



डेडीकेटेड फ्रेट कोरीडोर

**DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LIMITED  
A GOVERNMENT OF INDIA (Ministry of Railway) ENTERPRISE**

**THROUGH**

**ADDITIONAL GENERAL MANAGER/, EL/WC  
4<sup>th</sup> FLOOR, PRAGATI MAIDAN METRO STATION BUILDING COMPLEX  
NEW DELHI – 110001, INDIA**

**REQUEST FOR PROPOSAL (RFP)**

**(RFP No.: HQ/EL/Traffic-safety/1)**

**AUTOMATIC CAUTION ORDER  
MANAGEMENT SYSTEM FOR DFCC  
THROUGH LOCO COMPUTER**

**[NOT TRANSFERABLE]**

**[NOT REFUNDABLE]**

**PRICE: Rs. 2000/-**

**(Cost of Bid document)**



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## **DISCLAIMER**

- 1. Though adequate care has been taken in the preparation of this Tender Document, the Firm (Consultant) submitting proposal in response to this RFP should satisfy itself that the Document is complete in all respects.**
  
- 2. Neither DFCC nor their employees will have any liability to any prospective Company or any other person under the law of contract expense or damage which may arise from or incurred or suffered in connection with anything contained in this RFP Document, any matter deemed to form part of this RFP Document, the award of the Assignment, the information and any other information supplied by or on behalf of DFCC or their employees, any consultants or otherwise arising in any way from the selection process for the Assignment.**
  
- 3. DFCC reserves the right to reject any or all the Proposals submitted in response to this Tender Document at any stage without assigning any reasons whatsoever. DFCC also reserves the right to withhold or withdraw the process at any stage with intimation to all who submitted the Proposal.**
  
- 4. DFCC reserves the right to change/modify/amend any or all of the provisions of this Tender Document. Consultant will be informed about such changes through e-mail/fax/post.**

## ABBREVIATIONS

<b>CV</b>	<b>Curriculum Vitae</b>
<b>DFC</b>	<b>Dedicated Freight Corridor</b>
<b>DFCC Limited</b>	<b>Dedicated Freight Corridor Corporation of India  (A Government of India Enterprises)</b>
<b>GCC Contract</b>	<b>General Conditions of Contract for Consultancy</b>
<b>INR,</b>	<b>Indian Rupees (Indian Currency)</b>
<b>IR</b>	<b>Indian Railways</b>
<b>JV</b>	<b>Joint Venture</b>
<b>LS</b>	<b>Lump Sum</b>
<b>MOR</b>	<b>Ministry of Railways</b>
<b>NIT</b>	<b>Notice Inviting Tender</b>
<b>PLR</b>	<b>Prime Lending Rate</b>
<b>SCC</b>	<b>Special Conditions of Contract</b>
<b>TOR</b>	<b>Terms of Reference</b>



# **SECTION 1**

## **LETTER OF INVITATION FOR Request for Proposal (RFP)**





## Letter of Invitation for Consultant

To,

M/s Advanced Rail Controls Pvt. Ltd.  
286, 14<sup>th</sup> Cross, 5<sup>th</sup> Main, HIG Colony,  
RMV, II Stage, Bangalore – 560094,  
INDIA.  
Tele Fax: 080-23417711

Sub: Establishment of Automatic Caution order Management System for DFCC through loco Computer.

Dear Sir,

Dedicated Freight Corridor Corporation of India invites Request For Proposal (RFP) for establish the Automatic Caution order System through loco Computer. The scope of establishment of the system for Automatic Caution order:

- i) Study and establish the server in Nagpur Control Office as well as in Bhusawal Control Office.
  - ii) Study the Electric Loco System of Three Phase Locos, to provide microprocessor unit for interaction with the main server.
- 1 DFCCIL intends to develop the automatic caution order management system by observing the caution order for DFCC through loco computer. The demonstration for the same is to be made on (NGP-BSL) section of Central Railway.
  - 2 Temporary Speed Restrictions are imposed due to some reasons requiring a speed limitation. In order to inform the driver about the speed restrictions, the automatic Caution order management system has to be established with the help of GSM, CDMA, GSM-R or DFCCIL microwave network and availability of location through the GPS receiver and Caution order Data Server etc.
  - 3 The RFP includes the following documents:
    - Section 1 - Letter of Invitation
    - Section 2 - Instructions to tenderers (including Data Sheet)
    - Section 3 – RFP Data Sheet
    - Section 4 - Terms of Reference
    - Section 5 – Proposal Standard Form
    - Section 6 – Form of Contact Agreement & General and Special Condition of Contract.
  - 4 This proposal is invited under “Single Stage” one packet system”. The proposal should be submitted in one envelope with complete tender documents including Technical and financial proposal.

- 5 DFCCIL will not be responsible for any delay, loss or non-receipt of NIT document sent by post/courier. Further, DFCCIL reserves the right to accept/reject any or all proposal without assigning any reason thereof.
- 6 Sealed proposals must be received not later than 1500 hrs of 20<sup>th</sup> November 2012 in the manner specified in the Tender document at the address given below.

Rajesh Kaushik,  
Additional General Manager (Electric/WC/DFC)  
Dedicated Freight Corridor Corporation of India Ltd.  
4<sup>th</sup> Floor, Pragati Maidan Metro Station Complex,  
New Delhi – 110001  
Phone: +91-11-23454833

- 7 Earnest Money deposit: (EMD)

Tender must be accompanied by a Earnest Money Deposit of Rs. 40000/- (forty thousand only) by a crossed Demand Draft or Pay Order drawn by State Bank of India or any nationalized bank or scheduled bank of India in favor of DFCCIL, payable at New Delhi. Tender received without Earnest Money shall be summarily rejected. Please note that no interest is payable on the EMD so long retained in DFCCIL. EMD shall be paid along with Proposal and the Demand Draft toward EMD shall be placed in the same packet.

Earnest money is liable for forfeiture in following conditions

- a. On revocation of tender due to increase in rate by the Consultant after opening of the tender within validity of period,
- b. On refusal to accept the work order/Letter of Acceptance the contract is awarded.
- c. If the work is not commenced by the stipulated date.

## **8 Security Deposit**

- (i) The Earnest Money deposited by the Contractor with his tender will be retained by the DFCC as part of the security for the due and faithful fulfillment of the contract by the Contractor. The balance to make up the security deposit the rates for which are given below, may be deposited by the Contractor in Bank Demand Draft or may be recovered by percentage deduction from the Contractor's "on account" bills. Provided also that in case of defaulting contractor the DFCC may retain any amount due for payment to the Contractor on the pending "on account bills" so that the amounts so retained may not exceed 10% of the total value of the contract.
- (ii) The Security Deposit/rate of recovery/ mode of recovery shall be as under:
  - a) Security Deposit for each work should be 5% of the contract value.

- b) The rate of recovery should be at the rate of 10% of the bill amount till the full security deposit is recovered.
- c) Security Deposit will be recovered only from the running bills of the contract and no other mode of collecting SD such as SD in the form of instruments like BG, FD, etc. shall be accepted towards the Security Deposit.
- (iii) Security Deposit shall be released only after successful completion of the work and after passing of the Final Bill based on the 'No Claim Certificate'.
- (iv) However, after the work is physically completed, Security Deposit recovered from the running bills of a Contractor can be returned to him if he so desires, in lieu of FDR/irrevocable Bank Guarantee for equivalent amount to be submitted by him.
- (v) No interest will be allowed or paid for the amount deposited as security deposit which will be refunded after completion of the guarantee period.

9 Other Details:

Consultant are advised to note the minimum eligibility criteria specified hereunder and other terms and conditions stipulated in Tender document.

- 10 Time for opening of offer: - 1600 hrs on 20/11/2012. If the date of opening is declared a 'holiday' the tender shall be accepted up to 15.00 hrs of the next working day and the opened at 1600 hrs on the same day.

Address for Communication shall be given below. Consultant may obtain further information from the address.

On the date specified in the RFP, the envelope of all Consultants will be opened in the presence of Consultant' representative, who may witness opening of RFP Bids.

**General**

- 11.0 RFP document is non-transferable. Tenders shall submit original RFP document bearing serial numbers, name written on it and duly signed by the issuing authority of DFCCIL to the Consultant. Any discrepancy observed shall call for rejection of the tender. Tender received from Consultant in whose name Tendering Document has been issued shall only be considered.

- 11.1 No extension in the due date shall be considered on account of delay in receipt of Tender Document by post. DFCCIL shall not be responsible for not reaching blank Tender document dispatched by DFCCIL at the request of the Consultant.

- 11.2 Validity of the Tender

The Consultant shall keep their offer open for a minimum period of 90 days from the due date, which may be extended further, if required at the request of DFCCIL from time to time. Any contravention of the above condition shall make the bidder liable for forfeiture of his earnest money deposit. The

Consultant cannot withdraw their offer within the validity period/extended validity period.

## **12 Procedure for Submission of Tender**

- 12.1 Each page of Tender must be signed and sealed by the Tenderer or its authorized representative in whose name power of attorney is issued. In such case, a copy of power of attorney shall be enclosed. Tender should be submitted in one sealed outer envelope super-scribed as follows:

Tender notice no.:

Name of work:

Name & Address of Consultant:-

- 12.2 Proposal should contain one envelope which will be contained duly filled tender along with price of work and EMD.

## **13 Time Schedule**

The total time for completion of work shall be of eighteen month in three phases from the date of issue of Letter of Acceptance by DFCCIL. Please note that time is the essence of the Contract.

- 14 The contract between successful Consultant and DFCCIL will be governed by General Conditions of Contract (GCC) for Consultancy Contract (Section 6) as amended / supplemented by Special Conditions of Contract (SCC) given in Section 6.
- 15 Consultant are required to give unconditional offers. A conditional offer shall be liable for rejections.

Thanking you,

Yours faithfully,

AGM/EL/WC  
For and on behalf of DFCCIL  
4<sup>TH</sup> Floor, Pragati Maidan  
Metro station Building Complex  
New Delhi – 110001, INDIA

Dated at New Delhi, the .....of , 2012

**Forwarding letter**

To,

The Additional General Manager Elect./WC  
Dedicated Freight Corridor Corporation of India  
Limited 4<sup>th</sup> floor, Pragati Maidan Metro Station  
Building Complex, New Delhi -110001

Ref:- RFP No. HQ/EL/Traffic-safety/1

1. I/We ..... have read the conditions of tender attached hereto and hereby I agree to abide by the laid down conditions. I/we also agree to keep this offer open for a period of 90 days from the date of Tender opening and in default thereof, I/We will be liable for forfeiture of my/our 'Earnest Money'. I/We offer to do the work as set out in the Tender Document. I/We also agree to abide by the General Conditions of the Contract and to carry out the work according to Special Conditions as laid down by the DFCCIL for the execution of the subject work.
  
