



Request for Proposal (RFP)

For

Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMMM)

RFP No.HQ-ENWC0MMS(TCMM)/1/2022-O/o GGM/WC-I/DFCC/13568

Date: 18.04.2022

(Participation through e-Tender only)

Visit: www.ireps.gov.in/ its link at www.dfccil.com

(Help desk of IREPS: 011-23761525)

Client:

**DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA
LIMITED**

(A Government of India Enterprise)

Under

Ministry of Railway

INDEX

Part/Chapters	Description	Page No.
	Disclaimer	4
TECHNICAL BID		
PART - I		
Chapter I	Notice Inviting Tender	5-10
Chapter II	General Information / Data sheet	11-12
Chapter III	Preamble and General Instructions to Tenderers	13-49
Chapter IV	General Conditions of Contract	50-83
Chapter V	Special Conditions of Contract	84-91
PART - II	Technical Specifications	92-103
PART - III	Tender Forms (including Schedule of Prices)	104-146
PART - IV	Drawings	147
FINANCIAL BID		
Financial Bid	Schedule of Price & Payment Schedule	148-149

Disclaimer

1. This RFP is not an Agreement, neither an offer, nor an invitation from DFCCIL (Client) to the prospective Consultants.
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NOTICE INVITING TENDER

TECHNICAL BID (PACKET-A)

PART – I

Chapter - I

**Dedicated Freight Corridor Corporation of India Limited
(A Government of India Enterprise)**

NOTICE INVITING E-TENDER

No.HQ-ENWC0MMS(TCMM)/1/2022-O/o GGM/WC-I/DFCC/13568

Date: 18.04.2022

Name of Work: Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMMM).

1.1.1 The Group General Manager/WC-I/DFCCIL, Corporate Office, Supreme Court Metro Station Building Complex, Pragati Maidan, New Delhi -110001, acting for and on behalf of Managing Director/DFCCIL invites open E-Tenders/offers on **Single Stage Two Packet System** on prescribed forms from firms / Companies / Joint Ventures having requisite technical experience and financial capacity for undertaking of the following work: Bidders will be able to submit their original/revised bids upto closing date and time only. Manual tenders/offers are not allowed and will not be accepted.

Table-1				
SN	Name of Work	Estimated Cost of Work* (Rs.)	Earnest Money(Rs.)	Completion Period
1.	Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL	17,09,84,250.00 (Inclusive of GST)	34,19,700.00	36 Months (Additional 06 months for Installation & Commissioning)
Note: *Rs. 14,48,68,500/- plus GST@18%				

1.1.2 Eligibility shall be assessed on applicants, fulfilling the technical capability and competence as well as for financial and organizational resources as specified in clause no. 1.3.18 (i) A & B of Preamble and General instruction to tenders (Part-I, Chapter-III).

1.1.3 Tender document can be downloaded from www.ireps.gov.in w.e.f. from **17:00 Hrs of 19/04/2022**. The Cost of the tender document is Rs.11800/-(inclusive of taxes) which is non-refundable and to be paid online through payment gateway provided at www.ireps.gov.in in the Account of DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LIMITED, New Delhi

towards the cost of one set of tender documents. The tender documents shall have to be purchased in the name of Firms / Company/ Joint ventures and can be downloaded from DFCCIL's web site www.ireps.gov.in. In case tenderer(s) do/does not deposit the cost of tender document (non-refundable) along with the submission of the tender their tender shall not be opened. Tenderer are advised not to make any correction /addition/alteration in the downloaded tender documents. If any such correction/addition /alteration in downloaded tender documents are made such tenders shall not be considered.

- 1.1.4** DFCCIL may issue addendum(s)/corrigendum(s) to the tender documents. In such cases the addendum(s)/corrigendum(s) shall be issued and placed on DFCCIL's website www.ireps.gov.in at least **three days** in advance of date of opening of tender. The tenderer who have downloaded the tender documents from the website before issue of addendum(s)/ corrigendum(s) must visit the website and ensure that such addendum(s)/corrigendum(s)(if any) is also downloaded by them. Such addendum(s)/corrigendum(s)(if any) shall also be submitted duly stamped and signed along with the submission of tenders. Any tender submitted without addendum(s)/corrigendum(s)(if any) shall be summarily rejected.
- 1.1.5** The tender documents shall be in two packets system containing TECHNICAL BID and FINANACIAL BID. Detailed credential as per the requirement of eligibility criteria and all tender papers which are to be submitted along with technical bid Price Schedule (Form-4) with % age above or below or at par on the estimated rate of Schedule duly filled are to be submitted in "Financial Bid".
- 1.1.6** Tender shall be submitted as per "General Instruction to Tenderers" forming as part of the complete tender documents.

It is mandatory for all Tenderers to have Class-III Digital Signature Certified from any of the Licensed Certifying Agencies ('CA') to participate in E-Tendering of DFCCIL, (Tenderer can see the list of Licensed CAs from the link www.cca.gov.in in the name of the person who will submit the Online tender and is authorized to do so.

To participate in E-Tender, it is mandatory for Tenderers to get themselves registered with the IREPS (www.ireps.gov.in) and to have User ID and Password.

www.ireps.gov.in is the only website for submission of tender 'Vender Manual' containing the detailed guidelines for E-Tendering is available on www.ireps.gov.in.

Submission of Offer

Tender shall be submitted through Online mode only at www.ireps.gov.in. Tender submitted by any other mode will not be accepted. All the required documents (legible) as mentioned in Check list have to be uploaded along with the offer on www.ireps.gov.in **failing which, the bid shall be summarily rejected and shall not be considered for further evaluation.**

CHECK LIST FOR DOCUMENTS TO BE SUBMITTED

S. No.	Documents to be Attached	Tick Yes/No
1.	The Covering Letter as per format given in the Section 2.	
2.	Power of Attorney of the person signing the tender documents in Original if specific to this work or Attested Copy of the General Power of Attorney of the Company in favor of the person signing the tender.	
3.	Certified Copy of Registration of Company/Firm/Agency, Partnership Deed /Memorandum and Articles of Association of the Company/Firm/Agency.	
4.	Constitution of the Company/Firm/Agency in the form prescribed in Annexure-III.	
5.	Complete Tender Document including Corrigendum/ Addendums Signed by the Bidder.	

Important Notes:

Documents No.1 to 5, should be scanned and uploaded along with offer as attachment at website www.ireps.gov.in.

The detailed instructions of e-tendering can be read through website www.ireps.gov.in. The Addendum/Corrigendum, if any; shall be hosted on the website www.ireps.gov.in

The tender will be accepted only in e-tendering mode and **no other mode** of submission shall be accepted. The supporting documents for Eligibility Criteria are essentially required to be uploaded on the website www.ireps.gov.in along with Technical Bid. The **bid** shall be accepted through **Online mode only**.

Tenderers are required to give Un-Conditional Offers. A Conditional Offer is liable to be rejected. DFCCIL reserves the right to modify, expand, restrict, scrap, reject and re-float tender without assigning any reasons whatsoever.

- 1.1.7 Any tender received without Earnest money and cost of tender documents (in case of downloaded tenders) in the form as specified in the tender documents shall not be considered and shall be summarily rejected.**
- 1.1.8** DFCCIL reserves right to cancel the tender before submission /opening of tender, postpone the tender submission/ opening date and to accept/reject any or all tenders without assigning any reason there of DFCCIL's assessment of suitability as per eligibility criteria shall be final and binding.
- 1.1.9** Tenderers may note that they are liable to be disqualified at any time during tendering process in case any of the information furnished by them is not found to be true. EMD of such tenderers shall be forfeited. The decision of DFCCIL in this regard shall be final and binding.

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- 1.1.10** Information as required as per various Forms to tender document should be submitted by the tenderers without fail strictly as per formats.
- 1.1.11** The validity of offer shall be **120 days** from the date of opening of the tender.
- 1.1.12** Transfer of the tender document purchased by intending tenderer to another tenderer is not admissible. Tenderer can submit tenders only on the documents purchased / downloaded from DFCCIL website: www.ireps.gov.in by them.

PART - I

Chapter II

GENERAL INFORMATION/DATA SHEET

Table-1		
1.	NIT No.	No. HQ-ENWC0MMS(TCMM)/1/2022-O/o GGM/WC-I/DFCC/13568 Date: 18.04.2022
2.	Name of Work	Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMM)
3.	Bidding Type	Normal Tender
4.	Tender Type	Open
5.	Bidding System	Single Stage Two Packet System (Open E-Tender)
6.	Bidding Style	Single Rate for Schedule
7.	Pre-Bid Required	Yes, 04.05.2022 at 15.00hrs in DFCCIL Corporate Office, New Delhi
8.	Advertised Tender Value	Rs. 17,09,842,250.00 (Inclusive of GST@18%)
9.	Period of Completion	36 months (additional 06 months for Installation & Commissioning)
10.	Validity of the offer	120 Days
11.	Are Joint Venture (JV) firms allowed to bid	Yes
12.	Tender Document Cost (Non-Refundable)	11800.00 (INR) to be deposited online through payment gateway provided at www.ireps.gov.in
13.	Earnest Money	Rs.34,19,700/- to be deposited online through payment gateway provided at www.ireps.gov.in
Date & Time Schedule		
14.	Date Time of Uploading of NIT & Tender Document	19/04/2022 at 16:00 hrs. on www.ireps.gov.in
15.	Date and Time of Issue of Tender	Tender document can be downloaded from 19/04/2022 (17.00 hrs.)
16.	Bidding Start Date	16/05/2022
17.	Last Date & Time of submission of Tender (Online)	31/05/2022 at 15 :00 hrs. on www.ireps.gov.in
18.	Date and Time of Opening of Tender (Online) - Technical bids (Packet A)	31/05/2022 at 15 :30 hrs. on www.ireps.gov.in
19.	Date and Time of Opening of Tender (Online) - Financial bids (Packet B)	To be communicated later to only those bidders who are found technically qualified after closer of technical evaluation.

20.	Retention Money / Security Deposit	5% of Contract Value (to be deducted from On-account payment @10% till the value reaches 5% of Contract Value)
21	Performance Bank Guarantee	Performance Guarantee (PG) have to be submitted within 21 (Twenty one) days from the date of issue of Letter of Acceptance (LOA), at the rate of 3% of the contract value in the form as given in clause 14.4 of GCC
22.	Address for Communication	Mr. Arun Kumar Tiwari, Group General Manager/WC-I, Room No.324, Corporate Office, Dedicated Freight Corridor Corporation of India Ltd., 3rd floor, Supreme Court Metro Station Building Complex, Pragati Maidan, New Delhi -110001, INDIA; Mob: 9717636957 Tel: +91-11-23454683; Fax: +91-11-2345-4701; e-mail: aktiwari@dfcc.co.in

PREAMBLE & GENERAL INSTRUCTION TO TENDERERS

PART I

Chapter - III

PREAMBLE & GENERAL INSTRUCTIONS TO TENDERERS

1.3.1 Introduction

Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL), a public sector undertaking has been set up under the Indian Companies Act, 1956 (Amended 2013) for implementation of Dedicated Freight Corridor Project. Government of India is the sole shareholder of the DFCCIL.

DFCCIL (A Govt. of India Enterprise), has planned to construct Dedicated Freight Corridor (DFC) covering about 3338 route Kilometres on Eastern and Western Corridors. The coverage of Eastern Corridor is from Ludhiana to Dankuni and Western Corridor is planned from Jawaharlal Nehru Port, Mumbai to Rewari / Tughlakabad / Dadri near Delhi. There will be a linkage between two corridors at Dadri.

Track being one of the most important infrastructure assets, DFCCIL intends to have most efficient and dynamic Track Condition Monitoring System for deploying state-of-the-art Track Inspection and Recording including the Maintenance Management to maintain the assets in an effective manner requiring least dependence on subjective assessment.

Dedicated Freight Corridor Corporation of India Limited has decided to initiate Intelligent Track Condition Monitoring and Maintenance Management for Deployment of necessary infrastructure, capturing track condition parameters, recording of such data, its analysis, providing solution for maintenance strategy, its installation, operation and maintaining of the same for three years with the provision of extension by two years on mutual consent.

1.3.2 Scope of Work

On behalf of Managing Director/DFCCIL, GGM/WC-I herein after referred to as 'DFCCIL' invites tenders from Firms / Companies / Joint Ventures having requisite experience and financial capacity for execution of the following work:

"Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMMM)" for a period of 36 months.

1.3.2.1 Scope of work is as per the requirements given in the bid document but not limited to:

Deployment of necessary infrastructure, capturing track condition parameters, recording of such data, its analysis, providing solution for maintenance strategy, its installation, Operation and maintaining of the same as broadly discussed as under and further detailed as per Technical Conditions given in Part II of the Bid Document, for three years with the provision of extension by two years on mutual consent.

1.3.2.1.1 ROUTES – PROPOSED TO BE COVERED

Western Corridor: Appx. 840 Route Km from New Rewari to New Mehsana and Prithala to Dadri (IR) and to be progressively increased to appx. 1500 Rkm in next two years.

Eastern Corridor : Appx. 660 Route Km from New Khurja to New Bhaupur, New Kanpur to New Manouri, New Khurja-New Dadri & New DDU to New Sonenagar and to be progressively increased to appx 1300 Rkm in next two years.

- 1.3.2.1.2 The Implementation of Intelligent Track Condition Monitoring & Maintenance Management (TCMMM) is to be carried out on DFCCIL. The focus of the TCMMM should be on user friendly system to improve running, safety and efficiency of the entire track network and to optimize the amount of investment required to keep the assets in good health.
- 1.3.2.1.3 TCMMM has to ensure High quality, accurate and accessible information about the Track asset and evolve maintenance activity towards more sophisticated condition-based system.
- 1.3.2.1.4 The proposed system to generate instructions for planned and emergent attention and record maintenance planning with maintenance work schedules. These instructions should be generated in real time, in user friendly form easy to understand by maintenance supervisors and can be directly fed to DFCCIL track machines for rectification.
- 1.3.2.1.5 The system should provide Instant access to information requested during inspection activities and requisite information to be searchable by asset/defects and numerous other criteria.
- 1.3.2.1.6 The proposed TCMMM should be easily integrated with all major enterprise systems and should be compatible with Track Recording Car (MERMEC made) being procured by DFCCIL and TMS software of CRIS.
- 1.3.2.1.7 It supports DFCCIL for maintenance planning, work order generation, work maintenance support etc.
- 1.3.2.1.8 It needs to have efficient and organized work flows for all preventive and corrective track maintenance works, giving new mobile working solutions that gives us much more confidence in the quality and accuracy of the data. Thus, giving better insight into the condition of assets to allow to maintain and invest in infrastructure more efficiently.
- 1.3.2.1.9 The system should have module for getting regular feedback of the users and modify/customize to suite the local conditions and DFCCIL requirement.
- 1.3.2.1.10 The system should also have security features to prevent unauthorized users.
- 1.3.2.1.11 The scope of work shall broadly consist of:
 - (i) **Installing, Commissioning and Operation of System for 36 months** with the provision for further extension to 60 Months on mutually agreed terms. Initial 06 months is for Installation & Commissioning of TCMMM and after this actual work will start(36 Months period is excluding these intial 06 months).
 - a) **Self-propelled/Portable Track Condition Monitoring System** with the provision of capturing & recording Track Parameters and conditions (listed as under) at not less than 40 Kmph. The generated data need to be developed in digital/numerical and graphical form showing various parameters recorded and their inter-relationship wherever applicable. Scripts to provide workflows that guide field official through the asset condition

verification process effectively providing a list of questions that they need to answer in order to complete the condition verification exercise. Analyze these parameters captured through the aforesaid, Track recording Cars being procured by DFCCIL, Oscillograph results and any other method deployed by DFCCIL etc. Categorizing the analyzed data and giving outputs for planned, predictive and preventive/immediate maintenance need. The output should also be provided to users through mobile app.

