parties agree to set up a Joint Venture Company (“JVC”) with the scope, objectives, activities and functions as set out at **Annexure A** to this Agreement. The Parties also agree to enter into a Shareholders Agreement incorporating the agreements hereto. The roles and responsibilities of the Parties and scope of services of IL&FS IDC to accomplish the objective of this Agreement are set out at **Annexure C**.

**(a) Mission of the JVC:**

- (i) The JVC would be jointly promoted by GoAP and IL&FS IDC and the responsibility of project development activities would be vested with the JVC. The JVC would utilise the services of IL&FS IDC & its associates for carrying out the project development activities, as enumerated at Annexure D, within the scope of this Agreement.
- (ii) In order to optimize the time and resources, the JVC shall utilize the expertise of the Parties and other agencies, to accomplish its objectives as set out at **Annexure A**.
- (iii) The JVC may decide to induct additional consultants and other expert’s and/ or services as maybe required from time to time to undertake specific assignments.
- (iv) The JVC would also aim at creating an enabling framework for implementing the Projects through a Public Private Partnership mode and with facilitation by the GoAP. The JVC would ensure to structure the Project in such a manner so as to optimize benefits to the GoAP.
- (v) The day to day activities of the JVC would be managed by IL&FS IDC through Chief Executive Officer.

**(b) Share Capital of the JVC:**

- (i) A Company shall be incorporated with an authorized and paid-up equity share capital of Rs. 10.0 lakhs and initial paid up capital of Rs 1.0 lakhs divided into 10,000 shares of Rs 10 each with its Registered Office located at Itanagar, Arunachal Pradesh.
- (ii) The Parties together with their / through their respective Affiliates/Associates and /or Subsidiaries would initially hold equity shares in the following proportion:

<b>Name of Shareholder</b>	<b>Percentage</b>
GoAP	50%
IL&FS IDC	50%
<b>TOTAL</b>	<b>100%</b>

**(c) Board of Directors of the JVC:**

- (i)** The Board of Directors of the JVC shall unless otherwise agreed, consist of six directors with three Directors each from GoAP and IL&FS IDC
- (ii)** The initial nominees of GoAP in the Board of Directors of the JVC shall be:
  - i. Chief Secretary, GoAP
  - ii. Commissioner & Secretary (PWD), GoAP
  - iii. Chief Engineer, PWD
- (iii)** The initial nominees of IL&FS IDC in the Board of Directors of the JVC shall be:
  - i. Shri. D.K. Mittal, Managing Director, IL&FS IDC
  - ii. Shri. Abhaya Agarwal, Sr. Vice President, IL&FS IDC
  - iii. Shri. S.K. Mahanta, Asst. Vice President, IL&FS IDC
- (iv)** The Chairman would be nominee of GoAP.
- (v)** The CEO of the JVC will be a nominee of IL&FS IDC.

**(3A) Empowered Committee**

The parties agree that the Project(s) taken up under this MoA would require coordination between different departments and authorities in the Government. To ensure timely development of the Projects, an Empowered Committee will be created, that would be headed by the Chief Secretary, GoAP with Secretaries of the concerned departments, as members, to oversee the entire program and to ensure that the necessary policies and administrative issues are addressed appropriately within the defined framework. The parties agree that the Empowered Committee shall be authorised to take suitable decisions including selection of Projects, prioritization and decisions required for bidding the Projects.

**(4) Project Selection:**

The initially identified Projects would be taken up by the JVC for development under this MOA. Approval of Empowered Committee would be obtained for undertaking development of the identified Projects. The development of other projects as may be identified at a later date in line with the requirement of GoAP under the provisions of this MoA would be taken up on terms and conditions, as may mutually agreed to between the Parties in future.

**(5) Implementation of Projects:**

The projects, except the ones connecting the HEPs where the option of implementation in Public Private Partnership (PPP) is to be explored, would be implemented by the Public Works Department, GoAP (APPWD.)