2. A sum of Rs. 40000/- (Rupees Forty Thousand only) is paid towards Earnest Money. The value of the earnest money shall stand forfeited without prejudice to any other rights or remedies if:
  - (i) I/We do not start execute the contract agreement within 15 days from the date of issue of the LOA by DFCCIL.

OR

  - (ii) I/We do not commence the work within 7 days after receipt of LOA to that effect.
  
3. Until a formal agreement is prepared and executed acceptance of this tender shall constitute a binding contract between ourselves and DFCCIL subject to the modification, as may be mutually agreed and indicated in the LOA or my/our offer for the work.

Signature of Tenderer

Tenderers/Tenderer's Address

Signature of Witness

Tel: (STD Code).....

Fax: (STD Code).....

Mobile:

e-mail:



## **SECTION 2**

### **INSTRUCTIONS TO CONSULTANT**





## INSTRUCTIONS TO CONSULTANT

### 1. INTRODUCTION

#### Definitions

- i) "Client" means Dedicated Freight Corridor Corporation of India Limited.
  - ii) "Consultant" means any entity or person that may provide or provides the Services to the Client under the Contract.
  - iii) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1 that is the General Conditions (GCC), the Special Conditions of Contract (SCC) and the Appendices.
  - iv) "Bid Data Sheet" means such part of the Instructions to Consultants used to reflect specific assignment conditions.
  - v) "Day" means calendar day.
  - vi) "Government" means the Government of India.
  - vii) "Instructions to Consultants" means the document which provides the interested Consultants with all information needed to prepare their Proposals.
  - viii) "Personnel" means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof;
  - ix) "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Government's country.
  - x) "Proposal" means the Technical Proposal and the Financial Proposal.
  - xi) "NIT" means the Notice Inviting Tender (Tender Document) prepared by the Client for the selection of Consultants,
  - xii) "Services" means the work to be performed by the Consultant pursuant to the Contract.
  - xiii) "Sub-Consultant" means any person or entity with whom the Consultant subcontracts any part of the Services.
  - xiv) "Terms of Reference" (TOR) means the document included in the NIT as Section 3 which explains the objective, scope of work, activities/tasks to be performed, respective responsibilities of the Client and Consultant, and expected results and deliverables of the assignment.
- 1.1 The Client named in the "Bid Data Sheet" will select a firm/company from those firms/companies who submitted proposals in accordance with the method of selection indicated in the Bid Data Sheet.
- 1.2 The consulting firms are hereby invited to submit proposal for consulting services required for the assignment in the attached Letter of Invitation (LOI). The Proposal could form the basis for future contract negotiations and ultimately a contract with the selected firm and DFCCIL.

- 1.3 The Consultants should familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first hand information on the assignments and the local condition, Consultants are encouraged to pay a visit to the project site at their own cost & risks before submitting the Proposal.
- 1.4 The Client will provide the input specified in the Datasheet and make available relevant project related reports at no cost to Consultant.
- 1.5 Consultants shall bear all cost associated with the preparation and submission of their proposals including negotiations, if required. The Client is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to award of Contract, without giving of any reason thereby incurring any liability to the Consultants.
- 1.6 The Client requires that Consultants to provide professional, objective and impartial advice and at all time hold the Client's interest paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- 1.7 A Consultant (including its Personnel and Sub-Consultants) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant to be executed for the same or for another Client.
- 1.8 It is the DFCCIL's policy that the Consultants under contracts observe the highest standard of ethics & professionalism during the selection and execution of such contracts. In pursuance of this policy, the DFCCIL:
  - a. Defines, for the purpose of this paragraph, the terms set forth below as follows:
    - I. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
    - II. "Fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
    - III. "Collusive practices" means a scheme of arrangement between two or more consultants with or without the knowledge of the Client, designed to establish prices at artificial, noncompetitive levels;
    - IV. "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

- b. Will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;
  - c. Will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract;
- 1.9 Consultants, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices. Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.
- 1.10 The Bid Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiation within this period. Should the need arise; however, the Client may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.
- 1.11 Removal and / or Replacement of Personnel
- a. Except as the Client may otherwise agree, no change shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualification and experience.
  - b. If the Client finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action,  

Or

has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.

## **2.0 CLARIFICATIONS AND AMENDMENT OF NIT DOCUMENTS**

- 2.1 Consultants may request a clarification of any of the Tender documents. Any request for clarification must be sent in writing by paper mail, facsimile, or electronic mail to the Client's address indicated in the Data Sheet. The Client will respond by mail, facsimile, or electronic mail to such requests and will send copies of the response to all the Consultants.
- 2.2 At any time before the submission of Proposals, the Client may for any reason, whether

at its own initiative or in response to a clarification requested by an invited firm, modify the Tender documents by amendment. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, facsimile or electronic mail to all the bidders/Consultants. The Client may at its discretion extend the deadline for the submission of Proposals.

### **3.0 PREPARATION OF PROPOSAL**

- 3.1 A firm shall submit only one offer against the bid. In case, a firm submits more than one bid, such a firm will be disqualified summarily without assigning any reason thereof.
- 3.2 The proposal should include a covering letter (forwarding letter sample of which is attached) signed by person(s) with full authorization to make legally binding contractual (including financial) commitments on behalf of the firm. The letter should specify all association arrangement and certify that each associated firm performs its designated tasks under the assignment if the lead firm is awarded the contract.
- 3.3 Consultants are requested to submit a Technical and Financial proposal in the language as specified in the Bid Data Sheet, in one envelopes/packets (including EMD & commercial conditions).
- 3.4 In preparing the Technical Proposal, Consultants are expected to read all terms and conditions included in the document. Failure to provide all requested information will be at its own risk and may result in rejection of the proposal submitted by the Consultant.
- 3.5 Consultants must give particular attention to the following:
  - (i) Earnest Money deposit: (EMD)

Bids must be accompanied by a Earnest Money Deposit of Rs. 40000/-(Rupees Forty Thousand only) by a crossed Demand Draft drawn on State Bank of India or any other nationalized bank or scheduled bank of India drawn in favour of DFCCIL, payable at New Delhi. Bids received without Earnest Money shall be summarily rejected.
  - (ii) The professional staffs proposed shall remain employed with the Firm for a minimum period of 1 (One) year.
  - (iii) No alternative to professional staffs shall be proposed and only one Curriculum Vita (CV) shall be submitted for each position. Normally professional staffs will not be changed unless;
    - a) If the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or
    - b) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds therefore, forthwith provides as a replacement a person with qualification and experience acceptable to the clients.
  - (iv) A good working knowledge of the language specified in the Bid Data Sheet is essential for all professional in staffs proposed for the subject work. Reports must be written / prepared in English only.

- (v) Bidders shall give an affidavit that during last three years (to be reckoned from date of invitation of tender) work was cancelled against them for poor performance. If at any stage till finalization, work cancellation comes to the notice of tender committee nominated by DFCCIL for selection of successful bidder, offer of the bidder will summarily be rejected even if that bidder stands lowest. In such case next higher bidder will be considered.

Joint ventures are allowed as detailed in the Data Sheet. However, lead partner of the JV must be the recipient of NIT.

3.6 The packet containing technical and financial proposal shall be opened on the due date and be evaluated based on the eligibility criteria as given in NIT document. However DFCCIL reserves the right to seek clarification whenever necessary. Bidders are requested to submit all documents in connection with eligibility in 'Proposal' envelope.

3.7 The Consultant should provide the following information using but not limited to the formats attached in Section 5:

- i) A description of the methodology (work plan) which the firm proposes to execute the services,
- ii) The composition of the proposed staff team, the tasks which shall be assigned to each and their timing.
- iii) CVs *originally* signed in blue ink on each page by the proposed professional staff and the authorized representative submitting the Proposal. The key information should include the information as requested in form Tech 4. Photocopy and unsigned CV shall not be considered. Following document shall also be attached along with respective CVs.
  - (a) Self Attested copies of the educational/ professional qualifications including certificate of 10<sup>th</sup> standard indicating date of birth.
  - (b) Self attested copy of PAN Card.
- iv) Estimates of the total staff effort (professional and support staff, staff time) to be provided to carry out the Assignment, supported by bar chart diagrams showing the time proposed for each professional staff team member (Tech-2).
- v) Any additional information requested in the Data Sheet.

#### **4.0 The Proposal must essentially contain**

- Forwarding Letter given in the Bid document.
- Demand Draft towards EMD.
- Power of Attorney of authorized person who signed the tender document.
- Completion papers of any single work of 35% value of advertised value of work duly certified by concerned department.
- Requisite papers showing payment certificate from the Consultant duly issued by the Officer of concerned Government. It should be a minimum of

150% of advertised tender value of work.

- An affidavit having declaration that no work on account of Firm's failure has been cancelled by any organization during last three years from the date to be reckoned from date of opening of tender.
- JV document as proof of Joint ventures as detailed in the Bid Data Sheet.
- A certified copy of partnership deed or article of memorandum in case of Pvt. Ltd. Company.
- Commercial conditions, if any.
- Employer's requirements, if any (refer Section -6).
- This document duly signed on all pages.
- Consultant shall quote lump sum price in the schedule enclosed with the NIT document. Total price offered is inclusive of all taxes and duties except service tax which will be reimbursed separately on production of proof of the payment thereof. It is the responsibility of Consultants to ascertain whether service tax is payable and rate thereof. Consultants have to assess all other Taxes and shall inbuilt them in their financial proposal. These taxes (other than service tax) would not be paid separately. Price offered shall remain firm till the validity of the offer and no variation/suo-motto rebate/reduction or escalation shall be permitted.
- Consultants shall express the price of their services in the Local currency (Indian Rupees) only.

