

**NOTE FOR HEARING ON 28.09.2020 BEFORE HON'BLE NGT IN THE MATTER – AMRESH SINGH Vs UOI & Ors. – OA No. 295/2016**

- I. A report dated 17.03.2020 has been filed by the Monitoring Committee formed by the Ld. NGT.
- ⇒ The said Report records that the work at the site remained disturbed due to regular landslides caused by heavy rains and snowfall in the area and that the project propellant is compelled to clear the debris caused by such landslides at a short notice to clear the stranded traffic (**REFER – internal page 10 of 13 of the said report – Ramban to Banihal area**)
  - ⇒ Additional dumping could allotted to HCC even after order dated 12.02.2019. Even though government sanctioned the new dumping sites, the same have not been handed over to HCC (**REFER – internal page 10 (bottom) – 11(top) of 13 of the said report**)
  - ⇒ HCC dumping muck/debris in existing sites –even filled up dumping sites being used. (**REFER – internal page 11 of 13 of the said report**)
  - ⇒ It was concluded that HCC is dumping even in the filled up dumping sites, new dumping sites not allocated and the existing dumping site which had attained their full capacity had not been properly rehabilitated. (**REFER – internal 12(top) of 13 of the said report**)

**RECOMMENDATIONS GIVEN IN THE REPORT:**

- State government to hand over the newly sanctioned dumping sites to HCC and that HCC To comply with all recommendations and stop the violations pointed in the report (**REFER – internal page 12 (bottom) of 13 of the said report**)

**REFER internal pages 2- Point B, pages 3-4 (talking about topography of the land), Pages 5-7 (muck going into river only on account of landslides and recommendations) of environmental audit report**

- Most of the letters attached to this report about various violations addressed to M/s Gammon India only, expect one letter which has also been marked to HCC

**(REFER- running page 54 of the said report – letter dated 26.11.2019)**

- Towards the end of the Report giving the status report on the plantation various recommendation again given to HCC also (**REFER – last 3 pages of the report**)

- II. In furtherance and compliance of the recommendation and suggestion given in the report by the Monitoring Committee, M/s HCC continued with the work at the site taking all due precautions, avoiding all violations and also started the rehabilitation work at the filled up private dumping

yards, where no dumping was being done. HCC also worked upon strengthening the already existing gabion walls and also building new gabion walls wherever it was necessitated.

- III. However, on account of the pandemic situation and the country wide lockdown the work at the site was halted from **25.03.2020**.
- IV. The site witnessed heavy rainfall and resultantly landslides in the month of July 2020, specifically on 05.07.2020, 19.07.2020, 20.07.2020, 21.07.2020, 22.07.2020 and 26.07.2020. The same resulted in the damaging the gabion walls and also the plantations and rehabilitation work carried out by HCC. On account of the lack of availability of the labour force, on account of which all the deployed labour force have either returned to their native villages/home town or refused to attend the work, the said damage could not be rectified/corrected/rehabilitated at the said time.
- V. The site again witnessed heavy rainfall and landslides in the months of August 2020 on the following dates:- 14.08.2020, 19.08.2020, 20.08.2020, 21.08.2020, 26.08.2020 and 27.08.2020 which further damaged the work undertaken by HCC at the site.
- VI. Finally it was in August 2020 that some of the work force/labour was back and HCC restarted the rehabilitation work, plantation work as also the construction and repairing of the damaged gabion walls at the site. It took time to repair the damaged structures and clearing up the debris and muck caused due to landslides and heavy rains. Photographs annexed with the letter dated 24.09.2020 (letter already on the group but mailing again) shows the repair work, rehabilitation work and construction of gabion walls being done.
- VII. However, in the last week of August 2020 the site yet again witnessed heavy rainfall and landslides, which resulted yet again in damaging the gabion walls re-constructed and repaired as also the plantation work carried out by HCC at the site.
- VIII. In view of the above facts, the photographs annexed with the report dated 25.09.2020 of the J&K Pollution Control Board does not reveal the true facts and the correct picture and infact, portrays a distorted and wrong picture to the effect that HCC has been grossly violating the recommendations, is causing huge damage to the environment and is also violating the various orders passed by the Hon'ble NGT.
- IX. It is an admitted fact and has also been recorded by the Monitoring Committee in it various reports that the area is a landslide prone area and also witnesses heavy rainfall frequently. In such a situation, HCC cannot be held liable and responsible for all the damage that is caused on account of natural factors and not on account of any deliberate violation of any of the recommendations by the Committee and orders passed by the Hon'ble NGT.
- X. It is imperative to note that HCC has yet again started the rehabilitation/ plantation work at the filled up dumping yards, as also the repairing of the damaged gabion structures caused by the rains and landslides in August

2020, as well as the construction of the new gabion walls at the site wherever necessitated.