- b) **Portable Vision Devices** for capturing the visual conditions of rails, sleepers, missing fittings, mud pumping locations and analyze the data by Artificial Intelligence for giving input to TCMMM for regular/ predictive and preventive measures based on threshold parameters furnished to the service provider.
 - c) **Development of Intelligent Track Condition Monitoring & Maintenance Management Software .**
 - d) **Maintenance Management Software** - Android/ios based softwares for hand held devices like tabs/mobiles etc. for measurement/recording required observations/ parameters at Field level including “in the field” data entry of track inspections, defects and repairs, for its implementation of TCMMM as per suggested yardsticks with due approval by DFCCIL.
 - e) Training to DFCCIL maintenance staff for use of TCMMM.
- (ii) To transmit the processed data and other required software files into an object storage arranged by the developer/agency. In case DFCCIL desires to transmit the processed data and other required software files into an object storage provided by DFCCIL as per any designated time schedule, the contractor has to do the same without any extra cost. A web and mobile application shall be developed by the developer to analyze, process and display the historical stored data in the format desired and approved by DFCCIL.
 - (iii) To provide central repository and back up inspection and defect records securely.
 - (iv) Generate reports and MIS in the prescribed manner and frequency.
 - (v) TCMMM to record, analyses and monitor Track Condition with details and parameters as under: (the list is indicative and not limited to following)
- a) **Track Parameters recording:**
 - Gauge
 - Cross level
 - Unevenness
 - Alignment
 - Twist
 - Rail Wear.
 - Rail, Sleepers, Fittings physical condition through visual devices at every identifiable location through (through VISION DEVICES with GPS)

- Recording and correlating of all running track asset information including special features like points & crossings, curves, gradients, other features of yard, LC, ROB, RUB, MIB, MJB, IMB etc.

b) Track Condition Analysis:

- Analyze the data / parameters feed recorded by measuring equipment/by inspecting official to monitor the health and performance of all assets as above and provide solutions to ensure that these are kept in the best of health all the time.
- To diagnose defects if any and suggest immediate/ planned/ predictive attention. Record rectifications done / due etc. giving alert for immediate attention through SMS, email, mobile app etc.
- To monitor the data being received from the devices and check for any abnormal/absurd data being received. In case any absurd data is noted, it should be notified with likely cause of the same.
- Track Recording and Oscillograph monitoring System data fed to the management software.
- Rail fracture – location/rail section/LWR wise, de-stressing & welding records.
- Rail Condition, Sleeper conditions, missing fittings (through VISION DEVICES) with the help of Artificial intelligence.
- It should provide maintenance work support related to ongoing maintenance works.
- It should give Graphic representation, recording GPS coordinates on reported defects and correlate the underlying asset with the available asset mapping system “
- Output/Retrieval of information in desired proforma/ format.
- Location needing attention- History
- History of each asset on its alteration/improvement/deterioration. The system should be able to analyze historical data and generate asset degradation model (deterioration of asset condition over time) so as to plan the maintenance activity before the asset reaches to the urgent attention level.
- Inspection and compliance
- Record and retrieval of data in requisite form.
- Module to feed the attention given by maintenance team in acceptable form and display the same in the various reports in the acceptable form.

c) Recording Frequency

- Track Measurements as above have to be taken in an interval of maximum 7 days for every running track of main line and loop lines (Frequency 15 days).
- Portable Vision Device can be attached to the Portable Track Condition Monitoring System for simultaneous reception of this data also along with other track parameters as above.

1.3.2.1.12 Service conditions

Equipment/system should be able to work satisfactorily under following service conditions:

- i) Ambient temperature: 0 degree C to 50 degree C
- ii) Rail temperature: (-) 5 degree C to (+) 70 degree C
- iii) Humidity: 100%
- iv) Rain fall: Fairly heavy
- v) Atmospheric condition: Very dusty and heavy fog
- vi) Electrified traction: Overhead electric (2 X 25KV AC traction)

- vii) Permissible rail wear: Vertical wear 13 mm, Lateral wear 10mm
- viii) The equipment should not get affected by induction effect of electric traction.
- ix) On DFCCIL network, the electrified traction consists of overhead electric system of 2 X 25 KV AC system with residual return current passing through one of the rails in the track. The equipment/system and its accuracy of measurement shall not get affected in any manner due to induction or any other effect of above stated electric traction.

1.3.2.1.13 Other Instructions:

- i) The Track Condition Monitoring should consist of Self Propelled/ Portable Geometry Car (With simple arrangement of trouble-free attachment with Rail based vehicles/Motor Trolleys/ RCRVs/ Tower wagon etc.).
- ii) The Track Measurement Device should be able to carry measurement at minimum speeds of 40 kmph.
- iii) The Track Measurement Device should be equipped to facilitate Turnouts measurements also at suitable speed.
- iv) It should be fitted with wheels which does not interfere with MSDC in Automatic Signaling Territory.
- v) It should be capable of working under tough conditions and work in temperature range of 0° C to 60 ° C and during rains.

1.3.3 Cost of the work: The estimated cost of the tendered work is approximately **Rs.17,09,84,250.00** (i.e Rs. 14,48,68,500/- plus GST@18%) (for 36 months)

1.3.4 The tenderer shall be governed by General Conditions of Contract (GCC), Preamble and General Instructions to Tenderers (GIT) and Special Conditions of Contract (SCC). Wherever, there is a conflict in any condition between GCC and Special Conditions of Contract mentioned in the tender documents, the condition mentioned in Special Conditions of Contract will prevail. However, Engineer's decision in this connection shall be final and binding.

Part-I, Chapter-IV and V of the tender document contains General Conditions of Contract and Special Conditions of Contract specific to this work and shall be applicable in the contract.

1.3.5 Location

Works are to be executed in the jurisdiction of Eastern and Western DFC. However, DFCCIL reserves right to change the site of work, anywhere in adjacent/adjoining area of the work defined in Para 1.3.2.1.1 above in the jurisdiction and the contractor shall be bound to execute the work.

1.3.6 Order of Precedence of Documents: In tender/contract, in case of any difference, contradiction, discrepancy, with regard to conditions of tender/contract, specifications, drawings, bill of quantities etc., forming part of the tender/contract, the following shall be the order of precedence:

- i. Letter of Award
- ii. Schedule of Items, Rates & Quantities
- iii. Special Conditions of Contract
- iv. Technical Specifications as given in tender documents
- v. Drawings

- vi. General Conditions of Contract
- vii. Indian Railways Unified Standard Specifications (Works and Material) updated with correction slips issued up to date of opening of tender
- viii. IR Specifications/Guidelines/ manuals
- ix. Relevant B.I.S. Codes

For example, if any Item is found common in Special Conditions of Contract and General Conditions of Contract then the provision given in Special Conditions of Contract will prevail over General Conditions of Contract for the same Item.

1.3.7 “LANGUAGE OF BID: The Bid, as well as all correspondence and document(s) relating to the bid exchanged by the Bidder and the DFCCIL, shall be written in English.”

1.3.8(a) Tender Bid

The Tender Bid shall have to be submitted in Two Packet System through IREPS as under:

Packet -A

Eligibility/Qualifying element of the Tender Bid along with other documents mentioned in para 1.3.8 (b) (i), here in after called “TECHNICAL BID “.

Packet - B

Price elements of the Tender Bid as per para 1.3.8 (b) (ii), herein after called “FINANCIAL BID”.

The TECHNICAL BID (Packet-A) shall be opened on the date of tender opening and the detailed scrutiny of TECHNICAL BID shall be carried out. The “FINANCIAL BID” (Packet-B) shall be opened only of those tenderers who qualify in "Technical bid". The detailed procedure for tender opening and processing is given in Para 1.3.11.

1.3.8(b) Form of Tender

Tenders not submitted in the proper Forms are liable to be rejected.

(i) Documents to be enclosed with the TECHNICAL BID (Packet - A):

S. No	Description	Documents
(1)	Offer letter complete.	Form No.1
(2)	Tenderer's credentials in accordance with para 1.3.18 (i) & (ii) of Preamble and General Instructions to Tenderers.	Form No. 2A, 2B & 2C
(3)	Earnest money in accordance with Para 1.3.10.23 & 1.3.13 and Cost of Tender Document in accordance with Para 1.3.10.22 of Preamble and General Instructions to Tenderers in an envelope.	

(4)	Written confirmation authorizing the signatory of the tender to commit the tenderer and other documents as per format as applicable.
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(ii) Documents to be enclosed with the FINANCIAL BID (Packet B):-

S. No	Description	Documents
(1)	Summary of Prices, Schedule of Prices & Total Prices	Price Schedules

1.3.9 Tender Document

This tender document consists of following five parts:

CHAPTERS	DESCRIPTION
TECHNICAL BID	
PART - I	
Chapter I	Notice Inviting Tender
Chapter II	General Information / Data sheet
Chapter III	Preamble and General Instructions to Tenderers
Chapter IV	General Conditions of Contract
Chapter V	Special Conditions of Contract
PART - II	Technical Specifications
PART - III	Tender Forms (including Schedule of Prices)
PART - IV	Drawings
FINANCIAL BID	
PART - V	Schedule of Price & Payment Schedule

1.3.10 Sale and Submission of Tender Document

1.3.10.1 Tender Document obtaining Process: as mentioned in the following clause(s)

1.3.10.2 It is mandatory for all Tenderers to have Class-III Digital Signature Certified from any of the Licensed Certifying Agencies ('CA') to participate in E-Tendering of DFCCIL, (Tenderer can see the list of Licensed CAs from the link www.cca.gov.in), in the name of the person who will submit the Online Tender and is authorized to do so.

1.3.10.3 To participate in E-Tender, it is mandatory for Tenderers to get themselves registered with the IREPS (www.ireps.gov.in) and to have User ID and Password.

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- 1.3.10.4** www.ireps.gov.in is the only website for submission of tender. ‘Vender Manual’ containing the detailed guidelines for E-Tendering is available on www.ireps.gov.in.
- 1.3.10.5** Tender shall be submitted through Online mode only at www.ireps.gov.in. Tender submitted by any other mode will not be accepted.
- 1.3.10.6** All the required documents (legible) as mentioned in clause 1.1.6 (Check list from S.No.1-5) have to be uploaded along with the offer on www.ireps.gov.in, **failing which, the bid shall be summarily rejected and shall not be considered for further evaluation.**
- 1.3.10.7** The detailed instructions of e-tendering can be read through website www.ireps.gov.in. The Addendum/Corrigendum, if any; shall be hosted on the website www.ireps.gov.in.
- 1.3.10.8** The supporting documents for Eligibility Criteria are essentially required to be uploaded on the website www.ireps.gov.in as bid shall be accepted through Online mode only.
- 1.3.10.9** Tenderers are required to give Un-Conditional Offers. A Conditional Offer is liable to be rejected. DFCCIL reserves the right to modify, expand, restrict, cancel, reject and re-float tender without assigning any reasons whatsoever .
- 1.3.10.10** The Tenderers shall closely peruse all the clauses, instructions, terms and conditions, scope of work, specification etc. as indicated in the Tender Document before quoting. Should the Contractor have any doubt about the meaning of any portion of the Tender Document or find discrepancies/omissions in the tender document issued or require clarification, he shall at once contact the authority inviting the tender for clarification at least twenty days before the due date of submission of the tender.
- 1.3.10.11** Bid Document shall be accompanied by all the documents required to be submitted as specified in the Tender Document along with all Addendums and Corrigendum.
- 1.3.10.12** All Bids shall be submitted in accordance with the instructions contained in the Tender Document (Bid Document). Non-compliance of any of the instructions contained in the Tender Document is liable in Bid being rejected.
- 1.3.10.13** After award of contract to the Successful Contractor, if it is observed that there is any discrepancy or ambiguity about any terms and conditions mentioned in the Tender Document, the interpretation of same given by DFCCIL shall be considered as final and binding.
- 1.3.10.14** Contractor must fill up all the schedules and furnish all the required information on e-modes per the instructions given in various sections of the Tender Document.
- 1.3.10.15** Submission of a tender by a tenderer implies that he had read all the tender documents including amendments/corrigendum if any, visited the site and made himself aware of the scope of the work to be done, local conditions and other factors having any bearing on the execution of the work.
- 1.3.10.16** DFCCIL reserves all rights to reject any tender including of those tenders who fail to comply with the instructions without assigning any reason whatsoever and does not bind itself to accept the lowest or any specific tender. The decision of DFCCIL in this regard shall be final and binding. Any failure on the part of the tenderer to observe the prescribed procedure and any attempt to canvass for the work will prejudice the tenderer’s bid.

1.3.10.17 Tenderers may note that they are liable to be disqualified at any time during tendering process in case any of the information furnished by them is not found to be true. Earnest Money Deposit (EMD) of such tenderer shall be forfeited. The decision of the DFCCIL in this regard shall be final and binding.

1.3.10.18 Evaluation of tenders will be made on the basis of fulfilment of Eligibility Criteria mentioned in the Bid Document. However, DFCCIL reserves the right to seek any clarification from the Contractor.

1.3.10.19 Modification/Substitution/Withdrawal of Bids: Once bid is submitted, the tenderer will not be allowed to withdraw the offer.

1.3.10.20 Opening and Evaluation of Bids:

(i) E-Tender shall be opened Online at the address given below at the time and date as specified in Chapter-I (Notice Inviting Tender) in the presence of Tenderers or their authorized representatives if they choose to attend the Online Tender Opening.

(ii) **Address: Online Opening of Tender**

Corporate Office, Dedicated Freight Corridor Corporation of India Ltd., Supreme Court Metro Station Building Complex, New Delhi-110001

(iii) For participating in the tender, the Authorized Signatory holding Power of Attorney shall be the Digital Signatory. In case, the Authorized Signatory holding Power of Attorney and Digital Signatory are not same, the Bid shall be considered non-Responsive.

(iv) The Authority shall Open Bid Documents received in electronic form Online at **15.30 hours on 31/05/2022**.

1.3.10.21 Deadline for Submission of Tender:

Tenderer must ensure to complete the tender submission process in time as www.ireps.gov.in will stop accepting any Online Tender after Tender Closing Due Date & Time.

1.3.10.22 Cost of Tender Document:

The Tenderer shall deposit cost of tender as prescribed, online through payment gateway of www.ireps.gov.in

1.3.10.23 Earnest Money Deposit (Bid Security):

(i) The tenderer must deposit the amount of Earnest Money for the amount prescribed, online through the payment gateway on www.ireps.gov.in

(ii) Tenders received without Earnest Money in full in the manner prescribed above shall be summarily rejected.

(iii) The Earnest Money Deposit of the Successful Tenderer will be retained towards part of Security Deposit.

(iv) In case of Unsuccessful Tenderers, the Earnest Money will be refunded to them without interest after finalization of the Tender as promptly as possible. The Earnest Money of the Successful Tenderer shall be converted to Retention Money/Security Deposit when the Successful Tenderer has furnished the Performance Security and signed the Contract Agreement.

v) Dedicated Freight Corridor Corporation of India Limited (DFCCIL) reserves the right of

forfeiture of Earnest Money Deposit (EMD) in case of Successful Tenderer if:

- a) Does not execute the Contract Agreement within 30 (thirty) days from the date of Issue of Letter of Acceptance; or
 - b) Does not submit Performance Security in the form of Bank Guarantee of the requisite value (equal to 3% of contract value) as per Part-III (Tender Forms) of Tender Document, within 21 days of issue of Letter of Acceptance; or
 - c) Does not commence the work within 7 days after receipt of Letter of Acceptance or date as specified in the Letter of Acceptance.
 - d) Withdraws the offer during the period of validity/extended validity.
 - e) When any of the information furnished by the tenderer not found true.
- vi) The forfeiture of Earnest Money Deposit (EMD) shall also be applicable if work is terminated at any stage as per terms and conditions of the contract.

1.3.10.24 Clause applicable for tender documents downloaded from Internet

Tenderer/s have to download tender documents at their own cost, for the purpose of perusal as well as for using the same as tender document for submitting their offer. Master copy of the tender document will be available in the office of Group General Manager/WC-I. After award of the work, an agreement will be drawn up. The agreement shall be prepared based on the master copy available in the office of Group General Manager/WC-I, Dedicated Freight Corridor Corporation of India Limited, New Delhi and not based on the tender documents submitted by the Tenderer. In case of any discrepancy between the tender documents downloaded from the internet and the Master Copy, later shall prevail and will be binding on the Tenderers. No claim on this account shall be entertained.

1.3.10.25 Complete tender documents must be submitted duly completed in all respects on www.ireps.gov.in upto **15.00hrs on 31/05/2022**. The “**Packet-A (TECHNICAL BID)**” will be opened at **15.30 hrs** on the same day and read out in the presence of such tenderer(s) as is/are present. In case the intended date for opening of tenders is declared a holiday, the tenders will be opened on the next working day at the sometime. Any modified date and time for submission of tenders shall be uploaded on website www.ireps.gov.in. The detailed procedure of tender opening will be as per para 1.3.5.

1.3.10.26 The rates should be quoted in figures as well as in words. If there is variation between rates quoted in figures and in words, the rate quoted in ‘words’ shall be taken as correct. If more than one or improper rates are tendered for the same item, the tender is liable to be rejected.

1.3.10.27 Each page of the tender papers is to be signed by the tenderers or such person/s on his/their behalf who is/are legally authorized to sign for him/them.

1.3.10.28 Tenders containing erasures and/or alteration of the tender documents are liable to be rejected. Any correction made by Tenderer(s) in his/their entries must be attested by him/them.