#### 4.1 SUBMISSION, RECEIPT, AND OPENING OF PROPOSALS

- 4.2 The original proposal shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the bidders himself. Any such corrections must be initialed by the person or persons who sign(s) the Proposals.
- 4.3 An authorized representative of the firm shall initial all pages of the Proposal in blue ink. The representative's authorization in *original/notarized* is confirmed by a written Power of Attorney accompanying the Proposal.
- 4.4 Consultants shall submit one "Original" proposal only. The envelope must be clearly marked "DO NOT OPEN, EXCEPT IN THE PRESENCE OF DFCCIL'S REPRESENTATIVES"

### 5 PROPOSAL EVALUATION

On the date specified in the tender notice, single packet containing Technical & Financial proposal of all tenderers will be opened in the presence of bidders/ their

representative(s). The Technical Proposal shall also be opened same day and time. However, Financial Proposals of only technically successful bidders shall be opened at a later date, which will be intimated to the technically successful bidders at least 3 days in advance.

Proposal shall be opened and evaluated based on the eligibility criteria as given in NIT document as well as based on the financial offers. The final selection of the Consultant will be based on lowest financial offer among technically successful bidders subject to fulfilling the minimum eligibility criteria and other terms and condition of NIT document.

## **6 AWARD OF CONTRACT**

- 6.1 The DFCCIL will issue a letter of award to the successful Consultant.
- 6.2 Within 15 days from the date of issue of the letter of award, the successful Consultant will be required to (i) execute the Contract Agreement for Consultancy Services as per General Conditions of Contract for Consultancy Services (section 6) and as amended and supplemented by Special Conditions of Contract (section 6) and (ii) furnish Performance Guarantee as per para 5.12 of General Conditions of Contract and as per the formats given in Annexure (section-6).
- 6.3 The successful Consultant with whom the contract is awarded shall commence the assignment within 7 days from the date of issue of LOA.

### **6.4 CONFIDENTIALITY**

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially.





## **SECTION 3**

### **RFP DATA SHEET**



## DATA SHEET

### Salient Features of NIT Document

SN	Item	Details
1	Name of Work	AUTOMATIC CAUTION ORDER MANAGEMENT SYSTEM FOR DFCCIL THROUGH LOCO COMPUTER
2	Last date for receiving Proposal (Proposal due date)	up to 15.00 hrs on 20.11.2012
3	Proposal Opening Date	16:00 hrs on 20.11.2012
4	Contact Details of Designated Official / Address for submitting the proposal	Rajesh Kaushik AGM/EL/WC DFCCIL 4 <sup>TH</sup> Floor, Pragati Maidan Metro station Building Complex New Delhi – 110001, INDIA
5	Duration of validity of proposal	90 days
6	Duration of Consultancy Services	1 (one) year from date of award of consultancy contract.
7	Bid Security	@ 5% of quoted value
8	Performance Guarantee	@ 5% of quoted value
9	Submission of Proposals	(a) Proposals should be submitted in (b) English language. (c) All the personnel of the Consultant shall have working knowledge of English and all the reports etc shall be written/prepared in English. (d) Limitations to Joint Ventures or sub-consultant: Joint venture consisting of maximum of two firms is permitted. However, lead partner of the JV must be the recipient of NIT. (e) In case of JV the experience of both the firms shall be counted. In case of association/sub consultant, the experience of associated firm/sub-consultant shall not be counted, whereas the key personnel of the associated firm would be considered for evaluation. If CVs & other details are furnished as per sections 5. (f) DFCCIL shall reimburse only service tax that is payable under applicable law subject to submission of proof of payment. It is the responsibility of Consultant to ascertain whether service tax is payable and its extent. Consultant has to assess all other Taxes and should inbuilt them in their financial proposal. These taxes

		<p>(other than service tax) should not be shown separately.</p> <p>(g) The Consultants shall state Price in Indian Rupees (INR) only.</p> <p>(h) Procedure for submission of bid.</p> <p>(i) This is an Open Tender. Each page of Bid must be signed and sealed by the bidder or its authorized representative in whose name power of attorney is issued. Bids should be submitted in one envelope super scribed as follows:</p> <p>a. Tender No.:.</p> <p>b. Name of work:.</p> <p>c. Date &amp; Time of opening of Tender:.</p> <p>d. Name &amp; Address of Consultants/Firm:.</p> <p>(j) The proposal submission address is:  Rajesh Kaushik  AGM/EL/WC DFCCIL  4<sup>TH</sup> Floor, Pragati Maidan  Metro station Building Complex  New Delhi – 110001, INDIA</p> <p>(k) Proposals must be submitted not later than the date and time mentioned in IFB.</p>
10	Payment Schedule	To be seen at clause 8.4 (b) GCC – Section 6 as amended by SCC - Section 6.
11	Currency for payments	Indian Rs. (INR) only.
12	Liquidated Damaged	0.5% per week or part there of contract value subject to maximum 10%
13	Penalty for delay in work	10% of the first Rs. 2 Lac and 5% of the balance amount of the contract value.

## **SECTION 4**

### **TERMS OF REFERENCE**



## **TERMS OF REFERENCE**

### **Automatic Caution Order Management System for DFCCIL through Loco Computer in BSL-NGP section of Central Railway**

#### **TRACTION INNOVATION OF OBSERVANCE OF CAUTION ORDER FOR DFCC THROUGH LOCO COMPUTER**

##### **Background**

Permanent Speed Restrictions are imposed by Railways due to various reasons like unsafe bridges, lower clearances to moving dimensions, unsafe terrains like deep embankments or cuttings where landslides frequently occur etc. Temporary Speed Restrictions are imposed due to reasons like distortion of track and other rail structures during extreme summer, disturbances during monsoons, or due to any other temporary reasons like accidents etc requiring a speed limitation. In order to inform the driver about the speed restrictions, speed limit boards are provided at appropriate locations with speed limit termination boards. In addition, the driver has been given a written caution order at the station preceding the section where speed restriction is imposed. For this purpose, the train has to be stopped at the preceding station and the written caution order handed over to the driver by the station staff with due acknowledgement. In this process, many agencies are involved and the train has to be physically stopped to exchange the caution order. This affects the throughput and also involves more labour, however, the scheme is foolproof due to manual system with back to back acknowledgement.

##### **Automatic Caution Order Exchange**

With the developments in wireless technology, mobile data networks like GSM, CDMA & GSM-R and availability of location information through GPS receivers, it would be now possible to make the caution order management automatic without much human interface, at least for exchanging the information to the driver. DFCC once completed, will be operating in an era where such technologies and possibilities are easy to be acquired and be utilized. Keeping this in view, DFCC intends to undertake a pilot technology demonstration project wherein the caution order issue and acknowledgement (both temporary & permanent) between a running train and wayside station would become automatic without any human intervention. The loco pilot will acknowledge the receipt of caution order and his driving will be monitored for observance of caution order and will be registered in the central server.

## Project Mission

The mission of this project is to demonstrate that it is possible to exchange the caution order from a wayside station (or from a central place like divisional control office) to a running train reliably without the need for its stopping. The project also envisages automatic braking for ensuring the speed limit as per the caution order in case the driver ignores the same by intervention with the traction control system and inform the control about violation of speed restrictions by loco pilot. The project will also advise the loco pilot about the signal position, gradients, gates, other land side data and best driving aid so that driver can use these aids for safe and efficient driving. The project will monitor the duty hours and driving technique for observance of speed restriction.

## Project Phases

The technology for automatic caution order management will be carried out in three phases. It is worth noting that the present manual arrangement is fool proof with back to back acknowledgement between driver and station staff. In the automated regime, it has to be ensured that the safety aspect is not violated and the driver do positively get the list of caution order before he enters every section. A mechanism has to be provided to stop the train in case the speed restriction for a section has not been updated in the onboard computer when it enters the section. Further, presently, in the absence of railway's own seamless wireless network, one has to depend upon private mobile operators, which is not safe and reliable for the type of application envisaged. Hence, for ultimate success, it would require railway's own network like GSMR, which definitely would be in place by the time DFCC gets fully commissioned and operational. Hence, this is the most appropriate time to develop the technology so that by the time DFCC becomes operational, the technology also will get proven and matured.



PHASE	ACTIVITY ANTICIPATED	TIME LINE
I	<p>Demonstration on an identified section (NGP-BSL)  Development of hardware suitable for 3-Phase Loco.  The hardware must have GPS receiver.  Hardware must have at least one data modem from an established service provider (say Reliance) for accessing remote server (where caution order data base exist)  To be interfaced with the currently used driver display of locomotive  GPS coordinates of OHE masts to be used, which is available with RDSO/DFCC  Interface to be given to traction control for limiting the speed in case not reduced by driver.  Alert to be given to driver when the speed limit is approaching.</p>	< 6 months
II	<p>Additional data networks to be used for more availability of network &amp; reliability  Provision to be made to stop the train in case it does not get the speed limit data from the central server just before entering the section.  Data must be latest which has to be ensured by comparing with time stamp of server data and current GPS time.  Facility to be available for logging the activities (speed limit received from server, actual speed values and the GPS coordinates) for post analysis.  Facility to be available to enter the train length (or wagon type &amp; number of wagons) to alert when the train clears the speed restricted area.</p>	< 6 months after Phase-I
III	<p>To be tried out in other classes of locomotives like tap-changer, diesel etc. especially the aspect of interface with traction control.  To be tried with GSMR, if developed by Railways</p>	< 6 months after Phase-II