Ref: HCC/RBRP/2020-21/3061

Date: 09.07.2020

To  
**The Project Director**  
National Highway Authority of India  
House No. 315, Sec – 1  
1<sup>st</sup> floor, Channi Himmat  
Jammu, Jammu & Kashmir 180015

**Kind Attn: Shri. Purshotam Kumar, Project Director**

**Sub:** Four Laning of Ramban to Banihal Section of NH-44, from km 151.000 to km 187.000 in the Union Territory of Jammu and Kashmir under NHDP Phase II through an Engineering, Procurement and Construction (EPC) Contract.

**Reg: Amresh Singh V/s Union of India**

**Ref:**

1. Contract Agreement dated: 13.10.2015
2. Authority's letter no: NHAI/PIU-Ramban/2019-20/11001/4132; dated: 27.06.2020

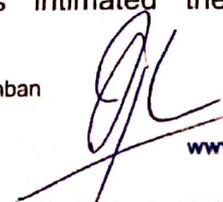
Dear Sir,

In context to subject matter and your letter dated 27.06.2020 vide which you have sought compliance to NGT report dated 20.03.2020, kindly find below the compliances undertaken by HCC.

1. The observations and suggestions mentioned in the report submitted before the Hon'ble NGT during the site visit for Ramban Banihal segment has been duly taken cognizance by HCC and is also being worked upon. No dumping is being carried out in the dumping sites which have attained their full capacities. The same has also been recorded by the Monitoring Committee in its report dated 17.03.2020. According to the recent site visit, the Monitoring committee has concluded that **"There is no current violation in regard of dumping of muck/debris."** The rehabilitation of the private dumping yards is being carried out by HCC, except in the last 4 months where all the work at the site, including the rehabilitation work had to be stalled on account of the country-wide lockdown, on account of which all the deployed labour force have either returned to their native villages/home town or refused to attend the work. HCC however undertakes that as soon as the situation normalizes and the labours are back at the work site, the rehabilitation work of planting trees and shrubs in all the filled up private dumping yards, will be started and HCC will make all possible efforts to rehabilitate the said areas at the earliest. In respect of the designated dumping sites approved and allocated by administration, it is the responsibility of the Forest Department to plant trees and rehabilitate the dumping yards which have attained their full capacities. As a matter of fact, HCC has also paid the requisite amount to the Forest department for the said rehabilitation work to be carried out by Forest Department. HCC, vide its letter no: HCC/RBRP/Govt./2019-20/2439; dated: 01.06.2019 has intimated the Forest

**Hindustan Construction Co Ltd.**

Ramban-Banihal, Section of NH-1A, (Now) 44, Village: Gund Tethar, PO: Banihal, Distt: Ramban  
J&K – 182146, India  
CIN : L45200MH1926PLC001228

  
[www.hccindia.com](http://www.hccindia.com)

Hindustan Construction Co Ltd. Head Office. Hincan House. Lal Bahadur Shastri Marg, Vikhroli(West), Mumbai 400 083 , India.

Department about the various such dumping yards which have attained their full capacity and has also requested the Forest Department to start the rehabilitation work in the sites. It is hereby requested that necessary instructions be issued to the Forest department to comply with its obligations and to start the rehabilitation work/planting of trees and shrubs in the allocated dumping yards which have been now filled up to their maximum capacities. Additionally, vegetations have also grown in dumping yards which prevents any further soil erosions in such dumping yards. Thus, the suggestions and recommendations as given by the Committee as well as the conditions laid in dumping yard allotment order are being duly complied with by HCC.