1.3.10.29 Pre-bid conference: On 04/05/2022 at 15.00hrs in DFCCIL Corporate Office , New Delhi

All communication between the Employer and the tenderer shall be in writing. For the purposes

of seeking clarification, the Employer's addressees:

Attention:

Mr. Arun Kumar Tiwari, Group General Manager/WC-I,

Room No.324, Corporate Office, Dedicated Freight Corridor Corporation of India Ltd., 3rd floor,
Supreme Court Metro Station Building Complex, Pragati Maidan, New Delhi -110001, INDIA;

Mob: 9717636957 **Tel:** +91-11-23454683; **Fax:** +91-11-2345-4701

e-mail: aktiwari@dfcc.co.in

1.3.11 Opening of Tender:

- (a) Tender will be opened at **15.30 hrs on 31/05/2022** at the Dedicated Freight Corridor Corporation of India Limited, Corporate Office, New Delhi in the presence of the tenderers or their representatives as may be present at the prescribed date and time.
- (b) After the opening of “TECHNICAL BID” (Packet-A) of all the tenderers, these bids shall be scrutinized and analysed. If found necessary by the Employer, the tenderers shall be asked to furnish clarifications, if required. The names of the tenderers whose bid are considered complete, responsive and meet eligibility criteria shall be short listed.
- (d) The **FINANCIAL BID (Packet –B)** shall be opened on a subsequent date and time duly notified well in advance. Financial bid of the tenders who do not qualify the technical bid shall not be opened. The time of opening, date and venue shall be advised to qualified tenderers well in advance to enable them to depute their representative. The earnest money of non-qualifying tenderers will be returned back within a reasonable period of completion of results of technical bid.

1.3.12 Validity of Tender

Tenderer shall keep his offer open for a minimum period of **120 days** from the date of opening of the tender or as mentioned in the Tender Notice.

1.3.13 Earnest Money

- (a) The Earnest money should be deposited/paid online through payment gateway of www.ireps.gov.in as mentioned earlier vide clause 1.3.10.23.
- (b) It shall be understood that the tender documents have been sold/issued to the tenderer and the tenderer is permitted to tender in consideration of stipulation on his part, that after submitting his tender he will not resile from his offer or modify the terms and conditions. Should the tenderer fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the DFCCIL.
- (c) The earnest money of the unsuccessful tenderer(s) will, save as here- in-before provided, be returned to the unsuccessful tenderer(s) within a reasonable time but the DFCCIL shall not be responsible for any loss or depreciation that may happen for the due performance of the stipulation to keep the offer open for the period specified in the tender documents or to the earnest money while in their possession nor be liable to pay interest thereon.

NOTE: No interest shall be paid by DFCCIL on earnest money amount.

1.3.14 Execution of Contract Agreement

The Tenderer whose tender is accepted shall be required to appear in person at the office of **GGM/WC-I/DFCCIL, New Delhi** or if a firm or corporation, a duly authorized representative shall so appear and execute the contract agreement within 30 days after notice that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement affected by the acceptance of the tender in which case the full value of the earnest money accompanying the tender shall stand forfeited without prejudice to any other rights or remedies.

In the event of any tenderer whose tender is accepted refuses to execute the contract agreement as here in before provided, DFCCIL may determine that such tenderer has abandoned the contract and there upon his tender and acceptance thereof shall be treated as cancelled and DFCCIL shall be entitled to forfeit the full amount of the Earnest Money.

1.3.15 Security Deposit on Acceptance of Tender

The security deposit / rate of recovery / mode of recovery on acceptance of tender shall be as per the Para 14.(1) to 14.(3) of General Conditions of Contract (GCC).

1.3.16 Tenderer's Address:

The tenderer should state in the tender his postal/electronic e-mail address(s) legibly and clearly. Any communication sent in time, to the tenderer by post at his said address shall be deemed to have reached the tenderer duly and in time. Important documents should be sent by registered post.

1.3.17 Right of DFCCIL to Deal with Tenders

- (a) The DFCCIL reserves the right to cancel/ accept the tender in whole or in part without assigning reasons for any such action.
- (b) The authority for the acceptance of the tender will rest with the DFCCIL. It shall not be obligatory on the said authority to accept the lowest tender or any other tender and no tenderer(s) shall demand any explanation for the cause of rejection of his/their tender nor the DFCCIL undertake to assign reasons for declining to consider or reject any particular tender or tenders.

1.3.18(i) Eligibility Criteria

(A) : Technical Eligibility Criteria

Criteria	Compliance Requirement		Documents
Requirement	Single Entity	Joint venture	Submission Requirements
<p>The tenderer must have successfully completed the following during last 07 (seven) years, ending last day of month previous to the one in which tender is invited:</p> <p>Any work of similar nature i.e. <u>“Any work involving supply and commissioning of Track Geometry Measurement System through portable track geometry system capable of capturing data at speed not less than 40kmph”</u>, costing not less than the amount equal to 20% of advertised value tender and any works of having successfully designed, developed, commissioned and operated Track Maintenance Management System Software valuing not less than 15% of advertised value of tender</p> <p>Or</p> <p>Work involving self propelled automated/ intelligent rail track condition and maintenance monitoring management system valuing not less than 35% of advertised value of tender.</p>	Must meet requirement	<p>‘JV in its own name & style’ - Must meet requirement.</p> <p>Or</p> <p>As per clause 1.3.24.16.1</p>	<p>The tenderer shall submit the completion certificates / certified completion certificates from the client(s) and or Photostat of original certificates of client. The tenderers shall submit a copy of notarized affidavit on a non-judicial stamp paper stating that all their statements/ documents submitted along with bid are true and factual. Standard format of the affidavit to be submitted by the bidder is enclosed as Form-20. Non submission of notarized affidavit by the bidder shall result in summarily rejection of his/their bid. It shall be mandatorily incumbent upon the tenderer to identify, state and submit the supporting documents duly self-attested by which they/he is qualifying the Qualifying Criteria mentioned in the Tender Document.</p>

Note: 1. Value of completed work done by a member in an earlier JV Firm shall be reckoned only to the extent of the concerned member’s share in that JV firm for the purpose of satisfying his / her

compliance to the above mentioned technical eligibility criteria in the tender under consideration.

2. In case the tenderer/s is a partnership firm, the work experience shall be in the name of partnership firm only.

(B) : Financial Eligibility Criteria

Criteria	Compliance Requirement		Documents
Requirement	Single Entity	Joint Venture	Submission Requirements
The contractual payments received by the tenderer / JV firm, or the arithmetic sum of contractual payments received by all the members of the JV firm in the previous three financial year and the current financial year up to the date of submission of tender shall be at least 150% of advertised value of tender.	Must meet Requirement	Must meet requirement	The tenderers shall submit Certificates to this effect which may be an attested Certificate from the concerned department /client and/or Audited Balance Sheet duly certified by the Chartered Accountant etc. The tenderers shall submit a copy of notarized affidavit on a non-judicial stamp paper stating that all their statements/documents submitted along with bid are true and factual. Standard format of the affidavit to be submitted by the bidder is enclosed as Form-20 . Non submission of notarized affidavit by the bidder shall result in summarily rejection of his/their bid. It shall be mandatorily incumbent upon the tenderer to identify, state and submit the supporting documents duly self-attested by which they/he is qualifying the Qualifying Criteria mentioned in the Tender Document.

Note:

1. Contractual payments received by a Member in an earlier JV firm shall be reckoned only to extent of the concerned member's share in that JV Firm for the purpose of satisfying compliance of the above mentioned financial eligibility criteria in tender for considerations.
2. In case the tenderer/s is a partnership firm, the turnover etc. shall be in the name of partnership firm only.
3. In case tenderer submits work experience certificate issued by public listed company, the tenderer shall also submit along with work experience certificate, the relevant copy of work order, bill of quantities, bill wise details of payment received duly certified by Chartered Accountant, TDS certificates for all payments received and copy of final/last bill paid by company in support of above work experience certificate.
4. Separate completed works of minimum required values for each component shall also be considered for fulfilment of technical eligibility criteria.
5. Work experience certificate from private individual shall not be considered. However, work experience certificates issued by Railways including Foreign Railway, any Central /State Govt. Department / PSU of India or Autonomous Body of Central / State Govt. of India shall be accepted. Work experience certificate issued by Public listed company having average annual turnover of Rs.500 crore and above in last 3 financial years excluding current financial year, shall also be considered, provided the work experience certificate has been issued by a person authorized to issue such certificates.

1.3.18 (ii) Credentials of Tenderer

The tenderer shall provide satisfactory evidence in support of their technical and financial eligibility, which are acceptable to DFCCIL, as follows:

- (a) For Technical eligibility criteria, the details will be submitted in Form No. 2A along with supporting documents.
- (b) For Financial eligibility criteria, the details will be submitted in Form No. 2B along with supporting documents.
- (c) The tenderer shall submit the completion certificates/certified completion certificates from the client(s) or certified Photostat of original certificates of client. All documents either original or photocopy should be attested by Notary. These certificates should indicate the details of works carried out and successful commissioning of similar type of work executed by the tenderer. Completion certificate issued by Railways including Foreign Railway, any Central /State Govt. Department / PSU of India or Autonomous Body of Central / State Govt. of India will be accepted. The certificate from Private individual/Private Company for whom such works are executed shall not be accepted. In case, the work is executed for Public Limited Company, copy of work order, bill of Quantity, TDS certificate payments received and copy of final/last bill paid by client shall be submitted.

The following will be applicable for evaluating the eligibility:

- (i) Similar nature of work physically completed within the qualifying period, i.e. last 7 financial year and current financial year (even though the work might have commenced before the qualifying period) shall only be considered in evaluating the eligibility.
- (ii) The total value of similar nature of work completed during the qualifying period and not the payment received within qualifying period alone, shall be considered. In case, the final bill of similar nature of work has not been passed and final measurements have not been recorded, the paid amount including statutory deductions is to be considered. If final measurements have been recorded and work has been completed with negative variation, then also the paid amount including statutory deductions is to be considered.

However, if final measurements have been recorded and work has been completed with positive variation, but variation has not been sanctioned, original contract agreement value or last sanctioned contract agreement value whichever is lower, shall be considered for judging eligibility.

- (iii) As proof of sufficient financial capacity and organizational resources, contractor should have received total payments against satisfactory execution of all completed /on-going works of all types (not confined to only similar works) during the last three financial years and in the current financial year (up to the date of submission of the tender) of a value not less than 150% of advertised tender value.
- (iv) Tenderer shall submit a statement of contractual payments received during last three financial years and current financial year on the prescribed Proforma as per Form No. 2B. The details shall be based on the form 16-A/ 26-AS issued by the employer i.e. the certificate of deduction of tax at source as per Income Tax Act 1961. The photocopies of Form 16-A shall

be enclosed duly attested by Notary Public with seal and Notarial Stamp thereon or a certificate from auditor or audited balance sheet certified by Chartered Accountant clearly indicating the contractual amount received duly attested by Notary Public with seal and Notarial Stamp thereon.

- (v) The tenderer shall be considered disqualified/in-eligible if:
- (a) The Tenderer or any of its partners and/or subcontractors included in the tender has been banned for business with *Ministry of Railways* along with any of its attached and subordinate offices through an order issued by Ministry of Railways as per list available on Web site (<http://www.indianrailway.gov.in/railway board>) of Railway Board/DFCCIL pertaining to banning of Business, with the banning being valid as on the date of submission the Tender.
 - (b) The Tenderer or any of its partners has suffered bankruptcy/insolvency or it is in the process of winding-up or there is a case of insolvency pending before any Court on the deadline of submission of application.
- (vi) For the purposes of conversion of foreign currency to Indian rupees (INR) Bank Currency (BC) selling exchange rates as published by State Bank of India on the date 28 days prior to date of submission of tender shall be used. For few of the currencies where BC selling rates are not published by SBI or Reserve Bank of India, the exchange rate may be obtained from website- <http://www.oanda.com/currency/historical-rates> or <http://www.xe.com>.
- (vii) For the purpose of evaluation of proposals, all values given in INR in eligible qualification criteria and the values provided by the applicants in the proposal in the currencies other than INR shall be converted into one i.e. INR as per exchange rate mentioned in para (vi) above.

1.3.18 (iii) Care in Submission of Tenders:

- (i) Before submitting a tender, the tenderer will be deemed to have satisfied himself by actual inspection of the site and locality of the works, that all conditions liable to be encountered during the execution of the works are taken into account and that the rates he enters in the tender forms are adequate and all-inclusive to accord with the provisions in Clause-32 of the Standard General Conditions of Contract for the completion of works to the entire satisfaction of the Engineer.
- (ii) Tenderers will examine the various provisions of The Central Goods and Services Tax Act, 2017(CGST)/ Integrated Goods and Services Tax Act, 2017(IGST)/ Union Territory Goods and Services Tax Act, 2017(UTGST)/ respective state's State Goods and Services Tax Act (SGST) also, as notified by Central/State Govt. & as amended from time to time and applicable taxes before bidding. Tenderers will ensure that full benefit of Input Tax Credit (ITC) likely to be availed by them is duly considered while quoting rates.
- (iii) The successful tenderer who is liable to be registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN along with other details required under CGST/IGST/UTGST/SGST Act to railway immediately after the award of contract,

without which no payment shall be released to the Contractor. The Contractor shall be responsible for deposition of applicable GST to the concerned authority.

- (iv) In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST Act, the railway shall deduct the applicable GST from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned authority.
 - (v) When work is tendered for by a firm or company, the tender shall be signed by the individual legally authorized to enter into commitments on their behalf.
 - (vi) DFCCIL will not be bound by any power of attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the contract. It may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Contractor.
- 1.3.18.(iv)** Documents testifying tenderer previous experience and financial status should be produced along with the tender.

Tenderer(s) shall submit along with his / their tender:

- (i) Certificates and testimonials regarding contracting experience for the type of job for which tender is invited with list of works carried out in the past.
- (ii) Certificates which may be an attested Certificate from the client, Audited Balance Sheet duly certified by the Chartered Accountant etc regarding contractual payments received in the past.
- (iii) The list of personnel / organization on hand and proposed to be engaged for the tendered work. Similarly list of Plant & Machinery available on hand and proposed to be inducted and hired for the tendered work.
- (iv) A copy of notarized affidavit on a non-judicial stamp paper stating that they are not liable to be disqualified and all their statements/documents submitted along with bid are true and factual. Standard format of the affidavit to be submitted by the bidder is enclosed as **Form-20**. Non submission of a copy of notarized affidavit by the bidder shall result in **summarily rejection** of his/their bid. It shall be mandatorily incumbent upon the tenderer to identify, state and submit the supporting documents duly self-attested by which they/he are/is qualifying the Qualifying Criteria mentioned in the Tender Document.
- (v) The DFCCIL reserves the right to verify all statements, information and documents submitted by the bidder in his tender offer, and the bidder shall, when so required by the DFCCIL, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the DFCCIL shall not relieve the bidder of its obligations or liabilities hereunder nor will it affect any rights of the DFCCIL thereunder.
- (vi) (a) In case of any information submitted by tenderer is found to be false forged or incorrect at any time during process for evaluation of tenders, it shall lead to forfeiture of the tender Earnest Money Deposit besides banning of business for a period of upto five years.

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- (b) In case of any information submitted by tenderer is found to be false forged or incorrect after the award of contract, the contract shall be terminated. Earnest Money Deposit (EMD), Performance Guarantee and Security Deposit available with the DFCCIL shall be forfeited. In addition, other dues of the contractor, if any, under this contract shall be forfeited and agency shall be banned for doing business for a period of upto five years.
- 1.3.19.** Non-compliance of any of the conditions set forth therein above is liable to result in the tender being rejected.
- 1.3.20. Execution of Contract Documents:** The successful Tenderer(s) shall be required to execute an agreement with the DFCCIL acting through the GGM/WC-I, DFCCIL for carrying out the work according to Standard General Conditions of Contract, Special Conditions / Specifications annexed to the tender and Standard Specifications (Works and Materials) of DFCCIL as amended/corrected upto latest correction slips, mentioned in tender form (First Sheet).
- 1.3.21. Partnership Deeds, Power of Attorney etc.:**
- (i) The tenderer shall clearly specify whether the tender is submitted on his own (Proprietary Firm) or on behalf of a Partnership Firm / Company / Joint Venture (JV) / Registered Society / Registered Trust etc. The tenderer(s) shall enclose the attested copies of the constitution of their concern and copy of PAN Card along with their tender. Tender Documents in such cases are to be signed by such persons as may be legally competent to sign them on behalf of the firm, company, association, trust or society, as the case may be.
 - (ii) In case tenderer is other than sole proprietorship firm, following documents shall be submitted by the tenderer:
 - (a) **Partnership Firm:** The tenderer shall submit (i) a copy of Partnership Deed and (ii) a copy of Power of Attorney (duly registered) in favour of an individual to sign the tender documents and create liability against the Firm.
 - (b) **Joint Venture (JV):** The tenderer shall submit documents required for JV as mentioned in the relevant Clause.
 - (c) **Company registered under Companies Act-2013:** The tenderer shall submit (i) the copies of **MOA (Memorandum of Association) / AOA (Articles of Association)** of the company; and (ii) A copy of Authorization/Power of Attorney issued by the Company (backed by the resolution of Board of Directors) in favour of the individual to sign the tender on behalf of the company and create liability against the company.
 - (d) **LLP (Limited Liability Partnership):** If the tender is submitted on behalf of a LLP registered under LLP Act-2008, the tenderer shall submit alongwith the tender- (i) a copy of LLP Agreement, (ii) a copy of Certificate of Incorporation; and (iii) a copy of Power of Attorney/Authorisation issued by the LLP in favour of the individual to sign the tender on behalf of the LLP and create liability against the LLP.