**(6) Proposed Funding Arrangement for Project Development Expenses:**

**(a) Project Development Fund (PDF):** A PDF would be created which shall be used for developing the identified Projects under this MoA. The funds received from MoSRTTH for project development activities will be routed to the PDF through GoAP. The PDF would be housed under JVC and would be managed by JVC.

**(b) Items of Project Development Expenses:** This will cover all expenses incurred towards Project Development activities of Projects including, inter alia, administrative costs, fees paid to specialized consultants (including legal, environmental, social, financial, contractual, engineering, etc) survey costs, taxes, etc, and such other elements of cost which are required to be incurred for the successful development of the Project in a time-bound program. This will exclude all expenses towards land acquisition and rehabilitation of affected people, which shall be borne by the GoAP.

**(7) Approval of Project Development Expenses:**

The Professional Fees to IL&FS IDC based on Milestone achieved would be submitted to the Board for approval. The Board will also approve appointment of consultants/experts/Contractors required for specified activities for the project.

**(8) Accounting Treatment for Project Development Funding:**

**(a)** The PDF will be kept in a bank account to be opened and managed by the JVC. A Statement of Expenditure (SoE) will be prepared by the JVC by the 10<sup>th</sup> of every succeeding month.

**(b)** In case of projects to be implemented in Public Private Partnership (PPP), the Project development expenses incurred by the JVC shall be capitalized in the Project as development expenses and will be recovered from the successful bidder along with the Premium.

**(8) Fees and Payment Structure:**

**(a) Fees Structure:**

The overall Master Plan will divide the Project into suitable packages, phases and components and it is expected that at any point after the



commencement of IL&FS IDC's services under this MoA, there would be packages, phases and components at various stages of implementation. IL&FS IDC will periodically raise invoices on JVC under this MoA depending on the milestone reached, for the packages, phases or components comprising the Project, in line with the milestones outlined in **Annexure D**.

It is agreed to by the Parties to this MoA, that the fees payable to IL&FS IDC pursuant to this MoA shall be net of taxes, i.e. the applicable taxes such as service tax etc. shall be payable by JVC in addition to the fees.

**(b) Payment of Professional Fees:**

For its services as defined under **Annexure C** of this MoA, IL&FS IDC shall receive from JVC a professional fee amounting to Rs 25 Lakhs plus applicable taxes for Module I and 2.0% of the landed project cost for a package, phase or component in Module II, as per the timelines and milestones outlined at Annexure D. The landed project cost for this purpose shall be the cost estimated in DPR approved by MoSRTTH or appropriate authority under the Schemes and including maintenance cost as provided for in the Schemes.

**(9) Recovery of Expenses Incurred for Project Development:**

**(a) Success Fees:**

In case of projects to be implemented in Public Private Partnership (PPP), a "Success Fee" as a percentage of the Landed Project Cost for the Projects will be charged from the selected bidder/Implementing Agency. The Success Fee shall accrue to the JVC and would be placed in the PDF and would be charged for successful Projects in the following manner:

<b>Landed Project Cost</b>	<b>Fee chargeable as %age of Landed Project Cost</b>
Less than Rs 50 crores	6%
Rs 50 crores to Rs 500 crores	4%
Greater than Rs 500 crores	2%

**(c) Abandonment of Project by GoAP:** In case, GoAP does not accord approval to the Project being undertaken under this MoA for any reasons or does not proceed with the Project at any stage of Project Development, then IL&FS IDC shall be entitled to be paid the Professional Fee accrued upto the stage of abandonment.

**(d) Force Majeure**

- i. A Party shall not be liable to the other Party for any loss, injury, delay, damages or other casualty suffered or incurred by the latter

due to Force Majeure, and any failure or delay by any Party in performance of its obligations under this Agreement due to Force Majeure shall not be considered as a breach of this Agreement.