2. Being a prudent contractor HCC has been strictly adhering to the directives/recommendations issued by Hon'ble NGT vide its report dated: 20.03.2020 as so in the various other reports submitted by the Monitoring Committee to maximum possible extent. As you are very much aware, that due to poor geology and inclement weather coupled with snowfall and heavy rainfall, huge voluminous landslides have been witnessed, coming from extended lengths beyond ROW, which are on record, covering the entire carriageway and debris overflowing to valley side and forming heaps on valley slopes. Many such instances have been brought to Authority and Authority Engineer's attention. The Authority and Authority's Engineer are well aware that majority of the Project duration has passed in landslide removal. It is well-known fact that during occurrence of landslides, the traffic piles up for kilometers in length and in such situations, muck cannot be hauled to designated places in the midst of traffic blocks. In such circumstances, the debris is dumped at the location of slide, on orders from Traffic Authorities and District Administration to clear off the way for stranded passengers. In such case, HCC is not at fault and cannot be blamed in any regard. Most importantly, the same can also be ascertained from the observations made by the Monitoring committee in its report dated 17.03.2020 wherein it has been stated that **"nowhere muck is directly being dumped into rivers except in cases of sudden landslide due to aberrant weather conditions when contractors are asked by the local authority to clear the road immediately for traffic. This has resulted 3-4 illegal muck dumping sites particularly between Ramban to Banihal where blaming NHAI or its contractors is not justified"**. HCC, after the lockdown is lifted and the work resumes, would continue to work as before and will take all the necessary precautions to avoid any damage to the environment.
3. The Contractor/HCC is taking all possible measure to prevent the muck slipping into the river by construction of gabion toe walls. It is also intended to grow vegetation on the said slopes so that the filled material on such slopes does not surge into the river running beneath and the plants hold on to the said soil and much thereby preventing any spillage in the rivers. However, certain recommendations by the Hon'ble NGT such as construction of RCC Retaining walls at the slopes of dumping yards are not feasible due to the prevailing geotechnical conditions which were also informed to the visiting committee. The prevailing geotechnical conditions does not support the proposal of firm foundations for RCC wall without compromising other engineering

**Hindustan Construction Co Ltd.**

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J&K – 182146, India  
CIN : L45200MH1926PLC001228

  
[www.hccindia.com](http://www.hccindia.com)

Hindustan Construction Co Ltd, Head Office, Hincan House, Lal Bahadur Shastri Marg, Vikhroli (West), Mumbai 400 083, India.

factors such as flow of stream, lateral pressure of the retained earth, base width of the foundations for RCC retaining walls etc. The width of foundation of the RCC wall at the bottom will have to be very wide in proportion to height of wall. Excavation of such foundations is impossible unless considerable area within the stream is encroached, which may change the natural course of the river and further cause extra turbulence resulting in erosion of shores. Another disadvantage is that no plantation can be done in the area where concretization is done. However, other alternate measures such as strengthening of Gabion walls, maintaining angle of repose on slopes of dumped muck, construction of berms and benches, fencing etc is being done which was also notified vide photographs in the last hearing. HCC is continuously constructing the Gabion walls in the said areas and is also repairing the same on regular basis, and as and when the need arises to retain earth/ muck being dug out and preventing the same from being dumped into the water bodies. Further, as stated above, HCC is also making all possible efforts to restore and rehabilitate the dumping sites as and when they attain their full capacity.

4. As stated in the report dated 17.03.2020 by the Monitoring Committee and as also acknowledged by the Hon'ble NGT that the number of designated dumping sites provided by forest department/administration to HCC are not sufficient to accommodate the anticipated quantity of the excavated stones, boulders and muck. Further due to frequent occurrence of landslides and weather conditions in the site area, most of the dumping areas are filled up with the debris occurring due to the said landslides. The Monitoring Committee has recommended that new dumping sites be identified and allocated to HCC by the local forest department for dumping the muck in future. HCC has also on several occasions sought the allotment of additional dumping sites from the authorities but till date no such additional sites have been allocated to HCC. Albeit, HCC is trying to comply with the issued directives it is impossible to accommodate the muck unless additional dumping yards are provided by administration. It is hereby requested that appropriate instructions be issued to the authorities to identify and allocate the additional dumping yards to HCC at the earliest, to enable the smooth function and operations of the various works at the sites, without any damage to the environment.
5. The Covid-19 pandemic and imposition of lockdown since 23.03.2020 by the Government of India has restricted HCC from accelerating rehabilitation/ recommendations of monitoring committee as entire construction works came to standstill. All the deployed labour force have either returned to their hometown or refused to attend the work. Moreover, the collapse of supply chain has also resulted in holdups in procurement of critical construction materials resulting in subsequent delays.
6. Being an ISO certified company of long standing, HCC is utmost concerned about natural biodiversity and is doing all possible measures to preserve natural flora and fauna in the project stretch. Further, HCC assures that it shall expedite progress upon the recommendation of Hon'ble NGT after normalization of Covid-19 situation.