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- (e) **Registered Society & Registered Trust:** The tenderer shall submit (i) a copy of the Certificate of Registration, (ii) Deed of Formation; and (iii) a copy of Power of Attorney in favour of the individual to sign the tender documents and create liability against the Society/Trust.
 - (iii) If it is NOT mentioned in the submitted tender that tender is being submitted on behalf of a Sole Proprietorship firm / Partnership firm / Joint Venture / Registered Company etc., then the tender shall be treated as having been submitted by the individual who has signed the tender.
 - (iv) After opening of the tender, any document pertaining to the constitution of Sole Proprietorship Firm / Partnership Firm / Registered Company/ Registered Trust / Registered Society etc. shall be neither asked nor considered, if submitted.
 - (v) A tender from JV / Partnership firm etc. shall be considered only where permissible as per the tender conditions.
 - (vi) DFCCIL will not be bound by any change in the composition of the firm made subsequent to the submission of tender. DFCCIL may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Contractor.

1.3.22. The tenderer whether sole proprietor, a company or a partnership firm / joint venture (JV) / registered society / registered trust etc., if they want to act through agent or individual partner(s), should submit along with the tender, a copy of power of attorney duly stamped and authenticated by a Notary Public or by Magistrate in favour of the specific person whether he/they be partner(s) of the firm or any other person specifically authorizing him/them to submit the tender, sign the agreement, receive money, co-ordinate measurements through contractor's authorized engineer, witness measurements, sign measurement books, compromise, settle, relinquish any claim(s) preferred by the firm and sign "No Claim Certificate" and refer all or any disputes to arbitration.

1.3.23. Employment/Partnership etc. of Retired Employees:

- (a) Should a tenderer be a retired Engineer of the gazetted rank or any other gazetted officer working before his retirement, whether in the executive or administrative capacity or whether holding a pensionable post or not, in the Engineering or any other department of any of the Departments owned and administered by the President of India for the time being, or should a tenderer being partnership firm / company / joint venture (JV) / registered society / registered trust etc have as one of its partners a retired Engineer or retired gazetted officer as aforesaid, or should a tenderer being an incorporated company have any such retired Engineer or retired officer as one of its directors or should a tenderer have in his employment any retired Engineer or retired gazetted officer as aforesaid, the full information as to the date of retirement of such Engineer or gazetted officer from the said service and in case where such Engineer or officer had not retired from government service at least 1 year prior to the date of submission of the tender as to whether permission for taking such contract, or if the Contractor be a partnership firm or an incorporated company, to become a partner or director as the case may be, or to take the employment under the Contractor, has been obtained by the tenderer or the Engineer or officer, as the case may be from the President of India or any officer, duly authorized by him in this behalf, shall be clearly stated in writing at the time of submitting the tender. Tenders without the information above referred to or a statement to the effect that no such retired Engineer or retired gazetted officer is so associated with the tenderer, as the case may be, shall be rejected.

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- (b) Should a tenderer or Contractor being an individual on the list of approved Contractors, have a relative(s) or in the case of partnership firm/ company / joint venture (jv) / registered society / registered trust etc. one or more of his shareholder(s) or a relative(s) of the shareholder(s) employed in gazetted capacity in the Engineering or any other department of the DFCCIL, the authority inviting tenders shall be informed of the fact at the time of submission of tender, failing which the tender may be disqualified/rejected or if such fact subsequently comes to light, the contract may be rescinded in accordance with provision in Clause 55 of standard general conditions of contract.

JOINT VENTURE (JV) IN WORKS TENDERS/OFFERS

- 1.3.24.1 Participation of Joint Venture(JV) in Works Tender:** This Clause shall be applicable for works tenders wherein tender documents provide for the same.
- 1.3.24.2** Separate identity/name shall be given to the Joint Venture.
- 1.3.24.3** Number of members in a JV shall not be more than five. One of the members of the JV shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV. The other members shall have a share of not less than 10% each. In case of JV with foreign member(s), the Lead Member has to be an Indian firm/company with a minimum share of 51%.
- 1.3.24.4** A member of JV shall not be permitted to participate either in individual capacity or as a member of another JV in the same tender.
- 1.3.24.5** The tender form shall be purchased and submitted only in the name of the JV and not in the name of any constituent member. The tender form can however be submitted by JV or any of its constituent member or any person authorized by JV through Power of Attorney to submit the tender .
- 1.3.24.6** Earnest Money Deposit (EMD) shall be deposited by JV or authorized person of JV through e-payment gateway or as mentioned in tender document.
- 1.3.24.7** A copy of Memorandum of Understanding (MoU) duly executed by the JV members on stamp paper, shall be submitted by the JV along with the tender. The complete details of the members of the JV, their share and responsibility in the JV etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU.
- 1.3.24.8** Once the tender is submitted, the MoU shall not be modified /altered /terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- 1.3.24.9** Approval for change of constitution of JV shall be at the sole discretion of the Railway. The constitution of the JV shall not be allowed to be modified after submission of the tender bid by the JV, except when modification becomes inevitable due to succession laws etc., provided further that there is no change in qualification of minimum eligibility criteria by JV after change of composition. However, the Lead Member shall continue to be the Lead Member of the JV. Failure to observe this requirement would render the offer invalid.

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- 1.3.24.10** Similarly, after the contract is awarded, the constitution of JV shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.
- 1.3.24.11** On award of contract to a JV, a single Performance Guarantee shall be submitted by the JV as per tender conditions. All the Guarantees like Performance Guarantee etc. shall be accepted only in the name of the JV and no splitting of guarantees among the members of the JV shall be permitted.
- 1.3.24.12** On issue of LOA (Letter of Acceptance), the JV entity to whom the work has been awarded, with the same shareholding pattern as was declared in the MOU/JV Agreement submitted along with the tender, shall be got registered before the Registrar of the Companies under 'The Companies Act -2013' (in case of Company) or before the Registrar/Sub-Registrar under the 'The Indian Partnership Act, 1932' (in case of Partnership Firm) or under 'The LLP Act 2008' (in case of LLP). A separate PAN shall be obtained for this entity. The documents pertaining to this entity including its PAN shall be furnished to the Railways before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation within 60 days of issue of LOA, contract is liable to be terminated. In case contracts terminated railway shall be entitled to forfeit the full amount of the Earnest Money Deposit and other dues payable to the Contractor under this contract. The entity so registered, in the registered documents, shall have, inter-alia, following Clauses:
- 1.3.24.12.1** Joint And Several Liability - Members of the entity to which the contract is awarded, shall be jointly and severally liable to the DFCCIL for execution of the project in accordance with General and Special Conditions of Contract. The members of the entity shall also be liable jointly and severally for the loss, damages caused to the DFCCIL during the course of execution of the contractor due to non-execution of the contract or part thereof.
- 1.3.24.12.2** Duration of the Registered Entity - It shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period after the work is completed.
- 1.3.24.12.3** Governing Laws - The Registered Entity shall in all respect be governed by and interpreted in accordance with Indian Laws.
- 1.3.24.13** Authorized Member - Joint Venture members in the JV MoU shall authorize one of the members on behalf of the Joint Venture to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV.
- 1.3.24.14** No member of the Joint Venture shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the DFCCIL in respect of the said tender/contract.

1.3.24.15 Documents to be closed by the JV along with the tender:

1.3.24.15.1 In case one or more of the members of the JV is/are partnership firm(s), following documents shall be submitted:

- i. A notarized copy of the Partnership Deed,
- ii. A copy of consent of all the partners or individual authorized by partnership firm, to enter into the Joint Venture Agreement on a stamp paper,
- iii. A notarized or registered copy of Power of Attorney in favor of the individual to sign the MOU/JV Agreement on behalf of the partnership firm and create liability against the firm.

1.3.24.15.2 In case one or more members is/are HUF, the following documents shall be closed:

A copy of notarized affidavit on Stamp Paper declaring that he who is signing the affidavit on behalf of HUF is in the position of 'Karta' of Hindu Undivided Family (HUF) and he has the authority, power and consent given by other members to act on behalf of HUF.

1.3.24.15.3 In case one or more members of the JV is/are companies, the following documents shall be submitted:

- iv. A copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement,
- v. The copies of **MOA (Memorandum of Association)/ AOA (Articles of Association)** of the company
- vi. A copy of Certificate of Incorporation
- vii. A copy of Authorization/copy of Power of Attorney issued by the Company (backed by the resolution of Board of Directors) in favour of the individual to sign the tender, sign MOU/JV Agreement on behalf of the company and create liability against the company

1.3.25.15.4 All the Members of JV shall certify that they are not blacklisted or debarred by DFCCIL/Railways or any other Ministry / Department of the Govt. of India from participation in tenders/contract on the date of opening of bids either in their individual capacity or as a member of the JV in which they were/are members.

1.3.24.15.5 All other documents in terms of explanatory notes in clause 1.3.18 above.

1.3.24.16 Credentials & Qualifying Criteria: Technical, financial eligibility and Bid capacity of the JV shall be adjudged based on satisfactory fulfilment of the following criteria:

1.3.24.16.1 Technical Eligibility Criteria

The technical eligibility for each component of work as per para 1.3.18 (i) above, shall be satisfied by either the 'JV in its own name & style' or 'any member of JV having min 26% share'.

Note :

Value of a completed work done by a Member in an earlier JV shall be reckoned only to the extent of the concerned member's share in that JV for the purpose of satisfying his/her compliance to the above mentioned technical eligibility criteria in the tender under consideration.

1.3.24.16.2 Financial Eligibility Criteria

The JV shall satisfy the requirement of "Financial Eligibility" mentioned at para 1.3.18 (ii) above. The "financial capacity" of the lead partner of JV shall not be less than 51% of the financial eligibility criteria mentioned at para 1.3.18(ii) above.

The arithmetic sum of individual "financial capacity" of all the members shall be taken as JV's "financial capacity" to satisfy this requirement.

Note: Contractual payment received by a Member in an earlier JV shall be reckoned only to the extent of the concerned member's share in that JV for the purpose of satisfying compliance of the above mentioned financial eligibility criteria in the tender under consideration.

1.3.25 Participation of Partnership Firms in works tenders:

- 1.3.25.1** The Partnership Firms participating in the tender should be legally valid under the provisions of the Indian Partnership Act.
- 1.3.25.2** The partnership firm should have been in existence or should have been formed prior to submission of tender. Partnership firm should have either been registered with the Registrar or the partnership deed should have been notarized prior to date of tender opening as per the Indian Partnership Act.
- 1.3.25.3** Separate identity / name should be given to the partnership firm. The partnership firm should have PAN / TAN number in its own name and PAN / TAN number in the name of any of the constituent partners shall not be considered. The valid constituents of the firm shall be called partners.
- 1.3.25.4** Once the tender has been submitted, the constitution of the firm shall not be allowed to be modified / altered / terminated during the validity of the tender as well as the currency of the contract except when modification becomes inevitable due to succession laws etc., in which case prior permission should be taken from DFCCIL and in any case the minimum eligibility criteria should not get vitiated. The re-constitution of firm in such cases should be followed by a notary certified Supplementary Deed. The approval for change of constitution of the firm, in any case, shall be at the sole discretion of the DFCCIL and the tenderer shall have no claims what-so-ever. Any change in the constitution of Partnership firm after opening of tender shall be with the consent of all partners and with the signatures of all partners as that in the Partnership Deed. Failure to observe this requirement shall render the offer invalid and full EMD shall be forfeited.

If any Partner/s withdraws from the firm after opening of the tender and before the award of the contract, the offer shall be rejected. If any new partner joins the firm after opening of tender but prior to award of contract, his / her credentials shall not qualify for consideration towards eligibility

criteria either individually or in proportion to his share in the previous firm. In case the tenderer fails to inform DFCCIL beforehand about any such changes / modification in the constitution which is inevitable due to succession laws etc. and the contract is awarded to such firm, then it will be considered a breach of the contract conditions liable for determination of the contract under Clause 55 of General Conditions of Contract.

1.3.25.5A partner of the firm shall not be permitted to participate either in his individual capacity or as a partner of any other firm in the same tender.

1.3.25.6The tender form shall be submitted only in the name of partnership firm. The EMD shall be deposited by partnership firm through e-payment gateway or as mentioned in tender document. The EMD submitted in the name of any individual partner or in the name of authorized partner (s) shall not be considered.

1.3.25.7One or more of the partners of the firm or any other person (s) shall be designated as the authorized person (s) on behalf of the firm, who will be authorized by all the partners to act on behalf of the firm through a “Power of Attorney”, specially authorizing him / them to submit & sign the tender, sign the agreement, receive payment, witness measurements, sign measurement books, make correspondences, compromise / settle / relinquish any claim (s) preferred by the firm, sign “No Claim Certificate”, refer all or any dispute to arbitration and to take similar such action in respect of the said tender / contract. Such “Power of Attorney” shall be notarized / registered and submitted along with the tender.

1.3.25.8 On issue of Letter of Acceptance (LOA) to the partnership firm, all the guarantees like Performance Guarantee etc, shall be submitted only in the name of the partnership firm and no splitting of guarantees among the partners shall be acceptable.

1.3.25.9 On issue of Letter of Acceptance (LOA), contract agreement with partnership firm shall be executed in the name of the firm only and not in the name of any individual partner.

1.3.25.10In case the Letter of Acceptance (LOA) is issued to a partnership firm, the following undertakings shall be furnished by all the partners through a notarized affidavit, before signing of contract agreement.

(a) Joint and several liabilities:

The partners of the firm to which the Letter of Acceptance (LOA) is issued, shall be jointly and severally liable to the DFCCIL for execution of the contract in accordance with General and Special Conditions of the Contract. The partners shall also be liable jointly and severally for the loss, damages caused to the DFCCIL/Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.

(b) Duration of the partnership deed and partnership firm agreement:

The partnership deed/partnership firm agreement shall normally not be modified/altered/terminated during the currency of contract and the maintenance period after the work is

completed as contemplated in the conditions of the contract. Any change carried out by partners in the constitution of the firm without permission of DFCCIL, shall constitute a breach of the contract, liable for determination of the contract under Clause 55 of the General Conditions of Contract.

- (c) Governing laws: The partnership firm agreement shall in all respect be governed by and interpreted in accordance with the Indian laws.
- (d) No partner of the firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other partner/s and that of the DFCCIL.

1.3.25.11 The tenderer shall clearly specify that the tender is submitted on behalf of a partnership firm. The following documents shall be submitted by the partnership firm, with the tender:

- (a) A copy of partnership deed.
- (b) A copy of Power of Attorney (duly registered as per prevailing law) in favour of the individual to tender for the work, sign the agreement etc. and create liability against the firm.
- (c) An undertaking by all partners of the partnership firm that they are not blacklisted or debarred by DFCCIL or any other Ministry / Department of the Govt. of India / any State Govt. from participation in tenders / contracts as on the date of opening of bids, either in their individual capacity or in any firm in which they were / are partners. Concealment / wrong information in regard to above shall make the contract liable for determination under Clause 55 of the General Conditions of Contract.

1.3.25.12 Evaluation of eligibility of a partnership firm:

Technical and financial eligibility of the firm shall be adjudged based on satisfactory fulfilment of the eligibility criteria by the partnership firm, laid down as above.

1.3.26.1 Period of Completion

The works/services completion period is 36 months and for further 24 months on mutual consent between DFCCIL and the Contractor (additional 06 months for installation and commissioning) from the date of issue of the acceptance letter. Time is the essence of contract. The contractor shall be required to maintain steady and regular progress to the satisfaction of the Engineer to ensure that the work will be completed in all respects as per schedule within the stipulated time.