## The Scheme:

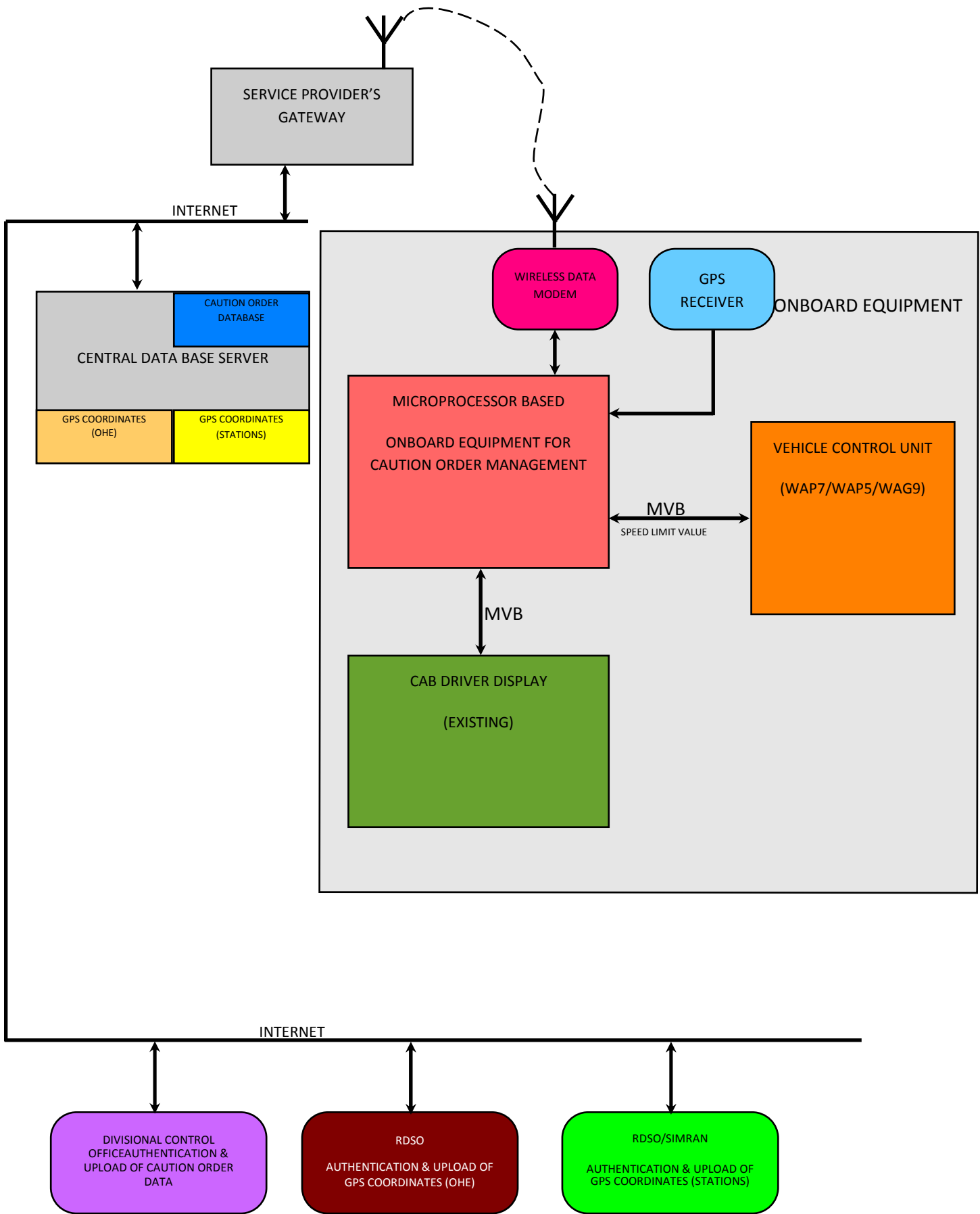
The onboard locomotive equipment comprises of a microprocessor system, which is connected with a GPS receiver and a data modem. It is preferable to have a 3G data network, if available, even though its availability on a pan India basis is doubtful at present. The onboard equipment has an interface with locomotive VCU through MVB, through which, the limit speed value can be sent to VCU. The VCU will compare the limit speed and actual speed and alerts the driver, as well as control the speed to the limit value by application of brake and also by entering into constant speed mode after an allowed time lapse or distance. The alerts are given to the existing driver display, which is MVB based.

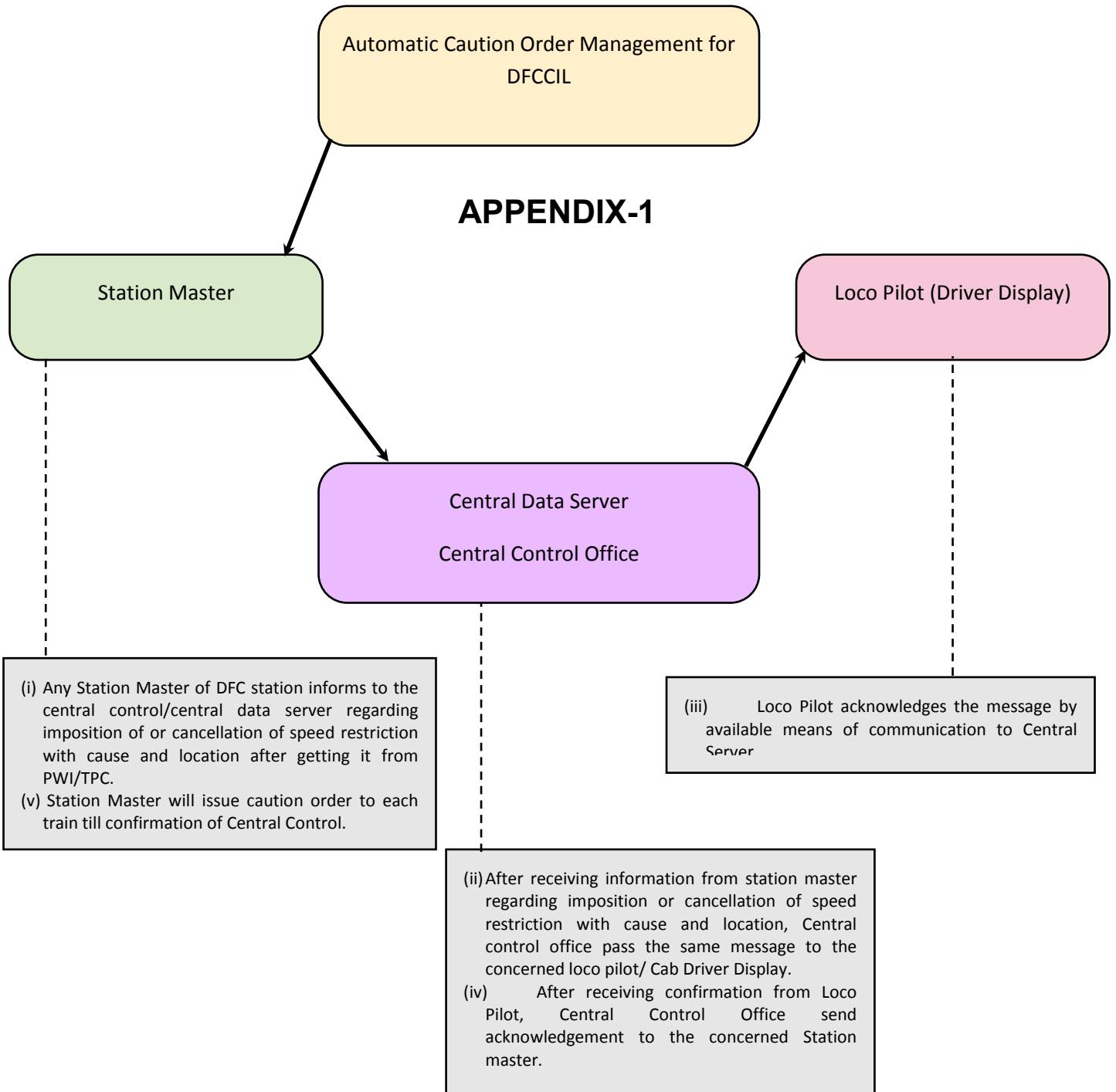
The onboard equipment will get connected to the central data server over wireless (of service provider or of Railways at a later stage) and data will be exchanged either through TCP/IP or some other stable protocols. The onboard equipment will fetch the speed limit value from the central server just before it enters a section, so that it always gets the fresh value. This fresh value must be compared with the GPS coordinate data based on the time stamp of server data and GPS data. If the data is stale, it may lead to stoppage of train as a safety precaution. Starting further will be on manual confirmation by the driver with control. Such instances are expected to be rare, and it must not encounter for a robust design.

Through internet connectivity, the caution order data base can be appended or modified by divisional control office (may be engineering/traffic control) based on approvals and authentications. This exercise has to be done after following utmost security verifications, as unauthorized addition or deletion of speed restrictions (example by a hacker) could lead to major accidents or inordinate delays.

As the caution orders are normally referred by OHE mast numbers, the GPS coordinates of OHE masts can be updated and appended in the data base by any authorized agency like RDSO, under authentications and approvals. Similarly, the GPS coordinate data of the Railway stations (SIMRAN Project) can also be modified or appended/amended by an authorized agency by accessing the central server over internet.

The scheme of caution order management and the agencies involved are shown in Appendix-1.





## SECTION 5

### PROPOSAL – STANDARD FORM

Name of Firm: \_\_\_\_\_

Name of assignment or Project: \_\_\_\_\_

Year: \_\_\_\_\_

Location: \_\_\_\_\_

Client: \_\_\_\_\_

Activities performed: \_\_\_\_\_

#### AUTOMATIC CAUTION ORDER MANAGEMENT SYSTEM FOR DFCC THROUGH LOCO COMPUTER

Sr. No.	Activities	Rate per unit	Quantity	cost	Remarks
1	Hardware Equipment for Locomotives				
2	Server with Server OS				
3	PCs with OS				
4	Broad band internet connection				
5	Application Software Development				
6	Installation, Testing & Commissioning				
7	Field Trials				

Sub Total Rs. \_\_\_\_\_

Applicable Excise Duty Rs. \_\_\_\_\_

Applicable Vat Rs. \_\_\_\_\_

Applicable Service Tax Rs. \_\_\_\_\_

**Grand Total** Rs. \_\_\_\_\_

Total Cost in Words \_\_\_\_\_

Documents Attached with Tender:

- a) EMD
- b) Details of Certificates of Projects which has been completed in Rly. As mentioned in EOI.
- c) Certification.

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience.

I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

\_\_\_\_\_ Date: \_\_\_\_\_

[Signature of Professional/staff member or authorized representative of the staff]  
Day/Month/Year

Full name of authorized representative of Consultant:

## **SECTION 6**

### **FORM OF CONTRACT AGREEMENT & GENERAL AND SPECIAL CONDITIONS OF CONTRACT**





# FORM OF CONTRACT AGREEMENT

(To be executed on stamp paper of value as per Stamp ACT)

- 1.0 This CONTRACT (hereinafter called the “contract”) is made -----day of the -----month of -----year, between Dedicated Freight Corporation of India Limited, (hereinafter called the “Client” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and on the other hand, a Joint Venture / Consortium consisting of the following entities {name of JV/ Consortium entities} hereinafter called individually as the “member” and collectively as the “consultant” which expression shall include their respective successors and permitted assigns unless the context requires otherwise) each of which will be jointly and severally be liable to the Client for all the Consultants’ obligation under this Contract. The addresses of each of the Parties are included in the Special Conditions of Contract to this Contract WHEREAS,
- 2.0 The Client vide their Letter of Invitation invited proposals for Technical and Financial offers to undertake the work of Consultancy Services for the {-----*name of work*-----}; the Consultants submitted their proposals for aforesaid work, whereby the Consultants represented to the Client that they had the required professional skills and Professionals and technical and financial resources and in the said proposals the Consultants also have agreed to provide the Services to the Client on the terms and conditions set forth in this Contract; and
- 3.0 The Client in acceptance of aforesaid proposals of Consultants awarded the work of the Consultancy Services to the Consultant.