- ii. The Party suffering Force Majeure shall notify the other Party in writing promptly after the occurrence of such Force Majeure and shall, to the extent reasonable and lawful, use its best efforts to remove or remedy such cause. Upon the occurrence of any circumstances of Force Majeure the Party claiming Force Majeure shall use all reasonable endeavors to continue to perform its obligations under this Agreement and to minimize the adverse effects of such circumstances. Such a Party shall notify the other Party of the steps it proposes to take including any reasonable alternative means for performance.
- iii. However, if in the opinion of the parties, the Force Majeure event is not likely to be cured within a period of 45 days or is of such a nature as to have rendered the project unviable or un-bankable, the parties may decide to terminate this MoA with respect to such affected Projects.
- iv. In, any such event, where this MoA is terminated because of the Force Majeure Event, IL&FS IDC shall be entitled to be paid the Professional Fee accrued up to the that stage.

**(9A) Delay in appointment/finalization of Contractor/Implementing Agency:**

If after the completion of the bidding process for the selection of the Implementing Agency/Contractor, the appointment of the selected implementing agency/Contractor is delayed beyond a period of Six Months from the date of the completion of the bidding process in respect of the said project, for reasons not attributable to any default on the part of the IL&FS IDC, then IL&FS IDC shall be entitled to exit from the project and it shall also be entitled to the total Professional fees, which would have accrued to it, till the last Milestone mentioned at Module II of Annexure D i.e. till the signing of the Contract between APPWD and supervision consultant(s)/independent engineer(s).

**(10) Validity & Termination:**

- (a) This Agreement shall be valid initially for a period of Four years until it is expressly terminated by the Parties by giving one-month prior written notice to the other party of its intention to terminate the MOA on mutually agreed terms, during which period GoAP/ and IL&FS IDC will take effective steps for the implementation of this Agreement. In the event of early termination of this MoA for all or any one or more of the selected projects for any reason (including Force Majeure), the liability of the Parties shall be restricted to the amounts that have become payable till the date of termination of MoA including the Professional Fee accrued to IL&FS IDC till that date.

- (b) After the expiry of validity period of four years, the Agreement shall terminate unless extended by mutual consent by the Parties.

**(11) Arbitration:**

It is hereby agreed between GoAP and IL&FS IDC, the parties hereto, that the Projects shall be executed in the manner and form outlined in this Agreement. In the event of any disagreements or disputes arising out of this Agreement between GoAP and IL&FS IDC, such disagreements or disputes shall be referred to an independent arbitrator(s) and the provisions of the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) shall apply to the arbitration proceedings. The Language of arbitration shall be English and the place of arbitration proceedings shall be at Guwahati.

The Agreement shall be governed by and interpreted in accordance with the Laws of India and shall be subject to the exclusive jurisdiction of the courts of Guwahati.

**(12) Exclusions:**

Each Party shall subject to the provisions to this clause be free to pursue its interests outside the boundary of the MOA in other States as well as in the State of Arunachal Pradesh, and for this purpose to enter into other partnerships/agreements for specific Projects including Projects identified for development under this MOA, provided that neither the JVC nor IL&FS IDC and any of its subsidiaries shall act as consultants to any of the bidders during the stage of selection of implementing agency for PPP projects developed by the JVC.

**(13) Indemnity:**

- (a) Each Party shall indemnify and keep indemnified the other Parties from and against all consequences and liabilities arising out of or in any way connected with the indemnifying Party's negligence, fault, nuisance, breach of this Agreement and failure to perform its obligations under this Agreement, except to the extent that the same is attributable to a negligent or willful act or omission of the Party seeking to be indemnified. It is expressly agreed between the Parties that under no circumstances shall the liability of IL&FS IDC under this clause exceed the amount of actual fees received by it under this Agreement in respect of the concerned project.
- (b) In case of any dispute, controversy, litigation, public agitation etc. connected with the Project (s) or arising out of any matter connected with or incidental to the projects or for any other reason, GoAP shall indemnify and keep indemnified and hold IL&FS IDC and its Directors, employees, authorized representatives, agents harmless from and against all costs, claims, damages, proceedings, liability, including fees paid to legal counsels etc. in this behalf.