1.3.26.2 If the Tenderer/s deliberately gives any wrong information about credentials/documents in his/their tenders and thereby create(s) circumstances for acceptance of his/their tender, DFCCIL reserves the right to reject such tender at any stage, besides, shall suspend business with such tenderer. The EMD of such tenderers shall also be forfeited.

1.3.26.3 Quantum of work and materials:

The indicative schedule of quantities of various items of works is included in Form - 4 of the tender documents.

1.3.26.4 Employer not bound to accept any tender:

The employer shall not be bound to accept the lowest or any tender or to assign any reason for non-acceptance or rejection of a tender. The employer reserves the right to accept any tender in respect of the whole or any portion of the work specified in the tender papers or to reduce the work or to accept any tender for less than the tendered quantities without assigning any reason whatsoever.

1.3.26.5 Schedule of Prices:

The Price Schedule of the tender document lists out the Schedule of Prices for various items. Based on these, the total tender value has also been worked out.

1.3.26.6 Performance Guarantee: Refer relevant clause of GCC.

The tenderer shall furnish information for making payment through ECS/ NEFT/RTGS (Tender Form No.8 placed at Part III of the tender documents).

1.3.26.7 Negotiation:

Should DFCCIL decide to negotiate with a view to bring down the rates, the tenderer called for negotiations should furnish the following form of declaration before commencement of negotiations:

"I.....do declare that in the event of failure of contemplated negotiations relating to Tender No.....datedmy original tender shall remain open for acceptance on its original terms and conditions,".

1.3.26.8 Site Inspection:

Tenderers are requested to inspect the site and carry out careful examination to satisfy them as to the nature of work involved and facilities available at the site. They should note carefully all the existing structures and those under construction through other agencies. They should also study the suitability of utilizing the different equipment and the machinery that they intend to use for the execution of the work. The tenderers should also select suitable sites for the purpose of locating their store yard, laboratory, staff quarters etc., and satisfy themselves with regard to the feasibility of transporting the girders, etc. from the yard to the final site of placement etc.

1.3.26.9 No form C&D shall be issued to the contractor for this work.

1.3.26.10 The minimum local content shall be 50% and GoI Public Procurement (Preference to make in India), Order 2017 issued vide DPIIT letter No. P-45021/2/2017-PP (BE-II) dated 16.9.2020 is to be followed for this tender.

No. P-45021/2/2017-PP (BE-II)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated: 16th September, 2020

To

All Central Ministries/Departments/CPSUs/All concerned

ORDER

Subject: Public Procurement (Preference to Make in India), Order 2017– Revision; regarding.

Department for Promotion of Industry and Internal Trade, in partial modification [Paras 2, 3, 5, 10 & 13] of Order No.P-45021/2/2017-B.E.-II dated 15.6.2017 as amended by Order No.P-45021/2/2017-B.E.-II dated 28.05.2018, Order No.P-45021/2/2017-B.E.-II dated 29.05.2019 and Order No.P-45021/2/2017-B.E.-II dated 04.06.2020, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017' dated 16.09.2020 effective with immediate effect.

Whereas it is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

Now therefore the following Order is issued:

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.
2. **Definitions:** For the purposes of this Order:

'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order.

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'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for *'Class-II local supplier'* but less than that prescribed for *'Class-I local supplier'* under this Order.

'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for *'Class-II local supplier'* under this Order.

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.

'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

'Works' means all works as per Rule 130 of GFR- 2017, and will also include *'turnkey works'*.

3. Eligibility of 'Class-I local supplier'/'Class-II local supplier'/'Non-local suppliers' for different types of procurement

(a) In procurement of all goods, services or works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only *'Class-I local supplier'*, as defined under the Order, shall be eligible to bid irrespective of purchase value.

(b) Only *'Class-I local supplier'* and *'Class-II local supplier'*, as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, *'Non-local suppliers'* shall also be eligible to bid along with *'Class-I local suppliers'* and *'Class-II local suppliers'*. In procurement of all goods, services or works, not covered by sub-para 3(a) above, and with estimated value of purchases less than Rs. 200 Crore, in accordance with Rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.

(c) For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

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3A. Purchase Preference

(a) Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.

(b) In the procurements of goods or works, which are covered by para 3(b) above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
- ii. If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.

(c) In the procurements of goods or works, which are covered by para 3(b) above and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1.
- ii. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.
- iii. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

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- (d) "Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.

3B. Applicability in tenders where contract is to be awarded to multiple bidders -

In tenders where contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- a) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only 'Class I Local suppliers'.
 - b) In other cases, 'Class II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class I Local suppliers' as per provisions of this Order.
 - c) If 'Class I Local suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers' / 'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.
 - d) First purchase preference has to be given to the lowest quoting 'Class-I local supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20% margin of purchase preference, and so on.
 - e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in sub-paras above.
4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe only a higher

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percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier'/'Class-II local supplier'. For the items, for which Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50% and 20% for 'Class-I local supplier'/'Class-II local supplier' respectively.

6. **Margin of Purchase Preference:** The margin of purchase preference shall be 20%.

7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

9. **Verification of local content:**

- a. The 'Class-I local supplier'/'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
- b. In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier'/'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
- c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
- d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
- e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
- f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

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- g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.
- h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
 - i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
 - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
 - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of 'Class-I local supplier' / 'Class-II local supplier' who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.

d. Reciprocity Clause

- i. When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

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- ii. Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.
 - iii. The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. All purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/ Department.
 - iv. State Governments should be encouraged to incorporate similar provisions in their respective tenders.
 - v. The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.
- e. Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the bid document is restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.
- f. "All administrative Ministries/Departments whose procurement exceeds Rs. 1000 Crore per annum shall notify/ update their procurement projections every year, including those of the PSEs/PSUs, for the next 5 years on their respective website."

10A. Action for non-compliance of the Provisions of the Order: In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

11. Assessment of supply base by Nodal Ministries: The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

12. Increase in minimum local content: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

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13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.

13A. In procurement of all goods, services or works in respect of which there is substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring Ministries/Departments shall also make special provisions for exempting such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner.

14. **Powers to grant exemption and to reduce minimum local content:** The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may by written order, for reasons to be recorded in writing,

- a. reduce the minimum local content below the prescribed level; or
- b. reduce the margin of purchase preference below 20%; or
- c. exempt any particular item or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content.

15. **Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

16. **Standing Committee:** A standing committee is hereby constituted with the following membership:

Secretary, Department for Promotion of Industry and Internal Trade—Chairman
Secretary, Commerce—Member
Secretary, Ministry of Electronics and Information Technology—Member
Joint Secretary (Public Procurement), Department of Expenditure—Member
Joint Secretary (DPIIT)—Member-Convenor

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The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

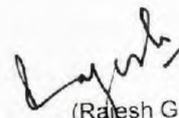
17. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary, but not less than once in six months. The Committee

- a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
- b. shall annually assess and periodically monitor compliance with this Order
- c. shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
- d. may require furnishing of details or returns regarding compliance with this Order and related matters
- e. may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
- f. may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
- g. may consider any other issue relating to this Order which may arise.

18. Removal of difficulties: Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

19. Ministries having existing policies: Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

20. Transitional provision: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.



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1.3.26.11 While Bidding is open to persons from any country, the following provisions shall apply:

- (a) Where, on the due date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital/capital contribution/partnership contribution in the Lowest Bidder or its member is held by persons resident outside India or where a Bidder or its member is controlled by persons resident outside India, then the eligibility and award of the project to such Lowest Bidder shall be subject to approval of the competent authority from national security and public interest perspective as per the instructions of the Government of India applicable at such time. The decision of the authority in this behalf shall be final and conclusive and binding on the Bidder.
- (b) Further, where the LOA of a project has been issued to an agency, not covered under the category mentioned above, and it subsequently wishes to transfer its share capital in favour of another entity who is a resident outside India or where a Bidder or its member is controlled by persons resident outside India and thereby the equity capital of the transferee entity exceeds 25% or above, any such transfer of equity capital shall be with the prior approval of the competent authority from national security and public interest perspective as per the instructions of the Government of India applicable at such point in time.
- (c) The holding or acquisition of equity control, as above shall include direct or indirect holding, acquisition, including by transfer of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 or any substitute thereof, as in force on the date of such acquisition.
- (d) The Bidder shall promptly inform the authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.
- (e) In case the Lowest Bidder under (a) above is denied the security clearance, for whatsoever reasons, then the Bidders emerging as second Lowest, third lowest eligible Bidders (in that order) may be given a counter-offer (one by one sequentially) to match the Bid of Lowest Bidder. In the event of acceptance of the counter-offer by another eligible Bidder, the project may be awarded to such Bidder. In case no Bidder matches the Bid of the Lowest Bidder, the Bid Process shall be annulled and fresh Bids invited.

1.3.26.12 Any bidder from such countries sharing a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), India. For interpretation of this clause Department of Expenditure, Ministry of Finance, Government of India letter F.No.6/18/2019-PPD letter dated 23/07/2020 shall be referred.

GENERAL CONDITIONS OF CONTRACT

PART - I

CHAPTER IV

GENERAL CONDITIONS OF CONTRACT

DEFINITIONS AND INTERPRETATION

1. (1) Definition In these General conditions of Contract, the following terms shall have the meaning assigned hereunder except where the context otherwise requires: -

- (a) Dedicated Freight Corridor Corporation of India Ltd, a Govt. of India Enterprise under Ministry of Railways and a company incorporated under the provisions of the Companies Act, 1956 having it's registered office at 5thFloor, Supreme Court Metro Station Complex, New Delhi-110001 represented through its Managing Director or GGM/GM (hereinafter referred to as "DFCCIL" which expression shall, unless repugnant to the context, be deemed to include it's successors and assigns.
- (b) "General Manager of DFCCIL" shall mean the officer-in-charge of the General Superintendence and Control of the DFCCIL (MD/DFCCIL) and shall mean and include their successors, or the successor DFCCIL;
- (c) "Chief Engineer" shall mean the officer-in-charge of the Civil Engineering Department of DFCCIL and shall also include GGM/CGM/GM of DFCCIL.
- (d) "Engineer" and Employer's Engineer shall mean the Deputy Chief Project Manager (Dy. CPM) of DFCCIL
- (e) "Engineer's Representative" shall mean the PM/Dy.PM of DFCCIL in direct charge of the work and shall mean and include the Engineer's Representative of the successor DFCCIL.
- (f) "Contractor" shall mean the person/Firm/Company / JV whether incorporated or not who enters into the contract with the DFCCIL and shall include their executors, administrators, and successors and permitted assigns.
- (g) "Contract" shall mean and include the Agreement of Work Order, the accepted schedule of rates of the Schedule or Rates of DFCCIL modified by the tender percentage for items of work quantified, or not quantified, General Conditions of Contract, Special Conditions of Contracts, if any, Drawings, Specifications, Additional / Special Specifications, if any and tender forms, if any, and all other documents included as part of contract.
- (h) "Works" shall mean the works to be executed in accordance with the contract.
- (i) "Specifications" shall mean the Specifications for materials and works referred / mentioned in tender documents.
- (j) "Schedule of rates of DFCCIL" shall mean the schedule of rates issued under the authority of the Chief Engineer from time to time and shall also include Rates specified in tender document.

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- (k) “Drawing” shall mean the maps, drawings, plans and tracings or prints thereof annexed to the contract and shall include any modifications of such drawings and further drawings as may be issued by the Engineer from time to time.
- (l) “Constructional Plan” shall mean all appliances or things of whatsoever nature required for the execution, completion or maintenance of the works or temporary works (as hereinafter defined) but does not include materials or other things intended to form or forming part of the permanent work.
- (m) “Temporary Works” shall mean all temporary works of every kind required for the execution completion and/or maintenance of the works.
- (n) “Site” shall mean the lands and other places on, under, in or through which the works are to be carried out and any other lands or places provided by the DFCCIL for the purpose of the contract.
- (o) “Period of Maintenance” shall mean the defect liability period from the date of completion of the works as certified by the Engineer.
- 1.(2) Singular and Plural:-** Words importing the singular number shall also include the plural and vice versa where the context requires.
- 1.(3) Headings & marginal headings:-**The headings and marginal headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or the contract.

GENERAL OBLIGATION

- 2. (1) Execution Co-relation and intent of contract Documents:-** The contract documents shall be signed in triplicate by the DFCCIL and the Contractor. The contract documents are complementary, and what is called for by any one shall be as binding as if called for by all, the intention of the documents is to include all labour and materials, equipments and transportation necessary for the proper execution of work. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the DFCCIL to the contractors unless distinctly specified in the contract documents. Materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.
- 2.(2)** If a work is transferred from the jurisdiction of one DFCCIL to another DFCCIL or to a Project Authority/ DFCCIL or vice versa while contract is in subsistence, the contract shall be binding on the Contractor and the Successor DFCCIL/Project in the same manner & take effect all respects as if the Contractor and the Successor DFCCIL/Project were parties thereto from the inception and the corresponding officer or the Competent Authority in the Successor DFCCIL/Project will exercise the same powers and enjoy the same authority as conferred to the predecessor DFCCIL/Project under the original contract/agreement entered into.
- 2.(3)** If for administrative or other reasons the contract is transferred to the Successor DFCCIL/Successor Project Authority of DFCCIL the contract shall notwithstanding any things contained herein contrary there to, be binding on the Contractor and the Successor DFCCIL /Project Authority/ DFCCIL in the same manner and take effect in all respect as if the Contractor

and the Successor DFCCIL/ successor Project Authority of DFCCIL had been parties thereto from the date of this contract. The contract shall be Administered/Managed by GGM/GM/CPM/nominated by DFCCIL.

- 3.(1) Law governing the contract:** -The contract shall be governed by the applicable laws for the time being in force in the Republic of India. Applicable laws shall mean all laws, bye-laws, statutes, rules, regulations, orders, ordinances, codes, guidelines, notices, directions, judgements, decrees or other requirements or official directives and/or of any statutory authority in the Republic of India. The Contract shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Delhi shall have exclusive jurisdiction over all matters arising out of or relating to this Agreement.
- 3.(2) Compliance to regulations and bye-laws:-**
- i) The contractor shall conform to the provision of any statute relating to the works and regulations and by-laws of any location authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so confirming give to the Engineer notice specifying the variation proposed to be made and the reasons for making the variation and shall not carry out such variation until he has received instructions from the Engineer in respect thereof. The contractor shall be bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.
 - ii) The contractor shall ensure compliance with all relevant Central/State laws and rules as applicable such as Tax Laws, Labour Laws and Insurance etc with regard to the contract and shall be solely responsible for the same and shall keep the DFCCIL fully indemnified against the liability of any Taxes, interest, penalty etc if any arising in connection with the contract.
4. **Communications to be in writing:** -All notices, communications, reference and complaints made by the DFCCIL or the Engineer or the Engineer's representative or the contractor inters concerning the work shall be in writing and no notice, communication, reference or complaint not in writing shall be recognized.
5. **Service of Notices on Contractors:-**The contractor shall furnish to the Engineer the name designation and address of his authorized agent and all complaints, notices, communications and references shall be deemed to have been duly given to the contractor if delivered to the contractor or his authorized agent or left at or posted to the address so given and shall be deemed to have been so given in the case of posting on day on which they would have reached such address in the ordinary course of post or on the day on which they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the contractor to the Engineer.
6. **Occupation and use of land:-** No land belonging to or in the possession of the DFCCIL shall be occupied by the Contractor without the permission of the DFCCIL. The Contractor shall not use, or allow to be used, the site for any purposes other than that of executing the works. Whenever non-DFCCIL bodies/persons are permitted to use DFCCIL premises with competent authority's approval, conservancy charges as applicable from time to time may be levied.
7. **Assignment or subletting of contract:** -The contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein any manner whatsoever without the special permission in writing of the DFCCIL. Any breach of this condition shall entitle the DFCCIL to rescind the contract under Clause 55 of these conditions and also render the

contractor liable for payment to the DFCCIL in respect of any loss or damage arising or ensuing from such cancellation. Provided always that execution of the details of the work by petty contractor under the direct and personal supervision of the Contractor or his agent shall not be deemed to be sub-letting under this clause. The permitted subletting of work by the contractor shall not establish any contractual relationship between the sub- contractor and the DFCCIL and shall not relieve the contractor of any responsibility under the contract.