Now therefore, the parties hereto hereby agree as follows:

The following documents attached hereto shall form an integral part of this Contract:

- i. General Conditions of Contract (hereinafter called “GCC”).
- ii. Special Conditions of Contract (hereinafter called “SCC”).
- iii. Terms of Reference.
- iv. Letter of Invitations.
- v. Institutional Arrangements

**4.0** Project Information

**5.0** The following Appendices

*{list of appendices for technical and financial proposals and forms of Bank Guarantees}*

**6.0** (h) Letter of Award for Consultancy Work and other correspondence mentioned therein.

In event of inconsistency in provisions of various documents, *{as per the Contract Conditions}* shall prevail:

- a) The mutual rights and obligations of the Client and the Consultants shall be as set forth in Contract, in particular,
- b) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
- c) The Client shall make payments to the Consultant in accordance with the provisions of the contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF THE  
MEMBER OF THE  
CONSULTANTS

FOR AND ON BEHALF OF  
DADICATED FREIGHT CORRIDOR  
CORPORATION OF INDIA LIMITED

-----  
-----

-----  
-----

(by authorized representative)

(by authorized representatives)

Witness

Witness

1. -----

1. -----

2. -----

2. -----

# GENERAL CONDITIONS OF CONTRACT

## 1.0 GENERAL PROVISIONS:

### 1.1 Definitions

In the contract (term defined as hereunder), the following words and expressions shall have the meanings assigned to the, unless the context requires otherwise. Words indicating persons or parties include corporations and other legal entities except where context requires otherwise.

- a. **“Applicable Law”** means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect thereafter in India, including rules and regulations made therein, as may be in force and effect during subsistence of this agreement.
- b. **“Contract”** means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these conditions, the specifications, the drawings, the schedules and further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.
- c. **“Contingencies”** means provisions for items of works which may have been overlooked or which may turn out to be necessary during progress of the services and price contingencies due to increase in international and domestic costs of person-months rates and reimbursable.
- d. **“Client”** means the Dedicated Freight Corporation of India Limited (DFCCIL) which expression shall also include its legal successors and permitted assigns.
- e. **“Effective Date”** means the date on which this Contract comes into force and effect pursuant to clause GCC 2.1
- f. **“Employer’s Representative”** means any officer nominated from time to time by **Dedicated Freight Corporation of India Limited (DFCCIL), its legal successors and assignees** to undertake various duties and functions in connection with this contract and Project.
- g. **“Consultant”** means the person or group named in the Contract who has to perform the Services and which expression shall include his/their legal successors and permitted assigns.
- h. **“Contractor”** means the person who is executing the Project for the Employer and the legal successors in title to such person.
- i. **“Foreign Currency”** means any currency other than the currency of Government of India.

- j. **“GCC”** mean the General Conditions of Contract.
- k. **“Government”** means the Government of India.
- l. **“Letter of Acceptance”** means the formal acceptance letter from the Employer of the Tender.
- m. **“Local currency”** means the currency of Government of India.
- n. **“Member”**, in case the Consultant consists of a Joint Venture / Consortium of more than one entity, means any of these entities, and  
“Members” means all of these entities. “Member in charge” or “Lead Member” means the entity specified in Special Conditions of Contract (SCC) to act on their behalf in exercising all the Consultants rights and obligations towards the Employer under this Contract.
- o. **“Party”** means the Employer or the Consultant as the case may be and “Parties” means all of these entities.
- p. **“Period of Consultancy Services”** shall mean the time between the Date of Commencement and end of Period of Completion as given in SCC.
- q. **“Personnel”** means the persons hired by the Consultants or by the Sub-Consultants as employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such personnel who at time of being hired had their domicile outside the Republic of India; “Local Personnel” means the personnel who at time of being hired had their domicile of the Republic of India.
- r. **“Project”** means the project named in SCC.
- s. **“SCC”** means the Special Conditions of Contract by which these General Conditions of Contract (GCC) may be amended or supplemented.
- t. **“Services”** means the work to be performed by the Consultants pursuant to this Contract as listed and described in Appendix A hereto.
- u. **“Sub-Consultant”** means any entity to which the Consultants subcontract any part of the Services in accordance with the provisions of Clause GCC 5.9
- v. i. **“Day”** means a calendar day.  
ii. **“Month”** means a calendar month  
iii **“Year”** means 365 days
- w. **“Terms and expressions not herein defined”** shall have the meanings assigned to them in the “Indian General Clauses Act, 1897”, or the “Indian Contract Act” or the Indian Sale of Goods Act

or any other applicable Indian Law, as the case may be

- x. **“Third Party”** means any person or entity other than the Government, the Client, The Consultant or Sub-Consultant.

## **1.2 Interpretation**

In the Contract except where the context requires otherwise :

- a) words indicating one gender include all genders,
- b) words indicating the singular also include the plural and words indicating the plural also include the singular, and
- c) “written” or “in writing” means hand-written, type written , printed or electronically made and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in interpretation of these conditions.

## **1.3 Relation between the Parties**

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultants. The Consultants, subject to this Contract, have complete charge of Personnel and Sub-Consultant, if any, performing the Services and shall be fully responsible for the services performed by them or on their behalf hereunder.

## **1.4 Governing Law and Priority of Documents**

### **1.4.1 Law Governing Contract**

This contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

### **1.4.2 Jurisdiction of Courts**

This is a condition of contract that the courts at Delhi / New Delhi shall have exclusive jurisdiction to try all disputes between the parties arising out of this Contract.

### **1.4.3 Priorities of documents**

The several documents forming the contract are to be taken as mutually explanatory of one another. If any inconsistency or discrepancy is found in the documents, the Client shall issue any necessary clarification or instruction. For the purpose of interpretation, the priority of documents shall be in accordance with the following sequence:

The Contract agreement (if completed)

The Letter of Award

The Letter of Invitation(LOI)

Terms of Reference (TOR)

Special Conditions of Contract (SCC)

General Conditions of Contract (GCC)

The Schedules and any other document forming part of Contract.

#### **1.4.4 Joint and Several Liabilities**

If the Consultant is (Under Applicable Law) a Joint Venture, Consortium or other Incorporated Group of two or more Members:

- a. These Members shall be deemed to be jointly and severally liable to the Client for the performance of the Contract.
- b. These Members shall notify the Client of their Lead Member who shall have authority to bind the Consultant and each of these persons; and
- c. The Consultant shall not alter its composition or legal status without the prior written consent of Client.

#### **1.5 Communication and Language of Contract**

##### **1.5.1 Communication to be in writing**

Communications between Parties will be effective only when in writing. Verbal communication, if any, must be confirmed in writing immediately later on. Any notice, request or consent shall be deemed have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in SCC. Notices shall be deemed to be effective as follows:

1. In case of personal delivery or registered mail, on delivery
2. In case of telexes, 24 hours following confirmed transmission
3. In case of telegrams, 24 hours following confirmed transmission, and
4. In case of facsimiles, 24 hours following confirmed transmission.

##### **1.5.2 Language of Contract**

The Contract has been executed in English which shall be controlling language for all matters relating to meaning or interpretation of this Contract.

#### **1.6 Location**

The services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations in Government's country or elsewhere, as Employer may approve.

#### **1.7 Authority of Member in Charge (Lead Member)**

In case Consultants consist of a Joint Venture / Consortium of more than one entity, the Members hereby authorize the entity specified in SCC to act on their behalf in exercising all the Consultants rights and obligations towards the Client under this Contract, including without limitation receiving of instructions and payments from the Employer.

## **1.8 Authorized Representatives**

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Consultants may be taken or executed by the officials specified in the SCC.

## **1.9 Taxes and Duties**

Unless otherwise specified in SCC, the Consultants, Sub-Consultants, Members and Personnel shall pay such taxes and duties, fees and other impositions as may be levied under the Applicable Law. All payments to both resident and non-resident Consultants, Sub-Consultants etc., will be subject to deduction of tax at source in accordance with the provisions of Indian Income Tax Act and any other Applicable Law.

## **2.0 Commencement, Completion and Modification of Contract**

### **2.1 Effectiveness of Contract**

The Contract shall come into force and effect on the date (the "Effective Date") of the Employers notice to the Consultants instructing the Consultants to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

### **2.2 Termination of Contract for Failure to become Effective**

If this Contract has not become effective within such time period after the date of contract signed by the Parties as shall be specified in the SCC, either Party may, by not less than four (4) weeks written notice to the other Party, declare this Contract null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

### **2.3 a. Commencement of Services**

The Consultants shall begin carrying out the services at the end of such time period after Effective Date as shall be specified in SCC.

#### **b. Completion of Services**

The targeted date of completion and Period of Completion shall be as specified in SCC.

##### **(i) Expiration of Contract**

Unless terminated earlier pursuant to clause GCC 4.0 hereof, this contract shall expire when services have been complete and all payments have been made at the end of such time period after Effective Date as shall be specified in the SCC.

##### **(ii) Entire Agreement**

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or liable for, any statement, representation, promise or agreement not set forth herein.

(iii) Modifications

The terms and conditions of this Contract including the Scope of Services can be modified only by written agreement between the Parties.

- (iv) Liquidated Damages / Penalties for Delays and Deficiencies of service time is the essence of the Contract. It shall be the bounden duty of the Consultants to strictly adhere to time for performance of various services indicated in the Contract. Delays and deficiencies on part of Consultants shall attract penal provisions. In case of delays without valid reason, the Consultants shall be liable to pay liquidated damages at one-half of one percent (0.5%) per week of the Contract price subject to a maximum of ten percent (10%) of Contract price. For deficiencies in Service a fine up to a total of five (5%) of Contract value may be imposed. Besides the penalties, the Consultants may face termination of Contract and/or debarment for any future contracts.