(14) **Notices:**

- (a) **Notices in Writing:** Any notice or other communication given or made under or in connection with the matters contemplated by this MOA shall be in writing and in English
- (b) **Method of Service:** Any such notice or other communication shall be addressed as provided in clause 14 (c) and, if so addressed, shall be deemed to have been duly given or made (unless it is obvious that it has not been) as follows:
- (i) if sent by personal delivery, upon delivery at the address of the relevant Party;
- (ii) if sent by Registered , 10 days after dispatch; and
- (iii) if sent by facsimile transmission, when dispatched, but only if the sender's transmission report shows the entire facsimile to have been received by the recipient and only if the transmission was received in legible form
- (c) **Address for Notices:** The relevant addressee, address and facsimile numbers of the Parties for the purposes of this Agreement, subject to clause 14 (d) are:

**Party** : Govt. of Arunachal Pradesh  
**Address** : Secretary - PWD,  
Block No. \*\*\*, Arunachal Pradesh Secretariat  
Itanagar- 791111

**Ph No.** : 0360-\*\*\*\*\*  
**Fax No** : 0360-\*\*\*\*\*

**Party** : IL&FS IDC  
**Address** : Managing Director,  
C/o IL&FS Infrastructure Development Corporation  
Ltd.  
Office Complex, Hotel Shangri -La  
19 Ashoka Road,  
New Delhi 110 001  
Tel 011- 4300 2100

**Ph No.** : 011- 4300 2100  
**Fax No** : 011- 4350 5805

- (d) **Change of Address:** A Party may notify the other Parties of a change to its name, addressee, address and telex or facsimile numbers for the purposes of clause 14 (c) provided that such notification shall only be effective on:
- (i) The date specified in the notification as the date on which the change is to take place; or
  - (ii) If no date is specified or the date specified is less than five days after the date on which notice is given, the date falling five days after notice of any such change has been given.

(14) **Winding up of the JVC/ Sale of JVC**

In case, the JVC is wound up, the action would follow as per the Company Law. In case, any of the party wants to exit out, other party will have first right to refusal.

(15) **General:**

- (a) **Remedies and Waiver:** No delay or omission on the part of any Party in exercising any right, power or remedy provided by Law or under this Agreement shall impair such right, power of remedy or operate as a waiver thereof

The single or partial exercise of any right, power or remedy provided by Law or under this Agreement shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by Law

- (b) **Confidentiality:** The Parties acknowledge the confidentiality of the information, which may be transferred between the Parties from time to time as being essential to this Agreement and agree not to disclose the same to any other third party. However, each Party shall be free to disclose such information as is:
- i. Part of the public domain at the time of disclosure;
  - ii. Required to be disclosed by official authorities in accordance with the applicable law;
  - iii. To their professional advisors;
  - iv. To their officers, employees, agents or representatives, who need to have access to such information for the proper performance of their activities; The obligation of Parties as defined above shall apply notwithstanding termination of this Agreement.

(C) **Severability:** If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, that shall not affect or impair:

- (i) The legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (ii) The legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Agreement.

This agreement is being executed by the parties in three counterparts, each of which shall be deemed to be original but two of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF** the Parties hereto have executed this MOA, as of the day, date and year first above written

**Signed, sealed and delivered by:**

**For and on behalf of  
Govt of Arunachal Pradesh**

( \_\_\_\_\_ )  
**Commssioner & Secretary (PWD), GoAP**

**Witness**

1. \_\_\_\_\_

2. \_\_\_\_\_

**For and on behalf of  
IL&FS Infrastructure Development Corporation Ltd.**

**(D.K. Mittal)  
Managing Director**

**Witness**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Joint Venture Company (JVC)**

**(1) Objectives of the Company:**

The initial objectives of the JVC shall be to carry out the following activities:

**(a) Project Development:**

**(i) Detailed Studies:** Preparation of detailed project reports, environmental and R&R reports, evacuation studies or such other reports as may be required in respect of development of the projects.

**(iii) Preparing Project Structure for Implementation:** Structuring the Project for implementation and ensuring that the project documents meet all the statutory and codal provisions. This will include, inter alia, the following:

- Obtaining all the necessary statutory and non-statutory clearances/approvals/licenses viz. applicable environment clearance, Forest clearance and others required for construction of the projects.
- Bid process management for selection of consultants for preparation of DPRs and other relevant technical studies and consultants for supervision during implementation.