8. **Assistance by the DFCCIL for the Stores to be obtained by the Contractor:** -Owing to difficulty in obtaining certain materials (including Tools & Plant) in the market, the DFCCIL may have agreed without any liability therefore to endeavour to obtain or assist the contractor in obtaining the required quantities of such materials as may be specified in the tender. In the event of delay or failure in obtaining the required quantities of the aforesaid material the contractor shall not be deemed absolved of his own responsibility and shall keep in touch with day to day positions regarding their availability and accordingly adjust progress of works including employment of labour and the DFCCIL shall not in any way be liable for the supply of materials or for the non-supply thereof for any reasons whatsoever nor for any loss or damage arising in consequence of such delay or no supply.
9. **Carriage of materials:** -No forwarding orders shall be issued by the DFCCIL for the conveyance of contractor's materials, tools and plant by Rail which may be required for use in the works and the contractor shall pay full freight charges at public tariff rates therefore.
10. **Representation on Works:** -The contractor shall, when he is not personally present on the site of the works place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Engineer and orders given by the Engineer or the engineer's representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting himself, the contractor shall furnish the name and address of his agent for the purpose of this clause and failure on the part of the Contractor to comply with this provision at any time will entitle the DFCCIL to rescind the contract under Clause 55 of these conditions.
11. **Relics and Treasures:** -All gold, silver, oil and other minerals of any description and all precious stones, coins, treasures relics antiquities and other similar things which shall be found in or upon the site shall be the property of the DFCCIL and the Contractor shall duly preserve the same to the satisfaction of the DFCCIL and shall from time to time deliver the same to such person or persons as the DFCCIL may appoint to receive the same.
12. **Excavated material:** -The contractor shall not sell or otherwise dispose of or remove except for the purpose of this contract, the sand, stones, clay, ballast, earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the works or any building or produced upon the site at the time of delivery of the possession thereof but all the substances, materials, buildings and produce shall be the property of the DFCCIL provided that the contractor may, with the permission of the Engineer, use the same for the purpose of the works either free of cost or pay the cost of the same at such rates as may be determined by the Engineer.
13. **Indemnity by Contractors:** -The contractor shall indemnify and save harmless the DFCCIL from and against all actions, suit proceedings losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the DFCCIL by reason of any act or omission of the contractor, his agents or employees, in the execution of the works or in his guarding of the

same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

- 14.(1) **Security Deposit:** The Earnest Money deposited by the Contractor with his tender will be retained by DFCCIL as part of security for the due and faithful fulfilment of the contract by the Contractor. The Security Deposit shall be 5% of the contract value. Security Deposit may be deposited by the Contractor before release of first on account bill in cash or Term Deposit Receipt issued from Scheduled Bank, or may be recovered at the rate of 10% of the bill amount till the full Security Deposit is recovered. Provided also that in case of defaulting Contractor, the DFCCIL may retain any amount due for payment to the Contractor on the pending "on account bills" so that the amounts so retained (including amount guaranteed through Performance Guarantee) may not exceed 8% of the total value of the contract.

Further, in case Security Deposit has been submitted as Term Deposit Receipt in full amount, the Earnest Money deposited by the Contractor with his tender will be returned by DFCCIL.

Note: After the work is physically completed as certified by competent authority, Security Deposit recovered from the running bills of a Contractor can be returned to him, if he so desires, in lieu of Term Deposit Receipt/irrevocable Bank Guarantee for equivalent amount from Scheduled Bank, to be submitted by him.

- 14.(2) **(i) Refund of Security Deposit:** Security Deposit mentioned in sub clause (1) above shall be returned to the Contractor along with or after, the following:
- (a) Final Payment of the Contract. **and**
 - (b) Execution of Final Supplementary Agreement or Certification by Engineer that DFCCIL has No Claim on Contractor **and**
 - (c) Issue of Maintenance Certificate.
14. (2) **(ii) Forfeiture of Security Deposit:** Whenever the contract is rescinded as a whole under Clause 55(1) of GCC, the Security Deposit already with DFCCIL under the contract shall be forfeited. However, in case the contract is rescinded in part or parts under Clause 55(1) of GCC, the Security Deposit shall not be forfeited.
- 14.(3) No interest shall be payable upon the Earnest Money and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub-Clause 14.(4)(b) of this clause will be payable with interest accrued thereon.

14.4 Performance Guarantee

The procedure for obtaining Performance Guarantee is outlined below:

- (a) The successful bidder shall have to submit a Performance Guarantee (PG) within 21 (Twenty-one) days from the date of issue of Letter of Acceptance (LOA). Extension of time

for submission of PG beyond 21 (Twenty-one) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 12% per annum shall be charged for the delay beyond 21(Twenty-one) days, i.e. from 22nd day after the date of issue of LOA. Further, if the 60th day happens to be a declared holiday in the concerned office of the DFCCIL, submission of PG can be accepted on the next working day.

In all other cases, if the Contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract is liable to be terminated. In case contract is terminated DFCCIL shall be entitled to forfeit Earnest Money Deposit and other dues payable against that contract. In case a tenderer has not submitted Earnest Money Deposit on the strength of their registration as a Startup recognized by Department of Industrial Policy and Promotion (DIPP) under Ministry of Commerce and Industry, DIPP shall be informed to this effect.

The failed Contractor shall be debarred from participating in re-tender for that work.

- (b) (i) The successful bidder shall be required to furnish to DFCCIL a performance security within 21 days of the receipt of Letter of Acceptance, in an amount equivalent to 3% (three percent) of the contract price. The Performance Security to be provided by the successful bidder in the form of a bank guarantee as per prescribed format shall be issued from any Nationalized/ Indian Scheduled Commercial Bank. In case of Joint Venture (JV), the Bank Guarantee towards performance security shall be provided by JV.
- (ii) The Bank Guarantee for performance security shall remain valid until a date 60 days (or as specified in the Contract) after expiry of Defects Liability Period.
- (iii) The Bank Guarantee for performance security shall be submitted invariably in the format given in the Bidding Document.
- (iv) The performance security shall be released 21 days after issue of performance certificate.
- (c) The Performance Guarantee shall be submitted by the successful bidder after the Letter of Acceptance (LOA) has been issued, but before signing of the contract agreement. This P.G. shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the Contractor shall get the validity of P.G. extended to cover such extended time for completion of work plus 60 days.
- (d) The value of PG to be submitted by the Contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the Contractor. On the other hand, if the value of contract decreases by more than 25% of the original contract value, Performance Guarantee amounting to 5% (five percent) of the decrease in the contract value shall be returned to the Contractor. The PG amount in excess of required PG for decreased contract value, available with DFCCIL, shall be returned to Contractor as per his request duly safeguarding the interest of DFCCIL.
- (e) The Performance Guarantee (PG) shall be released after physical completion of the work based on 'Completion Certificate' issued by the competent authority stating that the

Contractor has completed the work in all respects satisfactorily.

- (f) Whenever the contract is rescinded, the Performance Guarantee already submitted for the contract shall be encashed in addition to forfeiture of Security Deposit available with DFCCIL.
 - (g) The Engineer shall not make a claim under the Performance Guarantee except for amounts to which the DFCCIL is entitled under the contract (not withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of:
 - (i) Failure by the Contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
 - (ii) Failure by the Contractor to pay DFCCIL any amount due, either as agreed by the Contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Engineer.
 - (iii) The Contract being determined or rescinded under Clause 55 of the GCC
15. **Force Majeure Clause:-** If at any time, during the continuance of this contract, the Performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reason of any war, hostility, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, explosions, epidemics, strikes, lockouts or act of God (hereinafter, referred to events) provided, notice of the happening of any such event is given by either party to the other within 30 days from the date of occurrence thereof, neither party shall by reason of such event, be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non- performance of delay in performance, and works under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Engineer as to whether the works have been so resumed or not shall be final and conclusive, PROVIDED FURTHER that if the performance in whole or in part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 120 days, either party may at its option terminate the contract by giving notice to the other party.
- 15-A Extension of Time in Contracts:** Subject to any requirement in the contract as to completion of any portion or portions of the works before completion of the whole, the Contractor shall fully and finally complete the whole of the works comprised in the contract (with such modifications as may be directed under conditions of this contract) by the date entered in the contract or extended date in terms of the following clauses:
- (i) **Extension due to Modification:** If any modifications have been ordered which in the opinion of the Engineer have materially increased the magnitude of the work, then such extension of the contracted date of completion may be granted as shall appear to the Engineer to be reasonable in the circumstances, provided moreover that the Contractor shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the works.
 - (ii) **Extension for Delay not due to DFCCIL or Contractor:** If in the opinion of the Engineer, the progress of work has any time been delayed by any act or neglect of DFCCIL's employees or by

other Contractor employed by the DFCCIL under Clause 18 of these Conditions or in executing the work not forming part of the contract but on which Contractor's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighboring owners or public authority arising otherwise through the Contractor's own default etc. or by the delay authorized by the Engineer pending arbitration or in consequences of the Contractor not having received in due time necessary instructions from the DFCCIL for which he shall have specially applied in writing to the Engineer or his authorized representative then upon happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer within 15 days of such happening, but shall nevertheless make constantly his best endeavors to bring down or make good the delay and shall do all that may be reasonably required of him to the satisfaction of the Engineer to proceed with the works. The Contractor may also indicate the period for which the work is likely to be delayed and shall be bound to ask for necessary extension of time. The Engineer on receipt of such request from the Contractor shall consider the same and shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period of time; the same rates, terms and conditions of contract being applicable as if such extended period of time was originally provided in the original contract itself.

(iii)**Extension for Delay due to DFCCIL:** In the event of any failure or delay by the DFCCIL to hand over the Contractor possession of the lands necessary for the execution of the works or to give the necessary notice to commence the works or to provide the necessary drawings or instructions or any other delay caused by the DFCCIL due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the contract or alter the character thereof or entitle the Contractor to damages or compensation therefor, but in any such case, the DFCCIL may grant such extension or extensions of the completion date as may be considered reasonable.

15-B Extension of Time with Liquidated Damages (LD) for delay due to Contractor: The time for the execution of the work or part of the works specified in the contract documents shall be deemed to be the essence of the contract and the works must be completed not later than the date(s) as specified in the contract. If the Contractor fails to complete the works within the time as specified in the contract for the reasons other than the reasons specified in Clause 15 and 15-A, the DFCCIL may, if satisfied that the works can be completed by the Contractor within reasonable short time thereafter, allow the Contractor for further extension of time as the Engineer may decide. On such extension the DFCCIL will be entitled without prejudice to any other right and remedy available on that behalf, to recover from the Contractor as agreed damages and not by way of penalty for each week or part of the week, a sum calculated at the following rates of the contract value of the works.

For the purpose of this Clause, the contract value of the works shall be taken as value of work as per contract agreement including any supplementary work order/contract agreement issued. Provided also, that the total amount of liquidated damages under this condition shall not exceed 5% of the contract value or of the total value of the item or groups of items of work for which a separate distinct completion period is specified in the contract.

S.No.	Duration of extension of time under Clause 15-B	Rate of Liquidated Damages
(i)	Up to Twenty percent of original period of completion including period of extension of DOC	As decided by Engineer, between 0.01% to 0.10% of contract value

	granted under Section 15A(i)	for each week or part of the week
(ii)	Above Twenty percent but upto Thirty percent of original period of completion including period of extension of DOC granted under Section 15A(i)	0.20% of contract value for each week or part of the week
(iii)	Above Thirty percent but upto Forty percent of original period of completion including period of extension of DOC granted under Section 15A(i)	0.30% of contract value for each week or part of the week
(iv)	Above Forty percent of original period of completion including period of extension of DOC granted under Section 15A(i)	0.50% of contract value for each week or part of the week

Provided further, that if the DFCCIL is not satisfied that the works can be completed by the Contractor and in the event of failure on the part of the contractor to complete the work within further extension of time allowed as aforesaid, the DFCCIL shall be entitled without prejudice to any other right or remedy available in that behalf, to appropriate the contractor's Security Deposit and rescind the contract under Clause 55 of these Conditions, whether or not actual damage is caused by such default.

16.(1) Illegal Gratification:-Any bribe, commission, gift or advantage given, promised or offered by or on behalf to the contractor or his partner, agent or servant or, anyone on his behalf, to any officer or employee of the DFCCIL, or to any person on his behalf in relation to obtaining or execution of this or any other contract with the DFCCIL shall, in addition to any criminal liability which he may incur, subject contractor to the rescission of the contract and all other contracts with the DFCCIL and to the payment of any loss or damage resulting from such decision and the DFCCIL shall be entitled to deduct the amounts so payable from any moneys due to the Contractor(s) under this contract or any other contracts with the DFCCIL.

16.(2) The contractor shall not lend or borrow from or have or enter into any monitory dealings and transactions either directly or indirectly with any employee of the DFCCIL and if he shall do so, the DFCCIL shall be entitled forthwith to rescind the contract and all other contracts with the DFCCIL. Any question or dispute as to the commission or any such offence or compensation payable to the DFCCIL under this clause shall be settled by the concerned General Manager of the DFCCIL, in such a manner as he shall consider fit and sufficient and his decision shall be final and conclusive. In the event of rescission of the contract under this clause, the contractor will not be paid any compensation whatsoever except payments for the work done up to the date of rescission.

EXECUTION OF WORKS

17.(1) Contractor's understanding:-It is understood and agreed that the contractor has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the progress of the works, the general and local conditions, the labour conditions prevailing therein and all other matters which can in

any way affect the works under the contract.

- 17.(2) Commencement of works:-**The contractor shall commence the works within 15 days after the receipt by him of an order in writing to this effect from the Engineer and shall proceed with the same with due expedition and without delay.
- 17.(3) Accepted Programme of work:-**The contractor who has been awarded the work shall as soon as possible but not later than 30 days after the date of receipt of the acceptance letter in respect of contracts with initial completion period of two years or less or not later than 90 days for other contracts have to submit the detailed programme of work indicating the time schedule of various items of works in the form of Bar Chart/PERT/CPM. He shall also submit the details of organization (in terms of labour and supervisors) plant and machinery, that he intends to utilize (from time to time) for execution of the work within stipulated date of completion. The programme of work amended as necessary by discussions with the Engineer, shall be treated as the agreed programme of the work for the purpose of this contract and the contractor shall endeavour to fulfill this programme of work. The progress of work will be watched accordingly and the liquidated damages will be with reference to the overall completion date. Nothing stated herein shall preclude the contractor in achieving earlier completion of item or whole of the works than indicated in the programme.
- 18.(1) Compliance to Engineer's instructions:** -The Engineer shall direct the order in which the several parts of the works shall be executed and the contractor shall execute without delay all orders given by the Engineer from time to time but the contractor shall not be relieved thereby from responsibility for the due performance of the works in all respects.
- 18.(2) Alterations to be authorized:** No alterations in or additions to or omissions or abandonment of any part of the works shall be deemed authorized, except under instructions from the Engineer, and the contractor shall be responsible to obtain such instructions in each and every case in writing from the Engineer.
- 18.(3) Extra works:-** Should works over and above those included in the contract require to be executed at the site, the contractor shall have no right to be entrusted with the execution of such works which may be carried out by another contractor or contractors or by other means at the option of the DFCCIL.
- 19. Instruction of Engineer's Representative:** -Any instructions or approval given by the Engineer's representative to contractor in connection with the works shall bind the contractor as though it had been given by the Engineer provided always as follows:
- (a) Failure of the Engineer's representative to disapprove any work or materials shall not prejudice, the power of the Engineer thereafter to disapprove such work or material and to order the removal or breaking up thereof.
 - (b) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's representative, he shall be entitled to refer the matter to the Engineer who shall there upon confirm or vary such decision.
- 20.(1) Adherence to specifications and drawings:** - The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If contractor performs any works in a manner contrary to the specifications or drawings or any of them and without such reference to the Engineer, he shall bear all the costs arising or ensuing therefore and shall be responsible for

all loss to the DFCCIL.

20.(2) Drawings and specifications of the works: -The contractor shall keep one copy of drawings and specifications at the site, in good order, and such contract documents as may be necessary available to the Engineer or the Engineer's representative.

20.(3) Ownership of drawings and specifications: All drawings and specifications and copies thereof furnished by the DFCCIL to the Contractor are deemed to be the property of the DFCCIL. They shall not be used on other works and with the exception of the signed contract set, shall be returned by the contractor to the DFCCIL on completion of the work or termination of the contract.

20.(4) Compliance with Contractor's request for details: -The Engineer shall furnish with reasonable promptness, after receipt by him of the contractor's request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such drawing and instructions shall be consistent with the contract Documents and reasonably inferable there from.

20.(5) Meaning and intent of specification and drawings:- If any ambiguity arises as to the meaning and intent of any portion of the specifications and drawings or as to execution or quality of any work or material, or as to the measurements of the works the decision of the Engineer thereon shall be final subject to the appeal (within 7 days of such decision being intimated to the contractor) to the Chief Engineer/General Manager/CPM who shall have the power to correct any errors, omissions, or discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.