**Hindustan Construction Co Ltd.**

Ramban-Banihal, Section of NH-1A, (Now) 44, Village: Gund Tethar, PO: Banihal, Distt: Ramban  
J&K – 182146, India  
CIN : L45200MH1926PLC001228

[www.hccindia.com](http://www.hccindia.com)

In light of above, HCC submits that if few nonconformities have been observed by the Committee in our working, it may not be treated as an intentional violation on our part as this might have only been inadvertent on the part of HCC. Further, HCC believes Authority and Hon'ble NGT will find the above submission in order.

Thanking you and assuring our best cooperation at all times,

Yours Sincerely,  
for Hindustan Construction Co. Ltd.



Isaac Joseph  
Project Director

**Copy to:**

- 1. The Regional Officer**  
National Highway Authority of India  
House No. 315, Sec – 1  
1<sup>st</sup> floor, Channi Himmat  
Jammu, Jammu & Kashmir 180015

**Ref:** HCC/RBRP/2020-21/3482**Date:** 24.09.2020

**To**  
**The Project Director**  
National Highway Authority of India  
House No. 315, Sec – 1  
1<sup>st</sup> floor, Channi Himmat  
Jammu, Jammu & Kashmir 180015

**Kind Attn.: Shri. Purshotam Kumar, Project Director**

**Sub:** Four Laning of Ramban to Banihal Section of NH-44, from km 151.000 to km 187.000 in the Union Territory of Jammu and Kashmir under NHDP Phase II through an Engineering, Procurement and Construction (EPC) Contract.

**Reg: Implementation of directions of Hon'ble NGT for the case titled as Amresh Singh vs Union of India**

**Ref:**

1. Contract Agreement dated: 13.10.2015
2. Authority's letter no: NHA/PIU-Ramban/2019/11001/4546; dated: 19.09.2020
3. Authority's letter no: ~~NHA/PIU-Ramban/2019/11001/4557~~; dated: ~~23.09.2020~~

Dear Sir,

In context to the subject matter and Authority's letter under ref (2) and (3) wherein it has forwarded letters from Divisional Officer, PCB Ramban and Chairman, NGT regarding unauthorized dumping along the bed of Chenab, HCC's comments are herewith furnished below.

1. HCC has been earnestly complying with the directives/recommendations of Hon'ble NGT issued vide its order dated 20.03.2020. The observations and suggestions mentioned in the report submitted before the Hon'ble NGT during the site visit for Ramban-Banihal segment has been duly taken cognizance of by HCC and is also being worked upon diligently. The disposal activities of excavated muck are being strictly undertaken in designated dumping sites and no dumping is being carried out in the dumping sites which have attained their full capacities. The same can be confirmed from the bare perusal of the recording made by the Monitoring Committee in its report dated 17.03.2020, where the Monitoring committee has recorded that "There is no current violation in regard of dumping of muck/debris." HCC continues to follow all the suggestions and recommendations put forth by the Monitoring Committee and has not undertaken any activity which is in contravention to the said suggestions and recommendations. Subsequent thereto all the work at the site, including the rehabilitation work had to be stalled on account of the country-wide lockdown, on account of which all the deployed labour force have either returned to their native villages/home town or refused to attend the work.

**Hindustan Construction Co Ltd**

Hincon House,  
LBS Marg, Vikhroli (West),  
Mumbai - 400 083, India  
Tel : +91 22 2575 1000 Fax : +91 22 2577 7568  
CIN : L45200MH1926PLC001228