**(b) Capacity Building:**

JVC will undertake measures for capacity building of APPWD for effective implementation and maintenance of the project. The JVC would create linkages/tie ups with various private sector companies and govt. organisations and create mechanisms wherein the personnel from APPWD can be deputed to such organisations and undergo on-job training programmes and gain exposure to modern construction and project management techniques.

**(2) Activities of the Company:**

(a) Utilize resources of IL&FS IDC and GoAP(technical, financial and managerial experts)

(b) Facilitate GoAP in availing funds necessary for development and implementation of projects from MoSRTH, Ministry of DoNER, NEC and other central government sources.

- (c) Facilitate GoAP in availing loans, if necessary, from multilateral agencies for implementation of projects.
  - (d) Undertake staffing, if necessary, as per the requirement at remuneration, as approved by the Board of JVC.
  - (e) To appoint an independent statutory auditor for auditing books and accounts of the company.
  - (f) Help structure the Project to enable recovery of the investments made in the Project through innovative business and commercial practices and to optimize benefits to GoAP.
  - (g) Proactively market the Project to potential investors, both domestic and foreign, at appropriate stages to ensure implementation in a sustainable manner with optimized resources
- (3) **Registered Office and Operating Headquarters of the JVC:** This will be at Itanagar. The JVC may also open branch offices at any other place in the State of Arunachal Pradesh as may be needed
- (4) **Management of the JVC:** The details regarding the Management of the JVC including setting up of Management Committees, their roles etc would be provided in the Shareholders Agreement



**LIST OF PROJECTS INITIALLY IDENTIFIED FOR DEVELOPMENT**

1. Trans- Arunachal Highways

Sl. No.	Road Segement	Length	Remarks
1	Tawang Balipara	315 Km	On SARDP alignment
2	Nechipu-Seppa	99 Km	On SARDP alignment
3	Seppa-Sagalee	170 Km	Missing Gap
4	Sagalee-Kheel-Hoj	57 Km	Missing Gap
5	Hoi-Potin	44 Km	On SARDP alignment
6	Yazali-Ziro	42 Km	On SARDP alignment
7	Ziro-Daporijo	165 Km	Missing Gap
8	Daporijo-Bame	108 Km	Missing Gap
9	Bame-Aalo	42 Km	On SARDP alignment
10	Aalo-Pangin	26 Km	Missing Gap
11	Pangin-Pasighat	81 Km	Missing Gap
12	Pasighat - Mohadevpur	325 Km	On SARDP alignment
13	Mahadevpur-Bordumsa	22 Km	Missing Gap
14	Bordumsa-Namchik	35 Km	Missing Gap
15	Namchik-NH153 (near Jairampur)	15 Km	Missing Gap
16	NH153 (near Jairampur)-Lalpul	9 Km	On SARDP alignment
17	Lalpul-Manmao	32 Km	Missing Gap
18	Manmao-Changlang	44 Km	Missing Gap
19	Changlang Khonsa	64 Km	Missing Gap
20	Khonsa-Longding	52 Km	Missing Gap
21	Longding Kanubari	76 Km	Missing Gap
22	Khanubari to Assam PWD	16 Km	Missing Gap
	Total =	1839 Km	

2. District Connectivity Roads

Sl No	Road	Length
1	Jairampur-Pangsu Pass (NH-153)	32.5 km
2	Balipara-Bomdila-Tawang	315 Km
4	Papu Nallah to Yupia	10 Km
5	Ziro-Pahumara	124 Km
6	Joram to Koloriang	158 Km
7	Gogamukh-Daporijo	125 Km
8	Akajan-Aalo	160 Km
9	Pasighat-Mariyang-Yingkiong	140 Km
10	Meka-Roing-Anini	235 Km
11	Hawa Camp to Hawaii	126 Km
1	Tirap Gate-Longtoi-Changlang	60 Km
2	Margherita-Deomali-Khonsa	80 Km