21 Working during night:- The contractor shall not carryout any work between sun-set and sun-rise without the previous permission of the Engineer.

22. Damage to DFCCIL property or private life and property:-The contractor shall be responsible for all risk to the work and for trespass and shall make good at his own expense all loss or damage whether to the works themselves or to any other property of the DFCCIL or the lives, persons or property of others from whatsoever cause in connection with the works until they are taken over by the DFCCIL and this although all reasonable and proper precautions may have been taken by the contractor, and in case the DFCCIL shall be called upon to make good any costs, loss or damages, or to pay an compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof to any person or persons sustaining damages as aforesaid by reason of any act, or any negligence or omissions on the part of the contractor the amount of any costs or charges including costs and charges in connection with legal proceedings, which the DFCCIL may incur in reference thereto, shall be charged to the contractor. The DFCCIL shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action or default of the contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to contractor, as aforesaid any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the contractor.

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- 23. Sheds, stores houses and Yards:-**The contractor shall at his own expense provide himself with sheds, stores houses and yards in such situations and in such numbers as in the opinion of the Engineer is requisite for carrying on the works and the contractor shall keep at each such sheds, stores houses and yard a sufficient quantity of materials and plant in stock as not to delay the carrying out of the works with due expedition and the Engineer and the Engineer's representative shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plan which the Engineer may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds, store houses or yards by the contractor. The contractor shall at his own expenses provide and maintain suitable mortar mills, soaking vats or any other equipments necessary for the execution of the works.
- 24. Provision of efficient and competent Staff at work sites by the Contractor**
- 24.1** The contractor shall place and keep on the works at all times efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound and proper manner and shall employ only such supervisors, workmen and labourers in or about the execution of any of these works as are careful and skilled in the various trades.
- 24.2** The contractor shall at once remove from the works any agents, permitted sub-contractor, supervisor, workman or labourer who shall be objected to by the Engineer and if and whenever required by the Engineer, he shall submit a correct return showing the names of all staff and workmen employed by him.
- 24.3** In the event of the Engineer being of the opinion that the contractor is not employing on the works a sufficient number of staff and workmen as is necessary for the proper completion of the works within the time prescribed, the contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour specified by the Engineer within seven days of being so required and failure on the part of the contractor to comply with such instructions will entitle the DFCCIL to rescind the contract under Clause 55 of these conditions.
- 24A. Deployment of Qualified Engineers at Work Sites by the Contractor**
- 24A.1** The contractor shall also employ Qualified Engineers with each machine deployed for railway track geometry measurement and along with TCMM software handling team (Similar experience of at least three Years)during the currency of contract during
- 24A.2** Deleted
- 24A.3** Deleted
- 25.(1) Workmanship and testing:-**The whole of the works and/or supply of materials specified and provided in the contract or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial manner with most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented other additional particulars, instructions found requisite to be given during the carrying on of the works and to the entire satisfaction of the Engineer according to the instructions and directions which the contractors may from time to time receive from the Engineer. The materials may be subjected to tests by means of such machines, instruments and appliances as the Engineer may direct and wholly at the expense of the

contractor.

26. Facilities for inspection: -The contractor shall afford the Engineer and the Engineer's Representative every facility for entering in and upon every portion of the work at all hours for the purpose of inspection or otherwise and shall provide all labour, things of every kind required for the purpose and the Engineer and the Engineer's Representative shall at all times have free access to every part of the works and to all places at which the works are being prepared.

27.(1) Contractor to supply water for works: Unless otherwise provided in the contract, the contractor shall be responsible for the arrangements to obtain supply of water necessary for the works.

27.(4)(a) Contractor to arrange supply of Electric power for works: Unless otherwise provided in the contract, the contractor shall be responsible for arrangements to obtain supply of electric power for the works.

28. Property in materials and plant: The materials and plant brought by the Contractor upon the site or on the land occupied by the Contractor in connection with the works and intended to be used for the execution thereof shall immediately, they are brought upon the site of the said land, be deemed to be the property of the DFCCIL. Such of them as during the progress of the works are rejected by the Engineer under Clause 23 of these conditions or are declared by him not to be needed for the execution of the works or such as on the grant of the certificate of completion remain unused shall immediately on such rejection, declaration or grant cease to be deemed the property of the DFCCIL and the Contractor may then (but not before) remove them from the site or the said land. This clause shall not in any way diminish the liability of the Contractor nor shall the DFCCIL be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, injured or destroyed by fire, tempest or otherwise.

29.(1) Tools, Plant and Materials Supplied by DFCCIL: Deleted

29.(2) Hire of DFCCIL's Plant: Deleted

30.(1) Provision of access to premises: During progress of work in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the works and shall react and maintain at his own cost barriers, lights and other safeguards as prescribed by the Engineer, for the regulation of the traffic, and provide watchmen necessary to prevent accidents. The works shall in such cases be executed night and day if so ordered by the Engineer and with such vigour so that the traffic way be impeded for as short a time as possible.

30.(2) Safety of Public: The Contractor shall be responsible to take all precautions to ensure the safety of the public whether on public or DFCCIL property and shall post such look out men as may in the opinion of the Engineer be required to comply with regulations pertaining to the work.

31.(1) Suspension of works: The Contractor shall on the order of the Engineer, suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer may

consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of the Engineer. If such suspension is:-

- (a) Provided for in the contract, or
- (b) Necessary for the proper execution of the works or by the reason of weather conditions or by some default on the part of the Contractor, and/or
- (c) Necessary for the safety of the works or any part thereof.

31.(2) The Contractor shall not be entitled to the extra costs, if any, incurred by him during the period of suspension of the works, but in the event of any suspension ordered by the Engineer for reasons other than aforementioned and when each such period of suspensions exceeds 14 days, the contractor shall be entitled to such extension of time for completion of the work as the Engineers may consider proper having regard to the period or periods of such suspensions and to such compensations as the Engineer may consider reasonable in respect of salaries or wages paid by the Contractor to his employees during the periods of such suspension.

31.(3) Suspension lasting more than 3 months:- If the progress of the works or any part thereof is suspended on the order of the Engineer for more than three months at a time, the Contractor may serve a written notice on the Engineer requiring permission within 15 days from the receipt thereof to proceed with the works or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by further written notice so served may, but is not bound to, elect to treat the suspension where it affects part only of the works as an omission of such part or where it affects the whole of the works, as an abandonment of the contract by the DFCCIL.

32. Rates for items of works:- The rates, entered in the accepted Schedule of Rates of the Contract are intended to provide for works duly and properly completed in accordance with the general and special (if any) conditions of the contract and the specifications and drawings together with such enlargements, extensions, diminutions, reductions, alterations or additions as may be ordered in terms of Clause 36 of these conditions and without prejudice to the generality thereof and shall be deemed to include and cover superintendence and labour, supply, including full freight, of materials, stores, patterns, profiles, moulds, fittings, centring, scaffolding, shoring props, timber, machinery, barracks, tackle, roads, pegs, posts, tools and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contract to be supplied to the Contractor by the DFCCIL, the erection, maintenance and removal of all temporary works and, buildings, all watching, lighting, bailing, pumping and draining, all prevention of or compensation for trespass, all barriers and arrangements for the safety of the public or of employees during the execution of works, all sanitary and medical arrangements for labour camps as may be prescribed by the DFCCIL, the setting of all work and of the construction, repair and upkeep of all centre lines, bench marks and level pegs thereon, site clearance, all fees duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all material supplied for the work or other duties of expenses for which the Contractor may become liable or may be put to under any provision of law for the purpose of or in connection with the execution of the contract, and all such other incidental charges or contingencies as may have been specially provided for in the specifications.

However, if rates of existing GST or cess on GST for Works Contract is increased or any new tax /cess on Works Contract is imposed by Statute after the date of opening of tender but within the

original date of completion/date of completion extended under clause 15& 15A and the Contractor thereupon properly pays such taxes/cess, the Contractor shall be reimbursed the amount so paid.

Further, if rates of existing GST or cess on GST for Works Contract is decreased or any tax/cess on Works Contract is decreased / removed by Statute after the date of opening of tender, the reduction in tax amount shall be recovered from Contractor's bills/Security Deposit or any other dues of Contractor with the Government of India.

33.(1) Rates for extra items of works:- The assessment of rates for extra items shall be arrived at based on the prevailing rates and by taking guidance from the documents.

33.(2) Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates as determined and agreed upon as lastly hereunto fore-mentioned, then and in such a case the Contractor shall only be entitled to be paid in respect of the work carried out or expenditure incurred by him prior to the date of determination of rates as aforesaid according to the rates as shall be fixed by the Engineer. However, if the Contractor is not satisfied with the decision of the Engineer in this respect he may appeal to the Chief Engineer/General Manager within 30 days of getting the decision of the Engineer, supported by analysis of the rates claimed. The Chief Engineer's/ General Manager's decision after hearing both the parties in the matter would be final and binding on the Contractor and the DFCCIL.

34.(1) Handing over of works: The Contractor shall be bound to hand over the works executed under the contract to the DFCCIL complete in all respects to the satisfaction of the Engineer. The Engineer shall determine the date on which the work is considered to have been completed, in support of which his certificate shall be regarded as sufficient evidence for all purposes. The Engineer shall determine from time to time, the date on which any particular section of the work shall have been completed, and the contractor shall be bound to observe any such determination of the Engineer.

34.(2) Clearance of site on completion: On completion of works, the Contractor shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer. No final payment in settlement of the accounts for the works shall be paid, held to be due or shall be made to the, Contractor till, in addition to any other condition necessary for final payment, site clearance shall have been effected by him, and such clearance may be made by the Engineer at the expense of the Contractor in the event of his failure to comply with this provision within 7 days after receiving notice to that effect. Should it become necessary for the Engineer to have the site cleared at the expenses of the Contractor, the DFCCIL shall not be held liable for any loss or damage to such of the Contractor's property as may be on the site and due to such removal there from which removal may be effected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Engineer.

Clause 34A: Deleted

VARIATIONS IN EXTENT OF CONTRACT

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- 35. Modification to contract to be in writing:** In the event of any of the provisions of the contract requiring to be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the DFCCIL and the Contractor and no work shall proceed under such modifications until this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the DFCCIL unless and until the same is incorporated in a formal instrument and signed by the DFCCIL and the Contractor, and till then the DFCCIL shall have the right to repudiate such arrangements.
- 36.(1) Powers of modification to contract:** The Engineer on behalf of the DFCCIL shall be entitled by order in writing to enlarge or extend, diminish or reduce the works or make any alterations in their design, character position, site, quantities, dimensions or in the method of their execution or in the combination and use of materials for the execution thereof or to order any additional work to be done or any works not to be done and the contractor will not be entitled, to any compensation for any increase/reduction in the quantities of work but will be paid only for the actual amount of work done and for approved materials supplied against a specific order.
- 36.(2)** Deleted.
- 36.(3) Valuation of variations:-** The enlargements, extensions, diminution, reduction, alterations or additions referred to in sub-clause (2) of this clause shall in no degree affect the validity of the contract but shall be performed by the Contractor as provided therein and be subject to the same conditions, stipulations and obligations as if they had been originally and expressively included and provided for in the specifications and drawings and the amounts to be paid therefore shall be calculated in accordance with the accepted schedule of rates. Any extra items/quantities of work falling outside the purview of the provisions of sub-clause (2) above shall be paid for at the rates determined under clause-33 of these conditions.

CLAIMS

- 37.(1) Quarterly Statement of Claims:** The Contractor shall prepare and furnish to the Engineer once in every quarter commencing from the month following the month of issue of Letter of Acceptance, an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Engineer which he has executed during the preceding month quarter and no claim for payment for such work will be considered which has not been included in such particulars.
- 37.(2) Signing of “No Claim” Certificate:-** The Contractor shall not be entitled to make any claim whatsoever against the DFCCIL under or by virtue of or arising out of this contract, nor shall the DFCCIL entertain or consider any such claim, if made by the Contractor, after he shall have signed a “No Claim” Certificate in favour of the DFCCIL in such form as shall be required by the DFCCIL after the works are finally measured up. The contractor shall be debarred from disputing the correctness of the items covered by “No Claim” Certificate or demanding a clearance to arbitration in respect thereof.

MEASUREMENTS, CERTIFICATES AND PAYMENTS

38. **Quantities in schedule annexed to Contract:-**The quantities set out in the accepted schedule of rates with items of works quantified are the estimated quantities of the works and they shall not be taken as the actual and correct quantities of the work to be executed by the Contractor in fulfilment of his obligations under the contract.

- 39 Measurement of Works by Contractor's Authorized Representative:

(a) The Contractor shall be paid for the works at the rates in the accepted Schedule of Rates and for extra works at rates determined under Clause 33 of these Conditions on the measurements taken by the Contractor's authorized Engineer in accordance with the rules prescribed for the purpose by the DFCCIL. The Least count of measurement will be 1 Km.

The date and time of test checks shall be communicated to the Contractor who shall be present at the site and shall witness the test checks, failing the Contractor's attendance the test checks may be conducted in his absence and such test checks shall notwithstanding such absence be binding upon Contractor provided always that any objection made by Contractor to test check shall be duly investigated and considered in the manner set out below:

- (i) It shall be open to the Contractor to take specific objection to test checks of any recorded measurement within 7 days of date of such test checks. Any re-test check done by the concerned DFCCIL authority in the presence of the Contractor or in his absence after due notice given to him in consequent of objection made by the Contractor shall be final and binding on the Contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and classification of the measurements.
- (ii) If an objection raised by the Contractor is found by the Engineer to be incorrect the Contractor shall be liable to pay the actual expenses incurred in measurements.

(b) Incorrect measurement, actions to be taken: If in case during test check or otherwise, it is detected by the Engineer that agency has claimed any exaggerated measurement or has claimed any false measurement for the works which have not been executed; amounting to variation of 5% or more of claimed gross bill amount, action shall be taken as following:

- (i) On first occasion of noticing exaggerated/ false measurement, Engineer shall recover liquidated damages equal to 10% of claimed gross bill value.
- (ii) On any next occasion of noticing any exaggerated/false measurement, DFCCIL shall recover liquidated damages equal to 15% of claimed gross bill value. In addition, the facility of recording of measurements by Contractor as well as release of provisional payment shall be withdrawn. Once withdrawn, measurements shall be done by DFCCIL as per clause 39(i) above.

- 40.(1) **"On-Account" Payments:-** The Contractor shall be entitled to be paid from time to time by way of "One-Account" payment only for such works as in the opinion of the Engineer he has executed in terms of the contract.

All payments due on the Engineer's or the Engineer's representative's certificates of measurements

shall be subject to any deductions which may be made under these presents and shall further be subject to, unless otherwise required by Clause 14 of these conditions, a retention of ten percent by way of security deposits, until the amount of security deposit by way of retained earnest money and such retentions shall amount to 5% of the total value of the contract provided always that the Engineer may by any certificate make any correction or modification in any previous certificate which shall have been issued by him and that the Engineer may withhold any certificate if the works or any part thereof are not being carried out to his satisfaction.

40.(2) **Rounding off amounts:** - The total amount due on each certificate shall be rounded off to the nearest rupee i.e. sum less than 50 paise shall be omitted and sums of 50 paise and more upto Re. 1/- will be reckoned as Re. 1/-

40.(3) **On Account Payments not prejudicial to final settlement:-** “On- Account” payments made to the ‘Contractor shall be without prejudice to the final making up of the accounts (except where measurements are specifically noted in the Measurement Book as “Final Measurements” and as such have been signed by the Contractor) and shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts nor of any particular quantity of work having been executed nor of the manner of its execution being satisfactory.

40.(4) **Manner of Payment:** Unless otherwise specified payments to the Contractor will be transferred electronically to his bank account.

40A **PRICE VARIATION CLAUSE:** Not Applicable for this work

40A.10 **Price Variation During Extended Period of Contract:** Not Applicable even for extended period of contract.

41.(1) **Certificate of completion of works:** As soon as in the opinion of the Engineer, the works has been completed and has satisfactorily passed any final test or tests that may be prescribed, the Engineer shall issue a certificate of completion duly indicating the date of completion in respect, of the work and the period of maintenance of the work shall commence from the date of completion mentioned in such certificate. The certificate, inter alia, should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the Contractor and that there is no due from the Contractor to DFCCIL against the contract concerned.

The Engineer may also issue such a certificate indicating date of completion with respect to any part of the work (before the completion of the whole of work), which has been both completed to the satisfaction of the Engineer and occupied or used by the DFCCIL. When any such certificate is given in respect of part of a work, such part shall be considered as completed and the period of maintenance of such part shall commence from the date of completion mentioned in the completion certificate issued for that part of the work.