2. HCC commenced the work at the site only in August 2020 but with only 30% work force. HCC started with the rehabilitation work of planting trees and shrubs in all the filled up private dumping yards, making all possible efforts to rehabilitate the said areas at the earliest. Further, HCC also undertook to repair all the damaged gabion walls and also constructed new gabion walls as and where the same was required and necessary and the same can be ascertained from the various photographs taken at the site and enclosed herewith. However, due to poor geology and inclement weather coupled with heavy rainfall as witnessed in the last week of August 2020, huge voluminous landslides have been witnessed coming from heights. Such landslides and continuous shooting stones not only damaged the gabion walls repaired and constructed but also resulted in covering the carriageway and part of the debris overflowing to valley side. The debris thus overflowed has led to formation of heaps at many places on valley slopes. Many such instances have been brought to the attention of Authority from time to time and Authority Engineer's attention. The Authority and Authority's Engineer are well aware that majority of the Project duration has passed in landslide removal. Majority of the project duration, subsequent to the commencement of work at the site and rainfalls, was spent on removal of debris from landslides to clear and open the carriageway for traffic movement. It is well-known fact that in the event of landslides, the traffic piles up to kilometers and in such situation dumped muck cannot be hauled to designated places rather be dumped at the location of slide on verbal orders from Traffic Authorities and District Administration to clear the road for traffic movement. HCC is in a helpless situation there and shall not be blamed in this regard. The fact about the area being extremely prone to landslides and heavy rainfall can also be ascertained from the observations made by the Monitoring committee in its report dated 17.03.2020 wherein it has been stated that **"nowhere muck is directly being dumped into rivers except in cases of sudden landslide due to aberrant weather conditions when contractors are asked by the local authority to clear the road immediately for traffic. This has resulted 3-4 illegal muck dumping sites particularly between Ramban to Banihal where blaming NHAI or its contractors is not justified"**. HCC, is working diligently to re-construct the damaged gabion walls and is taking all the necessary precautions so as to avoid any further damage to the environment, as had resulted due to the heavy rainfall in August 2020.

3. The previous orders of NGT had directed rehabilitation of protection works at exhausted dumping yards listed below.

Sl. No	Chainage of Dumping Yard (SB)	Village
1.	155+000 to 155+200	Maroog
2.	159+850 to 160+100	Battery Cheshma
3.	163+050 to 163+400	Digdole
4.	152+700 to 152+850	Seri
5.	170+950 to 171+250	Ramsoo
6.	177+000 to 170+200	Chamalwas
7.	Private Land	Banihal



Being a prudent contractor HCC has been strictly adhering to the directives/recommendations issued by Hon'ble NGT vide its report dated 20.03.2020 as also in the various other reports submitted by the Monitoring Committee to maximum possible extent. HCC had been diligently taking up the rehabilitation works at all fronts including plantation as well as vegetation. However, the rehabilitation of the private dumping yards was stalled from last week of March 2020 till July 2020 on account of the country-wide lockdown, where all the work at the site including the rehabilitation work had to be stopped on account of no labour being available. The said rehabilitation work restarted in the month of August 2020. However, the heavy rains at these locations in the last week of August 2020 have further damaged the completed works of plantation. HCC has once again undertaken the restoration works which are very close to completion. In fact HCC has written a letter to District Forest Officer, Batote (Ref no: HCC/RBRP/Govt./2020-21/3439) seeking plants.

4. It is submitted that HCC has been complying with all the recommendations and suggestions as put forth by the committee, but the heavy rainfall coupled with the landslide in the month of August 2020 has damaged a substantial part of the work undertaken, which HCC is yet again reviving and rebuilding.
5. In respect of the designated dumping sites approved and allocated by the NHAI, it is the responsibility of the Forest Department to plant trees and rehabilitate the dumping yards which have attained their full capacities. As a matter of fact, HCC has also paid the requisite amount to the Forest department for the said rehabilitation work to be carried out by the said Forest Department. Despite repeated requests, there has been no attempt or initiation of any plantation work by the Forest Department. It is hereby requested that necessary instructions be issued to the Forest department to comply with its obligations and to start the rehabilitation work/planting of trees and shrubs in the allocated dumping yards which have been now filled up to their maximum capacities.
6. As per the order of Hon'ble NGT, dated: 20.03.2020, appropriate records pertaining to plantation works and installation of crates are being maintained on daily basis. The compliance of the recommendations is evident from the few photographs of ongoing rehabilitation works which are being submitted herewith for your ready reference and as an evidence of compliance to the order of Hon'ble NGT.
7. It is wrongly contended that it is Contractor's responsibility for arranging sufficient dumping yards. In the absence of sufficient government approved dumping yards being provided to HCC despite several requests, HCC had arranged for various private dumping yards for the project. The capacity of the said dumping sites however, has exhausted over the period of time due to occurrence of recurring landslides. As stated in the report dated 17.03.2020 by the Monitoring Committee and as also acknowledged by the Hon'ble NGT that the number of designated dumping sites provided by forest department/administration to HCC are not sufficient to accommodate the anticipated quantity of the excavated stones, boulders and muck. Further due to frequent occurrence of landslides and weather conditions in the site area, most of the dumping areas are filled up with the debris occurring due to the said landslides. The Monitoring Committee has recommended that new dumping sites be identified and allocated to HCC by the local forest department for dumping the muck in future.