3. Roads connecting HEPs

Approx 1000 kms of roads connecting 8 HEPs

### **Roles & Responsibilities of Parties**

#### **(1) Roles and Responsibilities**

To accomplish the objectives of the JVC, each Party will be responsible for certain activities. These are summarized below

**(a) Role of IL&FS IDC:** IL&FS IDC either by itself or through its Affiliate shall:

- (i) Perform specific tasks, as approved by the Board of JVC, in respect of Projects as per the objectives of this agreement
- (ii) Facilitate access to sources of Finances for Project Development Fund
- (iii) Formulate strategies for Project promotion and procurement of a private / public sector developer i.e. Implementing Agency for the Project wherever possible.
- (iii) Supplement the JVC and act as an interface with the Government of India in respect of Project Development
- (v) Depending upon the requirement co-ordinate with several agencies at the Central Government level including Ministry of Shipping, Road Transport & Highways, Ministry of DoNER, Ministry of Power, Ministry of Environment and Forests, Ministry of Finance, Planning Commission etc.
- (vi) Assist in providing JVC all services, including, inter alia, selection of consultants for preparation of DPRs and supervision during construction, private / public sector partner, operator, etc., formulation of contractual agreements, implementation of institutional structure required for Project implementation and operation and maintenance, commercial, financial, environmental, evacuation/sale linkages and in the selection of a suitable Project management agency, for the purpose of ensuring that the Project is in line with the specifications as stipulated in the Project documents.
- (vii) Provide Technical guidance and Project Development Specification to the projects undertaken by the JVC.
- (viii) To contribute to the equity of the JVC.

**(b) Role of GoAP:** The GoAP shall:

- (i) Perform specific tasks, as approved by the Board of JVC, in respect of Projects as per the objectives of the Agreement.
- (ii) To assist in identifying and allocating Projects to the JVC for development under the Agreement in line with the priorities of GoAP

- (iii) To extend all support and facilitate speedy approval process for clearances/approvals/licenses at the state and central level etc; demarcate the Right of Way (RoW) for the project .
- (iv) To approve the structuring of the Project and finalize/approve the methodology for selection of the consultants and Implementation Agency in case of PPP project.
- (v) To facilitate authorization for JVC to invite bids for development of Projects.
- (vi) To contribute Equity of JVC at the time of incorporation of the JVC and allocate the project development fund obtained from MoRTH and any such agency to the PDF.

**(2) Scope of Services of IL&FS IDC**

It is envisaged that IL&FS IDC would render the following services in order to carry out the project development work. The project will be implemented in two modules

**Module I: Preparation of Overall Master Plan**

This module will entail the preparation of an overall Master Plan in consultation with APPWD for the successful development of the program under various schemes. The plan will establish long-term vision for the state in terms of the connectivity. The master plan shall address the following.

- 1) Identify various projects comprising discrete stretches of roads falling under various schemes in the state to create projects which can be implemented on standalone basis in a time-bound manner. At macro level these project would be created in a manner so as to confirm to the overall implementation of the program
- 2) Frame timelines for their implementation including preparation of DPRs and procurement of contractors & supervision/monitoring consultants. The following factors will be taken into consideration while deciding the timeline:
  - ✓ To dovetail the projects with scheme under which they will be implemented.
  - ✓ To attract good quality and cost efficient services and
  - ✓ To implementation of the entire program in the timely manner.
- 3) Suggest measures for capacity building of APPWD for effective implementation and maintenance of the project.
- 4) Address the issues of capability of contractors operating in Arunachal Pradesh and suggest framework to ensure their participation in the project.

**Module II: Project Development**

After the master plan has identified the long term vision for the State and the projects to implemented as a part of the program, the following activities for the identified will be taken by IL&FS IDC in Module II.