(v) Force Majeure

### **2.8.1 Definition**

- a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a party's performance of its obligations hereunder impossible or so impracticable as reasonably to be considered impossible in the circumstances and includes war, riots, civil disorder, earthquakes, fire, explosions, storm, floods, revolution, large scale epidemics, nuclear accidents, other catastrophic unforeseeable circumstances, strikes, lockouts (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), orders of requisitions issued by Government department (herein referred to as "event").
- b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such party's Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of conclusion of this Contract and (B) avoid or overcome in carrying out its obligations hereunder.
- c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

### **2.8.2 Non breach of Contract**

Neither party shall by reason of such event be entitled to terminate the Contract or have claim for damages against the other in respect of such non-performance or delay in performance.



### **2.8.3 Measures to be taken**

- a) A party affected by an event of Force Majeure shall notify the other party of such event as soon as possible and in no case later than twenty one (21) days of occurrence thereof.
- b) The obligations under the contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.
- c) If the performance in whole or part of any obligation under the contract is prevented or delayed by reason of the event beyond a period mutually agreed to if any or Ninety days (90) days whichever is more, either party may at its option terminate the Contract.
- d) In case of doubt or dispute whether a particular occurrence should be considered an “event” as defined under this clause ,or for the duration of existence of the “event”, the decision of Employer shall be final and binding.

### **2.8.4 Extension of time**

Any period which a party shall , pursuant to this Contract, require to complete any action shall be extended for a period equal to the time during which such party was unable to perform such action as a result of Force Majeure.

### **2.8.5 Payments**

The consultants shall not be entitled to any extra payments towards reimbursements for additional costs incurred by them during the such period for purposes of the Services and in reactivating the Services after the end of such period of “event”.

## **3.0 Suspension**

The client may, by written notice of suspension to the Consultants, suspend all or part of services and payments to Consultants hereunder if the Consultants fail to perform any of the obligations under the Contract, including carrying out of the Services, provided that such notice of suspension shall a) specify the nature of failure and b) request the consultants to remedy such failure within a period not exceeding thirty (30) days.

## **4.0 Termination**

### **4.1 A. By the Client**

The Client may , by a written notice of termination not less than thirty (30) days to the Consultants after occurrence of any of the following events specified in paragraphs (a) through (f) of this clause GCC 4.1 , terminate the Contract.

- a) If the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in Clause GCC 3.0 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as Client may have subsequently approved in writing.

- b) If the Consultants become (or, if Consultants consist of more than one entity, if any of their Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for benefit of debtors or go into liquidation or receivership whether compulsory or voluntary or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction or otherwise is guilty of breach of Agreement;
- c) If the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC hereof;
- d) If the Consultants submit to Client a statement , which has a material effect on the rights , obligations or interests of the Client and which Consultants know to be false;
- e) If as result of force majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- f) If the Consultant , in the judgment of Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract
- g) If the Client in its sole discretion and for any reason whatsoever decides to terminate the contract.

For the purpose of this clause:

- h) “Corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the process or in contract execution.
- i) “fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

## **B. By the Consultant**

The Consultants may, by a not less than thirty (30) days’ written notice to the Client, such notice to be given after the occurrence of any event specified in paragraphs (i) to (iv) of this GCC Clause 4.1(b) hereunder , terminate the contract

- (i) if Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause GCC 10 hereof within sixty (60) days after receiving written notice from Consultants that such a payment is overdue,

- (ii) if the Client is in material breach of its obligations pursuant to this Contract and not subject to dispute pursuant to Clause GCC 10 hereof and has not remedied the same within sixty (60) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by Client of the Consultants' notice specifying such breach,
  - (iii) if as a result of Force Majeure, the Consultants are unable to perform a material portion of Services for a period not less ninety (90) days;
- or
- (iii) if the Client fails to comply with any final decision reached as a result of Arbitration pursuant to Clause GCC 10 hereof.

#### **4.2 Cessation of Rights and obligations of the Parties**

Upon termination of this contract pursuant to Clause GCC 4.0 hereof, or expiration of Contract pursuant to Clause GCC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease except:

- a) Such rights and obligations as may have accrued on the date of termination or expiration;
- b) The obligation of confidentiality set forth herein under in clause GCC 5.3 hereof ;
- c) The Consultant's obligation to permit inspection , copying and auditing of their accounts and records set forth in Clause GCC 5.8 hereof; and
- d) Any right which a Party may have under the Applicable Law

#### **4.3 Cessation of Services**

Upon termination of the Contract by the Client pursuant to Clause GCC 4.0 hereof, the Consultants shall immediately on receipt of such notice take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively, by Clauses GCC 5.4 and GCC 5.11 hereof.

#### **4.4 Payment upon Termination**

Upon termination of this contract pursuant to Clause GCC 4.0 hereof, the Client shall make the following payments to the Consultants (after offsetting these payments any amount that may be due from the Consultant to the Client);

- a. Remuneration pursuant to Clause GGC 8 hereof for Services satisfactorily performed prior to the effective date of termination;
  - b. Reimbursable expenditures pursuant to Clause GCC 8 hereof for expenditures actually incurred prior to the effective date of termination;
- and

- c. Except in the case of termination pursuant to paragraphs (a) through (d) of Clause GCC 4.1(A) hereof, reimbursement of any reasonable cost incident to prompt and orderly termination of Contract including the cost of return travel of Consultant's personnel and their eligible dependants.

## **5.0 Obligations of the Consultants**

### **5.1 General**

#### **5.1.1 Scope of services**

The Consultants shall perform the Services relating to Project. The Scope of the Services are stated in Appendix A

#### **5.1.2 Standards of Performance**

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency, skill and economy, in accordance with generally accepted professional techniques and practices and shall observe sound management practices, and employ appropriate advances in technology and safe and effective equipment, machinery, materials and methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services , as faithful advisers to the Client , and shall at all times support and safeguard the Clients legitimate interests in any dealings with Sub-Consultants and Third Parties.

#### **5.1.3 Law Governing Services**

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants as well as the Personnel of the Consultants and the Sub-Consultants comply with the Applicable Law and respect local customs.

#### **5.1.4 Co-ordination**

Where the Services include co-ordination between the Consultants and other consultants and contractors employed on the Project, the Consultants shall provide such co-ordination and shall obtain, co-ordinate and submit to the Employer's representative for his information and approval all details , drawings, quantities, specifications arising from such co-ordination with others. Such co-ordination will take place throughout the period of the Services.

### **5.2 Conflict of Interests**

#### **5.2.1 Consultants not to benefit from Commissions, discounts etc.**

The remuneration of the consultants pursuant to clause GCC 8 hereof shall constitute the Consultant's sole remuneration in connection with this contract or the Services and, subject to Clause GCC 5.2.2 hereof, the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this

Contract or to the Services or in the discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any sub-consultants , as well as the Personnel and agents of either of them , similarly shall not receive any such additional remuneration.

### **5.2.2 Consultants and Affiliates not to engage in Certain Activities**

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any Sub-consultant and any entity affiliated with such Sub-consultant, shall be disqualified from providing goods, works or services (other than the Services under this contract and any continuation thereof) for any project resulting from or closely related to the Services under this contract.

### **5.2.3 Prohibition of Conflicting Activities**

The Consultants shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; and
- b) after the termination of this Contract, such other activities as may be specified in the SCC.

The Consultants and their Personnel as well their Sub-Consultants and their Personnel shall have no interest in nor receive remuneration in connection with the Project except as provided for in the Contract.

### **5.3 Confidentiality**

The Consultants, their Sub-consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

### **5.4 Documents to be property of Client and Intellectual Property Rights**

All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultants and their Sub-Consultants for the Client for performance of the Services under this Contract shall become and remain the property of the Client, with the full copyright vested in the Client and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

## **5.5 Liability of Consultants**

Subject to additional provisions, if any, set forth in the SCC, the Consultants' liability under this Contract shall be as provided by the Applicable Law.

## **5.6 Publications**

Any publication of material relating to Services (other than proprietary and confidential information as covered under Clause GCC 5.2.4 hereof) shall be subject written approval of Client during the term of contract or within two (2) years of expiration or termination of this Contract.

## **5.7 Indemnity and Insurance**

1 The Consultants (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants, as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as specified in the hereunder, and (b) at the Client's request, shall provide evidence to the Client, showing that such insurance has been taken out and maintained and that the current premiums have been paid.

2

(a) The Consultant shall indemnify, protect and defend at Consultant's own expense the Client, its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GCC 5.1.2 hereof, provided, however;

(b) In addition to any liability Consultant may have under the above Consultant shall, at its own cost and expense, upon request of Client, re-perform the services in the event of Consultant's failure to exercise the skill and care required under Clause GCC 5.1.2 hereof.

## **5.8 Accounting, Inspecting and Auditing**

The Consultants (i) shall keep accurate and systematic accounts and records in respect of the Services, hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the bases thereof (including such bases as may be specifically referred to in the SCC; (ii) shall permit the Client or its designated representative periodically, and up to two (2) years from the expiration or termination of this Contract, to inspect the same and

make copies thereof as well as to have them audited by auditors appointed by the Client; and (iii) shall permit the client to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors appointed by the client.

## **5.9 Consultant's Actions requiring Prior Approval of Client**

The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:

a Appointing such members of the Personnel as are listed in Appendix C ("Consultants' Sub-consultants' Key Personnel")

b entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the Sub-consultant and its Personnel pursuant to this Contract; and

(c) taking any action under an EPC/Design and Build Contract(or any other contract for the construction of the Project) designating the Consultants as "Engineer" for which action , pursuant to such Contract , the written approval of Client as "Employer" is required.

## **5.10 Reporting Obligations of Consultants**

The Consultants shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.

## **5.11 Client's equipment and materials**

Equipment and materials made either available to the Consultants by the Client, or purchased by the Consultants with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultants shall make available to the Client an inventory of such equipment and materials and shall dispose of- such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultants, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value. All such material and equipment shall be maintained by the consultants with proper care and diligence save normal wear and tear.

## **5.12 Performance Guarantee**

5.12.1 The Performance Guarantee shall be as specified in SCC.

5.12.2 The Client reserves the right to forfeit the Performance Guarantee amount, in the event of termination of contract in accordance with Clauses GCC 4.1 A  
(a) to (e) and (f).