8. HCC has also on several occasions sought the allotment of additional dumping sites from the authorities but till date no such additional sites have been allocated to HCC. Albeit, HCC is trying to comply with the issued directives it is impossible to accommodate the muck unless additional dumping yards are provided by administration. It is hereby requested that appropriate instructions be issued to the authorities to identify and allocate the additional dumping yards to HCC at the earliest, so as to enable the smooth function and operations of the various works at the sites, without any damage to the environment.
  
9. While HCC is in its best efforts to ensure compliance, on account of the unexpected rainfall and landslides, much of the work undertaken by HCC gets damaged. The Contractor/HCC is taking all possible measure to prevent the muck slipping into the river by construction of gabion toe walls. It is also intended to grow vegetation on the said slopes so that the filled material on such slopes does not surge into the river running beneath and the plants hold on to the said soil and much thereby preventing any spillage in the rivers. However, certain recommendations by the Hon'ble NGT such as construction of RCC Retaining walls at the slopes of dumping yards are not feasible due to the prevailing geotechnical conditions which were also informed to the visiting committee. The prevailing geotechnical conditions does not support the proposal of firm foundations for RCC wall without compromising other engineering factors such as flow of stream, lateral pressure of the retained earth, base width of the foundations for RCC retaining walls etc. The width of foundation of the RCC wall at the bottom will have to be very wide in proportion to height of wall. Excavation of such foundations is impossible unless considerable area within the stream is encroached which may change the natural course of the river and further cause extra turbulence resulting in erosion of shores. Further, it is brought to your kind notice that concrete is impervious and raising and retaining a concrete retaining wall in the hilly mountain region would result in not allowing the water to pass through and getting retained behind the concrete, which in turn would result in allowing the said water to ingress in deep foundation of the retaining wall putting a higher pressure on the said concrete wall and thereby causing damage to the foundation of the said wall. Another disadvantage is that no plantation can be done in the area where concretization is done. Concrete is more environmentally damaging since it results in global warming. However, other alternate measures such as strengthening of Gabion walls, maintaining angle of repose on slopes of dumped muck, construction of berms and benches, fencing etc. is being done which was also notified vide photographs in the last hearing. HCC is constantly constructing the Gabion walls in the said areas and is also repairing the same on regular basis and as and when the need arises to retain earth/ muck being dug out and preventing the same from being dumped into the water bodies. Further, as stated above, HCC is also making all possible efforts to restore and rehabilitate the dumping sites as and when they attain their full capacity.
  
10. Being an ISO certified company of long standing, HCC is utmost concerned about natural biodiversity and is doing all possible measures to preserve natural flora and fauna in the project stretch. Further, HCC assures that it shall expedite progress upon the recommendation of Hon'ble NGT after normalization of Covid-19 situation.

In light of above, HCC submits that if few nonconformities have been observed by the Committee in our working, it may not be treated as an intentional violation on our part as this might have only been inadvertent on the part of HCC. Further, HCC believes Authority and Hon'ble NGT will find the above submission in order.



Thanking you and assuring our best services at all times.



Yours Sincerely,  
**for Hindustan Construction Co. Ltd.**



**Isaac Joseph**  
**Project Director**

**Encl:** Annexure-I (Photos)

**Copy to:**

- 1. The Regional Officer**  
National Highway Authority of India  
House No. 315, Sec – 1  
1<sup>st</sup> floor, Channi Himmat  
Jammu, Jammu & Kashmir 180015
  
- 2. The Authority's Engineer,**  
M/s. Euroestudios S.L in association with  
Rodic Consultants Pvt. Ltd,  
Distt. - Ramban,  
Jammu & Kashmir – 182146

Annexure-I