- 1) Procurement of consultant for the preparation of DPRs through transparent bidding process.
- 2) It shall also supervise the technical studies. The cost of these studies will be borne by GoAP.
- 3) IL&FS IDC shall provide assistance for reimbursement of these expenses reimbursed from the Ministry of Road Transport & Highways.
- 4) IL&FS IDC would manage on behalf of the JVC the competitive bidding process required for the effective implementation of the project by timely selection of contractors for construction. The outline of activities to be performed by IL&FS IDC during pre-bid and post-bid stage would be as follows:
  - ✓ Develop qualification criteria and draft advertisements for inviting Expressions of Interest (EoIs) from contractors. IL&FS IDC will submit GoAP the qualification criteria & draft advertisement for approval & issue.
  - ✓ Evaluate EoIs & recommend a list of pre-qualified bidders to GoAP.
  - ✓ Develop Request for Proposal (RFP) documents/bid documents, evaluation methodology and suitable legal documentation/contracts to govern Implementation agency's relationship with selected contractors. IL&FS IDC will submit these documents to GoAP for approval before issuing to pre-qualified bidders.
  - ✓ Conduct pre-bid conferences/meetings on behalf of JVC.
  - ✓ Evaluation of bids, culminating in the recommendation by IL&FS IDC to GoAP on the selection of the bidder.
  - ✓ Assist APPWD during negotiation, final selection of contractors and signing of agreement between selected contractors with Implementing Agency.
- 5) IL&FS IDC will also assist in the procurement of supervision consultant /independent engineer for Supervision which will include quality control during project construction and also during the maintenance period. The procurement will be done through transparent bidding process.
- 6) IL&FS IDC will incorporate appropriate safeguards against non-performance by the selected contractor(s)/consultant(s) into the contractual arrangements for the Project, including Implementing Agency's rights to revoke such arrangements and substitute the contractors/consultants in the event of non-performance, which will be defined in the legal documentation or contracts for various packages, phases and components taken up for implementation of the Project.
- 7) IL&FS IDC would provide support for preparation project and other contractual documents for availing support from MoRT&H and Multilateral Organisation like ADB, WorldBank.

## Annexure D

IL&FS IDC shall be entitled to receive the fees for each of the phases on the basis outlined below:

### Module I

IL&FS IDC will be entitled to receive, a payment of Rs. 25 lacs (plus applicable service tax). The fees are inclusive of out of pocket expenses comprising of travel, boarding & lodging, local travel and communications. The professional fees shall be payable as per following milestones:

<b>Milestones</b>	<b>Fee Payable</b>
Mobilisation Advance	10 %
Inception Report	30%
Draft Master Plan	40%
Final Master Plan	20%

### Module II

IL&FS IDC will be entitled to receive, a payment of Rs. 2% of the landed project Cost (plus applicable service tax). The fees are inclusive of out of pocket expenses comprising of travel, boarding & lodging, local travel and communications. The cost of the technical consultant shall be borne by MoRT&H directly. The direct costs towards the project development like cost of advertisement etc. shall be borne by GoAP directly. The professional fees shall be payable as per following milestones:

<b>Milestones</b>	<b>Fee Payable</b>
On award of the work	5% of the fee, on the basis of total estimated cost of the package/component
On selection of technical consultant	10% of the fee, on the basis of total estimated cost of the package/component
On submission of inception report	10% of the fee, on the basis of total estimated cost of the package/component
On submission of Draft DPR	15% of the fee, on the basis of total estimated cost of the package/component calculated at actual landed cost with adjustments.
On approval of DPR by APPWD/competent authority	5% of the fee, on the basis of total estimated cost of the package/component calculated at actual landed cost with adjustments.
On approval of DPR by MoRTH	10% of the fee, on the basis of approved sanctioned cost of the package/component with adjustments.
On issue of RFP to bidders for selection of contractor(s)/Implementing Agency.	5% of the fee, on the basis of approved sanctioned cost of the package/component as per the DPR
On signing of contract between	15% of the fee, on the basis of approved

Milestones	Fee Payable
APPWD and selected contractor(s)	sanctioned cost of the package/component as per the DPR
On submission of RFP documents for selection of supervision consultant(s)/independent engineer(s)	5% of the fee, on the basis of approved sanctioned cost of the package/component as per the DPR
On signing of contract between APPWD and supervision consultant(s)/independent engineer(s)	10% of the fee, on the basis of approved sanctioned cost of the package/component as per the DPR with final adjustments.