5.12.3 In the event of any defect coming to notice of Client during the period from

actual date of completion of Services and the period of validity of the Performance Guarantee as per this Contract, and in the eventuality of Consultants failing to rectify the same, the Client will forfeit the amount of Performance Guarantee.

## **6.0 Consultant's Personnel and Sub-Consultants**

### **6.1 General**

The Consultants shall employ and provide such qualified and experienced Personnel and Sub-consultants as are required to carry out the Services.

### **6.2 Description of Personnel**

- (a)** The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the Consultants' Key Personnel are described in Appendix C. If any of the Key Personnel has already been approved by the clients his/her name is listed as well.
- b)** If required to comply with the provisions of Clause GCC 5.1.2 hereof, adjustments with respect to the estimated periods "of engagement of Key Personnel" set forth in Appendix C may be made by the Consultants by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 8.1 (b) of this Contract. Any other such adjustments shall only be made with the Client's written approval.
- c)** If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceilings set forth in Clause GCC 8.1 (b) of this Contract.

### **6.3 Client's Approval of Personnel**

The Key Personnel and Sub-consultants listed by title as well as by name in Appendix C are hereby approved by the Client. In respect of other Key Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the client for review and approval a copy of their biographical data and (in the case of Key personnel to be used within the country of the Government) a copy of a satisfactory medical certificate in the form attached hereto as Appendix D. If the Client does not object in writing (stating the reasons for the objection) within thirty (30) calendar days from the date of receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Client.



#### **6.4 Working Hours, Overtime, Leave, etc.**

- a) Working hours and holidays for Key Personnel are set forth in Appendix E hereto. To account for travel time, foreign Personnel carrying out Services inside the Government's country shall be deemed to have commenced (or finished) work in respect of the Services such number of days before their arrival in (or after their departure from) the Government's country as is specified in Appendix E hereto.
- b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix E hereto, and except as specified in such Appendix, the Consultants' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set for in Appendix C. Any taking of leave by Personnel shall be subject to the prior approval by the Client and the Consultants shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

#### **6.5 Change of Personnel**

- a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants (e.g. death, physical disability or other exceptional circumstances), it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications.
- b) If the Client (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.
- c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Client. Except as the Client may otherwise agree, (i) the Consultants shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid to any of the Key Personnel/Professionals provided as a replacement shall not exceed 85% of the remuneration which would have been payable to the Key Personnel/Professionals replaced except in case of death.(iii) for total replacement up to 25% of Sub-Professional staff, remuneration shall be reduced by 5% (iv) for

total replacement up to between 25% to 50%, of Sub-Professional staff remuneration shall be reduced by 15% and (v) for total replacement beyond 50% of the total of key personnel/Professionals and Sub-Professional staff, the client may initiate action for termination and/or debarment of such consultants for future projects of the Client.

## **6.6 Resident Project Manager**

If required by the SCC, the Consultants shall ensure that at all times during the Consultants' performance of the Services in the Government's country a Resident Project Manager, acceptable to the Client, shall take charge of the performance of such Services.

## **7.0 Client's Obligations**

### **7.1 Assistance and Exemptions**

Unless otherwise specified in the SCC, the Client shall use its best efforts to ensure that the Government shall:

- a) Provide the Consultants, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-consultants or Personnel to perform the Services;
- b) Assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Government's country;
- c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- d) Issue to officials, agents and representatives of the Government all such Instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- e) Assist the Consultants and the Personnel and any Sub-consultants employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish them either individually or as a corporate entity according to the Applicable Law;
- f) Grant to the Consultants, any Sub-consultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Government's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services: and
- g) Provide to the Consultants, Sub-consultants and Personnel any such other assistance as may be specified in the SCC.

## **7.2 Access to Land**

The Client shall facilitate Consultant's, unimpeded access to all land in the Government's country in respect of which access is bonafide required for the performance of the Services. The Consultant will, however, be responsible for any damage to such land or any property thereon resulting from such access caused by the default or negligence of the Consultants or any Sub-consultant or the Personnel of either of them and shall indemnify the Client against such liabilities.

## **7.3 Changes in the Applicable Law**

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultants in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 8.1(b).

## **7.4 Services, Facilities and Property of the Client**

The Client shall make available to the Consultants and the Personnel, for the purposes of the services and free of any charge, the services, facilities and property described in Appendix F at the times and in the manner specified in said Appendix F, provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree on any time extension that it may be appropriate to grant to the Consultants for the performance of the Services, the manner in which the Consultants shall procure any such services, facilities and property from other sources, and the additional payments, if any, to be made to the Consultants as a result thereof pursuant to Clause GCC 8.1(c) hereinafter.

## **7.5 Payment**

In consideration of Services successfully and satisfactorily performed by the Consultants under this Contract, the Client shall make to the Consultants such payments and in manner as is provide by Clause GCC 8 of this Contract.

## **7.6 Counterpart Personnel**

(a) If so provided in Appendix F hereto, the Client shall make available to the Consultants, as and when provided in such Appendix F, and free of charge, such counterpart personnel to be selected by the Client, with the Consultants' advice, as shall be specified in such Appendix F. Counterpart personnel shall work under the exclusive direction of the Consultants. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultants which is consistent with the position occupied by such member, the

Consultants may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

- (b) If counterpart personnel are not provided by the Client to the Consultants as and when specified in Appendix F, the Client and the Consultants shall agree on (i) how the affected part of the Services shall be carried out, and
  - (ii) the additional payments, if any, to be made by the Client to the Consultants as a result thereof pursuant to Clause GCC 8.1(c) hereof.

## **7.7 Decisions of Client**

On all matters properly referred to it in writing by the Consultant, the Client shall give a decision in writing within a reasonable time.

## **8.0 Payments to the Consultants**

### **8.1 Cost Estimates and Ceiling Amount**

- (a) An estimate of the cost of the Services payable in foreign currency is set forth in Appendix G. An estimate of the cost of the Services payable in Local Currency is set forth in Appendix H.
- (b) Except as may be otherwise agreed under Clause GCC 2.6 and subject to Clause GCC 8.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GCC 8.1(b) hereof, if pursuant to clauses GCC 7.3, 7.4 or 7.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultants in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GCC 8.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GCC 8.1 (b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

### **8.2 Remuneration and Reimbursable Expenditures**

- (a) Subject to the ceilings specified in Clause GCC 8.1 (b) hereof, the Client shall pay to the Consultants (i) remuneration as set forth in Clause GCC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GCC 8.2(c). If specified in the SCC, said remuneration shall be subject to price adjustment as specified in the SCC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GCC 2.3

and Clause SCC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to in Appendices G and H and subject to such additional provisions as are set forth, in the SCC.

- (c) Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services, as specified in Clause GCC 8.3(b)

### **8.3 Currency of Payment**

- (a) Foreign currency payments shall be made in the currency or currencies Specified as foreign currency or currencies in the SC, and local currency Payments shall be made in the currency of the Government.

The SCC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency,

### **8.4 Advance Payments, Bank Guarantee, Mode of Billing and Payment**

Billing and payments in respect of the Services shall be made as follows:

- (a) The Client shall cause to be paid to the Consultants an interest bearing advance payment as specified in the SCC, and as otherwise set forth below. The advance payment will be due after provision by the Consultants to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC, such Bank Guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SCC, and (ii) to be in the form set forth in Appendix I hereto or in such other form as the Client shall have approved in writing.
- (b) As soon as practicable and not later than fifteen (15 days) after the end of each calendar month during the period of the Services, the Consultants shall submit to the Client, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GCC 8.3 and 8.4 for such month. Separate monthly statements shall be submitted in respect of Amounts payable in foreign currency and in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Client shall cause the payment of the Consultants periodically as given in schedule of payment above within sixty (60) days after the receipt by the Client of bills with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist

between actual payment and costs authorized to be incurred by the Consultants, the Client may add or subtract the difference from any subsequent payments. In case the validity of contract is extended for reasons not attributable to Consultant, the payments in such extended period shall be made based on the accepted man-month rates and actual deployment of Personnel.

- (d) The final payment (excluding the Performance Guarantee) under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90)-day period, gives written notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty, (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.
- (e) All payments under this Contract shall be made to the account of the Consultants specified in the SCC.

## **9.0 Fairness and Good Faith**

### **9.1 Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

### **9.2 Operation of the Contract**

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GCC 10 hereof.

## **10.0 Settlement of Disputes**

### **10.1 Amicable Settlement**

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

### **10.2 Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either party for settlement through Arbitration in accordance with the Rules stipulated in SCC.

#### **10.2.1 Demand of Arbitration**

The demand for arbitration shall specify the matters, which are in question, or subject of the dispute/s or differences/s as also amount of claim item wise. Only such dispute/s or difference/s in respect of which demand has been made by the party/parties shall be referred to Arbitration. And other matters shall not be included in reference.

#### **10.2.2 Nomination of Arbitrators/Sole Arbitrator**

Matters to be arbitrated upon shall be referred to a sole Arbitrator if the total value of the claim is up to Rs 5 million and to a panel of three Arbitrators if total value of claims is more than Rs 5 million. The Employer shall provide a panel of three arbitrators which may also include DFCCIL officers for claims up to Rs 5 million and a panel of five Arbitrators which may also include DFCCIL officers for claims of more than Rs 5 million. The Employer at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said arbitrator nominated in the panel along with their professional experience, phone nos. and addresses to the contractor. The Contractor shall have to choose the sole Arbitrator from the panel of three and/or one Arbitrator from the panel of five in case three Arbitrators are to be appointed. The Employer shall also choose one Arbitrator from this panel of five and the two so chosen will choose the third arbitrator (the Presiding Arbitrator) from the panel only. The Arbitrator(s) shall be appointed within a period of 30 days from the date of receipt of written notice/demand of appointment of Arbitrator from either party. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence nor did arguments put before the Engineer for the purpose of obtaining his decision. No decision given by the Client in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. The arbitration proceedings shall be held in Delhi only. The language of proceedings of documents and communication shall be English. This is a condition of contract agreement /Arbitration that Arbitrators so nominated shall be

professional Engineers/s. In case of 3 Arbitrators, one of the arbitrators shall be an accounts officer. This is also a condition of contract that in case above procedure for nomination of arbitrator/s cannot be adopted due to whatsoever reason may be, then it will be deemed that no arbitration clause exist in contract agreement and normal law of land shall prevail to settle the disputes.

**10.2.3 No Suspension of Work.**

The reference to arbitration shall proceed notwithstanding that works shall not then be or be alleged to be complete, provided always that the obligations of the Client, and the Consultants shall not be altered by reasons of arbitration being conducted during the progress of Works. Neither party shall be entitled to suspend the work to which the dispute relates on account of arbitration and payments to the Consultants shall continue to be made in terms of the Contract.

**10.2.4 Award to be Binding on All Parties.**

The award of the sole arbitrator or a bench of three arbitrators shall be binding on all parties.

**10.2.5 Rules Governing the Arbitration Proceedings.**

The arbitration proceedings shall be governed by Indian Arbitration and Conciliation Act 1996, as amended from time to time including provisions in force at the time the reference is made.

**10.2.6 Substitute Arbitrators:**

If for any reason an Arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

**10.2.7 Interest on Awarded Amount**

Where the arbitral award is for payment of money, no interest shall be payable on the whole or any part of the money for any period till the date on which the award is made.

**10.2.8 Fee to Arbitrators**

The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include the fees of the Arbitrator(s) as per the rates fixed by the DFCCIL from time to time.

\*\*\*\*\*



**Appendix A:**

**Description of the Services**

***[Give detailed descriptions of the Services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Client, etc.]***

**As per TOR**



## **Appendix B:**

### **Reporting Requirements**

***[List format, frequency, contents of reports and number of copies; persons to receive them; dates of submission, etc. If no reports are to be submitted, state here "Not applicable".]***

**As per TOR**



**Appendix C:**

**Key Personnel and Sub-consultants**

**As per Data Sheet (Section- )**



**Appendix D:**

**Medical Certificate**

**NOT APPLICABLE**





**Appendix E:**

**Hours of Work for Key Personnel**

**NOT APPLICABLE**



## **Appendix F:**

### **Duties of the Client**

***[ 1 Services, facilities and property to be made available to the Consultants by the Client.***

***2 Guidance/assistance without any financial implication shall be provided by the field offices of client.]***



**Appendix 'G'**

**(NOT APPLICABLE)**



**Appendix H:**

**Cost Estimates in Local Currency**

**(Not applicable)**





## SPECIAL CONDITIONS OF CONTRACT

GCC Clause No.	AMENDED/SUPPLEMENTED AS
1.5.1	<p>The addresses are:</p> <p style="margin-left: 40px;">1.For Client: Dedicated Freight Corridor Corporation India Ltd. 4<sup>TH</sup> Floor,Pragati Maidan Metro station Building Complex New Delhi – 110001, INDIA Attn.: Additional General Manager/EL/WC Tel: 011-23454833</p> <p>For Consultant Attn.: Tel: Facsimile (fill in the blanks)</p>
1.7	<p>The Member in Charge is:</p> <p style="margin-left: 40px;">{  }</p> <p>(To be filled by Bidder) The Time period shall be 4 (four) weeks or such time period as the party may agree in time.</p>
2.2	The time period shall be 4 (four) weeks or such time period as the party may agree in time.
2.3(a)	The time period shall be 15 (fifteen) days from the date of Issue of LOA.
2.3(b)	The time period shall be 18 months However, the client reserves the right to extend the contract under same price.
2.6	The Client may notify the Consultant to alter, amend, omit, add to or otherwise vary the service on same rates, terms and conditions and the Consultants shall be bound by such variations.
2.7	<p>Sample deficiencies and delays in Services may include but not limited to:</p> <ul style="list-style-type: none"> <li>i. Not acting impartially or acting in service may include but not limited to: Not acting in collusion with Contractor(s) in recommended progress / completion of works.</li> <li>ii. Not keeping proper records regarding quality control, instructions and rejection / rectifications of works.</li> <li>iii. Failure to give proper and timely advice to client / Contractor to enable correction during execution.</li> </ul>

	<ul style="list-style-type: none"> <li>iv. Delays in checking and approval of reports</li> <li>v. Recommending extension to Design &amp; Build Contract with a view to extending duration of Safeguards Monitoring Services.</li> <li>vi. Refusing to give reasons for recommendations when called for by the Client.</li> <li>vii. Not being fully conversant with Rules and Regulations, Manuals, Specifications, Standards, etc.</li> <li>viii. Certifying Sub-standard work</li> <li>ix. Not exercising required scrutiny.</li> <li>x. Permitting subletting of any part of work without authorization from Client</li> </ul>
5.4	The Consultants shall not use these document for purposes unrelated to this Contract without prior written approval of the Client.
5.5	<p>Limitation of the Consultants liability towards the Client:</p> <ul style="list-style-type: none"> <li>i. Except in case of gross negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Service, the Consultants, with respect to damage caused by the Consultants to Client's property, shall not be liable to the Client: For any indirect or consequential loss or damage; and For any direct loss or damage that exceeds (A) the total under this contract including reimbursable etc. or (B) the proceeds the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever is higher.</li> <li>ii This limitation of liability shall not affect the Consultants' liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services</li> </ul>
5.7	<p>The risks and coverage shall be as follows:</p> <ul style="list-style-type: none"> <li>i. Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1998 in respect of motor vehicles operated in India by the Consultants or any sub-consultants or their Personnel</li> <li>ii. Third Party liability insurance with a minimum coverage equal to 50% of the contract value for the period of Consultancy.</li> </ul>

	<ul style="list-style-type: none"> <li>iii. Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants and of Sub-Consultants in accordance with relevant provisions of Applicable Law , as well as, with respect to such Personnel , any such life , health, personal accident, travel , household or other insurance as may be appropriate; and</li> <li>iv. Professional Liability insurance with a minimum coverage equal to total contract value for this Contract; and</li> <li>v. Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this contract, (ii) any documents prepared by the Consultants in performance of the Services.</li> </ul>
5.12.1	<ol style="list-style-type: none"> <li>1. Within 15 days receipt of the letter of acceptance, the Successful consultant shall furnish Bank Guarantee from SBI or any other nationalized / scheduled commercial bank of India For an amount equal to 5% of the contract value. The format of PBG has been given at Annexure-1 of this section.</li> <li>2. The Performance Guarantee shall be valid for an entire consultancy Period plus two months.</li> <li>3. The Performance Bank Guarantee shall be released after satisfactory completion of the assignment.</li> </ol>
8.1(a)	The cost of Services under this Contract shall be paid in Indian Rupees (INR) only.
8.1(b)	All payments under this Contract shall be made in Indian Rupees (INR)only.
8.1(c)	Payment shall be made as per schedule given in section -3
8.2	Deleted
8.4(a)	Deleted
8.4(b)	<p>Payment shall be made as below</p> <ol style="list-style-type: none"> <li>a) 30% after successfully demonstration/completion of Phase – I of TOR without Interface to traction control for limiting the speed.</li> <li>b) 30% after successfully completion of phase-I of TOR with Interface to traction control for limiting the speed.</li> <li>c) 30% after successfully completion of Phase – II of TOR</li> <li>d) 10% after successfully completion of Phase – III of TOR</li> </ol>
8.4(c)	No interest shall be paid for any difference of payment added in subsequent payment.
8.4(e)	<p>Payment to the account of Consultants shall be made to:</p> <p>Account Number: {to be specified by Consultants}</p> <p>Account Name: { to be specified by Consultants}</p> <p>Bank Details:{Name, Address, Telephone/ Facsimile, Sort code/Swift code/IFSC and MICR code etc. to be specified by Consultants}</p>

FORM OF PERFORMANCE SECURITY  
(PERFORMAMANCE BANK GUARANTEE)

(GCC Clause 5.12) {On *non-judicial stamp paper of appropriate value in accordance with Stamp Act. The stamp paper to be in name of Executing Bank*}

To

Additional General Manager/ EL / WC

Dedicated Freight Corridor Corporation of India Ltd.,

DFCCIL, 4<sup>th</sup> Floor, Pragati Maidan Metro station Building Complex, New  
Delhi – 110001, INDIA

WHEREAS \_\_\_\_\_ [*Name and address of Consultants*]<sup>1</sup> (hereinafter called “the consultants”) have undertaken, \_\_\_\_\_ in \_\_\_\_\_ pursuance \_\_\_\_\_ of \_\_\_\_\_ Contract No...\_\_\_\_\_ dated \_\_\_\_\_ to provide the services \_\_\_\_\_ on terms and conditions set forth in this Contract \_\_\_\_\_ [*Name of Contract*] (hereinafter called the “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Consultants shall furnish you with a “Performance Security” in the form of a Bank Guarantee by a recognized bank(2) for the sum specified therein as security for performance and compliance with his obligations in accordance with the Contract;

AND WHEREAS we, \_\_\_\_\_(Name of Bank) with its Branch located at \_\_\_\_\_ ( address of Branch) and Head Office located at \_\_\_\_\_ ( address of Head Office){ herein after called as “The bank”} acting through \_\_\_\_\_ ( name of authorized representative of Bank authorized to sign and incur obligations for and on behalf of the Bank) have agreed at the request of the Consultants to give the Consultants such a Bank Guarantee;

NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Consultants up to a total of \_\_\_\_\_ [*amount of Guarantee in letters*] (3) \_\_\_\_\_ [*in words*], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without any demur, cavil, reservation , argument or recourse any sum or sums within the limits of \_\_\_\_\_ [*amount of Guarantee*] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Consultants before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the services to be performed there under or of any of the Contract documents which may be made between you and the Consultants shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the consultants or of the Bank.

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. \_\_\_\_\_ (Rs. *in words* \_\_\_\_\_) and the guarantee shall remain valid till \_\_\_\_\_. Unless a claim or a demand in writing is made upon us on or before \_\_\_\_\_ all our liability under this guarantee shall cease.

Signature and Seal of the Guarantor \_\_\_\_\_ In presence of

Name and Designation \_\_\_\_\_ 1 \_\_\_\_\_

(Name, Signature & Occupation)

Name of the Bank \_\_\_\_\_

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

(Name & Occupation)

Date \_\_\_\_\_

\*\*\*\*\*

1. Give names of all partners if the Consultant is a Joint Venture.
2. The bank guarantee shall be from a Scheduled / Nationalized Indian Bank.
3. Amount as Specified in GCC/TOR/ITB for Performance Security and in specified currency.

Note-The words in Italics are for guidance e and shall be deleted in final document.