41.(2) **Contractor not absolved by completion Certificate:** The Certificate of completion in respect of the works referred to in sub-clause (1) of this clause shall not absolve the Contractor from his liability to make good any defects imperfections, or faults which may appear during the period of maintenance specified in the tender arising in the opinion of the Engineer from materials or workmanship not in accordance with the drawings or specifications or instruction of the Engineer, which defects, imperfections, or faults shall upon the direction in writing of the Engineer be amended and made good by the Contractor at his own cost: and in case of default on the part of Contractor the Engineer may employ labour and materials or appoint another

Contractor to amend and make good such defects, imperfections, shrinkages and faults and all expenses consequent thereon and incidental thereto shall be borne by the Contractor and shall be recoverable from any moneys due to him under the contract.

41(3) **Final Supplementary Agreement:** After the work is completed or otherwise concluded by the parties with mutual consent, and taken over by the DFCCIL as per terms and conditions of the contract agreement, and there is unequivocal no claim on either side under the Contract other than as mentioned in item 4 of Form 21, the parties shall execute the Final Supplementary Agreement as per Form 21.

42. **Approval only by Maintenance Certificate:** No certificate other than Maintenance Certificate, if applicable, referred to in Clause 43 of the Conditions shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the contract or any part thereof.

43.(1) **Maintenance Certificate:** The Contract shall not be considered as completed until a Maintenance Certificate shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The Maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as soon thereafter as any works ordered during such period pursuant to sub clause (2) Clause 41 of these conditions shall have been completed to the satisfaction of the Engineer and full effect shall be given to this Clause notwithstanding the taking possession of or using the works or any part thereof by the DFCCIL.

The Competent Authority to issue above Maintenance Certificate shall normally be the authority who is competent to sign the contract. If this Competent Authority is of the rank lower than AGM, then AGM (concerned with the work) should issue the Certificate. The Certificate, inter alia, should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the Contractor and that there is no due from the Contractor to DFCCIL against the contract concerned

43.(2) **Cessation of DFCCIL's Liability:** The DFCCIL shall not be liable to the Contractor for any matter arising out of or in connection with the contract of the execution of the works unless the contractor shall have made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.

43.(3) **Unfulfilled Obligations:** Notwithstanding the issue of the Maintenance certificate the Contractor and (subject to sub-clause 2 of this clause) the DFCCIL shall remain liable for the fulfilment of any obligation incurred under the provision of the contract prior to the issue of the maintenance Certificate which remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligations the contract shall be deemed to remain in force between the parties thereto.

44.(1) **Final Payment:** On the Engineer's certificate of completion in respect of the works, adjustment shall be made and the balance of account based on the Engineer or the Engineer's representative's certified measurements of the total quantity of work executed by the contractor upto the date of completion and on the accepted schedule or rates and for extra works on rates determined under Clause 33 of these conditions shall be paid to the Contractor subject always to any deduction which may be made under these presents and further subject to the Contractor having delivered to

the Engineer either a full account in detail of all claims he may have on the DFCCIL in respect of the works or having delivered "No Claim Certificate" and the Engineer having after the receipt of such account given a certificate in writing that such claims are correct, that the whole of the works to be done under the provisions of the Contracts have been completed, that they have been inspected by him since their completion and found to be in good and substantial order, that all properties, works and things, removed, disturbed or injured in consequence of the works have been properly replaced and made good and all expenses and demands incurred by or made upon the DFCCIL for or in the respect of damage or loss by from or in consequence of the works, have been satisfied agreeably and in conformity with the contract.

44.(2) **Post Payment Audit:** It is an agreed term of contract that the DFCCIL reserves to itself the right to carry out a post-payment audit and or technical examination of the works and the final bill including all supporting vouchers, abstracts etc. and to make a claim on the contractor for the refund any excess amount paid to him if as a result of such examination any over-payment to him is discovered to have made in respect of any works done or alleged to have been done by him under the contract.

44A. **Production of vouchers etc. by the Contractor**

- (i) For a contract of more than one crore of rupees, the contractor shall, whenever required, produce or cause to be produced for examination by the Engineer any quotation, invoice, cost or other account, book of accounts, voucher, receipt, letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this contract or relevant for verifying or ascertaining cost of execution of this contract (the decision of the engineer on the question of relevancy of any documents, information or return being final and binding in the parties). The contractor shall similarly produce vouchers; etc., if required to prove to the Engineer, that materials supplied by him, are in accordance with the specifications laid down in the contract.
- (ii) If any portion of the work in a contract of value more than one crore of rupees be carried out by a sub-contractor or any subsidiary or allied firm or company (as per Clause 7 of the General Conditions of Contract), the Engineer shall have power to secure the books of such sub-contractor or any subsidiary or allied firm or company, through the contractor, and such books shall be open to his inspection.
- (iii) The obligations imposed by sub clause (i) & (ii) above is without prejudice to the obligations of the contractor under any statute rules or orders binding on the contractor.

45.0 **Withholding and lien in respect of sums claimed:** Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the DFCCIL shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the contractor and for the purpose aforesaid, the DFCCIL shall be entitled to withhold the said cash security deposit or the security if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor, the DFCCIL shall be entitled to withhold and have a lien to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time thereafter may become payable to the contractor under the

same contract or any other contract with this or any other DFCCIL or any Department of the Central Government pending finalization or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the DFCCIL will be kept withheld or retained as such by the DFCCIL till the claim arising out of or under the contract is determined by the arbitrator (if the contract governed by the arbitration clause) or by the competent court as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor. For the purpose of this clause, where the contractor is a partnership firm or a limited company, the DFCCIL shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/limited company, as the case may be whether in his individual capacity or otherwise.

45A. Lien in respect of claims in Other Contracts:

(i) Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the DFCCIL, against any claim of this or any other Department of the Central Government in respect of a payment of a sum of money arising out of or under any other contract made by the contractor with this or any other Department of the Central Government.

(ii) However, recovery of claims of DFCCIL in regard to terminated contracts may be made from the Final Bills, Security Deposits and Performance Guarantees of other contract or contracts, executed by the contractor. The Performance Guarantees submitted by the Contractor against other contracts, if required, may be withheld and encashed. In addition, 10% of each subsequent 'on-account bill' may be withheld, if required, for recovery of DFCCIL's dues against the terminated contract.

(iii) It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the DFCCIL will be kept withheld or retained as such by the DFCCIL till the claim arising out of or under any other contract is either mutually settled or determined by arbitration, if the other contract is governed by arbitration clause or by the competent court as the case may be and contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the contractor.

46.0 Signature on Receipts for Amounts: Every receipt for money which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if signed in the partnership name by anyone of the partners of a Contractor's firm be a good and sufficient discharge to the DFCCIL in respect of the moneys or security purported to be acknowledged thereby and in the event of death of any of the Contractor, partners during the pendency of the contract it is hereby expressly agreed that every receipt by anyone of the surviving Contractor partners shall if so signed as aforesaid be good a sufficient discharge as aforesaid provided that nothing in this clause contained shall be deemed to prejudice or effect any claim which the DFCCIL may hereafter have against the legal representative of any contractor partner so dying for or in respect to any breach of any of the conditions of the contract, provided also that nothing in this clause contained shall be deemed to prejudice or effect the respective rights or obligations of the Contractor partners and of the legal representatives of any deceased Contractor partners inters

LABOUR

47.0 Wages to Labour: The Contractor shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 (hereinafter referred to as the “said Act” and the Rules made there under in respect of any employees directly or through petty contractors or subcontractors employed by him on road construction or in building operations or in stone breaking or stone crushing for the purpose of carrying out this contract.

If, in compliance with the terms of the contract, the Contractor supplied any labour to be used wholly or partly under the direct orders and control of the DFCCIL whether in connection with any work being executed by the Contractor or otherwise for the purpose of the DFCCIL such labour shall, for the purpose of this clause, still be deemed to be persons employed by the Contractor.

If any moneys shall, as a result of any claim or application made under the said Act be directed to be paid by the DFCCIL, such money shall be deemed to be moneys paid by it as aforesaid within seven days after the same shall have been demanded, the DFCCIL shall be entitled to recover the same form any moneys due or accruing to the Contractor under this or any other Contract with the DFCCIL.

47A. Apprentices Act: The Contractor shall be responsible to ensure compliance with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued there under from time to time in respect of apprentices directly or through petty contractors or sub-contractors employed by him for the purpose of carrying out the Contract.

If the contractor directly or through petty contractors or sub-contractors fails to do so, his failure will be a breach of the contract and the DFCCIL may, in its discretion, rescind the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation of the provisions of the Act.

Note: The contractors are required to engage apprentices when the works undertaken by them last for a period of one year or more and/the cost of works is rupees one lakh or more.

48.0 Provisions of payments of Wages Act: The Contractor shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made there under in respect of all employees directly or through petty contractors or sub-contractors employed by him in the works. If In compliance with the terms of the contract, the Contractor directly or through petty contractors of sub-contractors shall supply any labour to be used wholly or partly under the direct orders and control of the Engineer whether in connection with the works to be executed hereunder or otherwise for the purpose of the Engineer such labour shall never the less be deemed to comprise persons employed by the contractor and any moneys which may be ordered to be paid by the Engineer shall be deemed to be moneys payable by the Engineer on behalf of the Contractor and the Engineer may on failure of the contractor to repay such money to the DFCCIL deduct the same from moneys due to contractor in the terms of contract. The DFCCIL shall be entitled to deduct from any moneys due to the contractor (whether under this contract or any other contract) all moneys paid or payable by the DFCCIL by the way of compensation of aforesaid or for costs of expenses in connection with any claim thereto and the decision of the Engineer upon any question arising out of the effect or force of this clause shall be final and binding upon the Contractor.

48A. Provisions of Contract labour (Regulation and Abolition) Act, 1970:

48A.(1) The contractor shall comply with the provision of the contract labour (Regulation and Abolition) Act, 1970 and the Contract labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, wherever applicable and shall also indemnify the DFCCIL from and against any claims under the aforesaid Act and the Rules.

48-A.(2) The Contractor shall obtain a valid license under the aforesaid Act as modified from time to time before the commencement of the work and continue to have a valid license until the completion of the work. Any failure to fulfil the requirement shall attract the penal provision of the Act.

48A.(3) The Contractor shall pay to the labour employed by him directly or through subcontractors the wages as per provision of the aforesaid Act and the Rules wherever applicable. The Contractor shall notwithstanding the provisions of the contract to the contrary, cause to be paid the wages to labour indirectly engaged on the works including any engaged by subcontractors in connection with the said work, as if the labour had been immediately employed by him.

48A.(4) In respect of all labour directly or indirectly employed in the work for performance of the contractor's part of, the contract, the Contractor shall comply with or cause to be complied with the provisions of the aforesaid Act and Rules wherever applicable.

48A.(5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the DFCCIL is obliged to pay any amount of wages to a workman employed by the Contractor or his subcontractor in execution of the work or to incur any expenditure on account of the Contingent liability of the DFCCIL due to the contractor's failure to fulfil his statutory obligations under the aforesaid Act or the rules the DFCCIL will recover from the Contractor, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the DFCCIL under the section 20, sub-section (2) and section 2, sub-section (4) of the aforesaid Act, the DFCCIL shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/ or from any sum due by the DFCCIL to the contractor whether under the contract or otherwise. The DFCCIL shall not be bound to contest any claim made against it under sub-section (1) of section 20 and sub-section (4) of section 21 of the aforesaid Act except on the written request of the contractor and upon his giving to the DFCCIL full security for all costs for which the DFCCIL might become liable in contesting such claim. The decision of the DFCCIL regarding the amount actually recoverable from the contractor as stated above shall be final and binding on the Contractor.

48B. Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952

The Contractor shall comply with the provisions of Para 30 & 36-B of the Employees Provident Fund Scheme, 1952; Para 3 & 4 of Employees' Pension Scheme, 1995; and Para 7 & 8 of Employees Deposit Linked Insurance Scheme, 1976; as modified from time to time through enactment of "Employees Provident Fund & Miscellaneous Provisions Act, 1952", wherever applicable and shall also indemnify the DFCCIL from and against any claims under the aforesaid Act and the Rules.

48C. Provisions of "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996":

The tenderers, for carrying out any construction work, must get themselves registered with the Registering Officer under Section-7 of the Building and Other Construction Workers Act, 1996 and rules made thereto by the concerned State Govt. and submit certificate of Registration, issued from the Registering Officer of the concerned State Govt. (Labour Dept.). As per this Act, the tenderer shall be levied a cess @1% of cost of construction work, which would be deducted from each bill. Cost of material, when supplied under a separate schedule item, shall be outside the purview of cess.

48-D. Provisions of “The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996” and “The Building and Other Construction Workers’ Welfare Cess Act, 1996”:

The tenderers, for carrying out any construction work, shall get themselves registered with the Registering Officer under Section-7 of the Building and Other Construction Workers Act, 1996 and rules made thereto by the concerned State Govt., and submit certificate of Registration issued from the Registering Officer of the concerned State Govt. (Labour Dept.). The Cess shall be deducted from contractor’s bills as per provisions of the Act.

49.0 **Reporting of Accidents of Labour:** The Contractor shall be responsible for the safety of all employees directly or through petty contractors or sub- contractor employed by him on the works and shall report serious accidents to any of them however and wherever occurring on the works to the Engineer or the Engineers Representative and shall made every arrangements to render all possible assistance.

50.0 **Provision of Workmen’s Compensation Act:** In every case in which by virtue of the provisions of section 12 sub-section (1) of the Workmen’s Compensation Act 1923, DFCCIL is obliged to pay compensation to a workman directly or through petty contractor or subcontractor employed by the Contractor in executing the work, DFCCIL will recover from the Contractor the amount of the compensation so paid, and, without prejudice to the rights of DFCCIL under Section 12 Sub-section (2) of the said Act, DFCCIL shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by DFCCIL to the Contractor whether under these conditions or otherwise, DFCCIL shall not be bound to contest any claim made against it under Section 12 Sub-section (1) of the said Act except on the written request of the Contractor and upon his giving to DFCCIL full security for all costs for which DFCCIL might become liable in consequence of contesting such claim.

51.0 **DFCCIL not to provide quarters for Contractors:** No quarters shall normally be provided by the DFCCIL for the accommodation of the contractor or any of his staff employed on the work.

52.(1) **Labour Camps:** The contractor shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of latrines and urinals for his staff and workmen, directly or through the petty contractors or sub-contractors and for temporary crèche (Bal-mandir) where 50 or more women are employed at a time. Suitable sites on DFCCIL land, if available, may be allotted to the contractor for the erection of labour camps, either free of charge or on such terms and conditions that may be prescribed by the DFCCIL. All camp sites shall be maintained in clean and sanitary conditions by the contractor at his own cost.

- 52.(2) **Compliance to rules for employment of labour:** The contractor(s) shall conform to all laws, by-laws rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through petty contractors or sub-contractors on the works.
- 52.(3) **Preservation of peace:** The contractor shall take requisite precautions and use his best endeavours to prevent any riotous or unlawful behaviour by or amongst his workmen and other employed directly or through the petty contractors or sub-contractors on the works and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the works. In the event of the DFCCIL requiring the maintenance of a special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the contractor and if paid by the DFCCIL shall be recoverable from the contractor.
- 52.(4) **Sanitary arrangements:** The contractor shall obey all sanitary rules and carry out all sanitary measures that may from time to time be prescribed by the DFCCIL Medical Authority and permit inspection of all sanitary arrangements at all times by the Engineer, the Engineer's Representative of the Medical staff of the DFCCIL. Should the contractor fail to make the adequate sanitary arrangements, these will be provided by the DFCCIL and the cost therefore recovered from the contractor.
- 52.(5) **Outbreak of infectious disease:** The contractor shall remove from his camp such labour and their families as refuse protective inoculation and vaccination when called upon to do so by the Engineer or the Engineer's representative on the advice of the DFCCIL. Should cholera, plague or other infectious disease break out, the contractor shall burn the huts, beddings, clothes and other belongings of or used by the infected parties and promptly erect new huts on health sites as required by the engineer, failing which within the time specified in the Engineer's requisition, the work may be done by the DFCCIL and the cost therefore recovered from the contractor.
- 52.(6) **Medical facilities at site:** The Contractor shall provide medical facilities at the site as may be prescribed by the Engineer on the advice of the DFCCIL in relation to the strength of the Contractor's resident staff and workmen.
- 52.(7) **Use of intoxicants:** The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the contractor or any of his employees shall be forbidden and the Contractor shall exercise his influence and authority to the utmost extent to secure strict compliance with this condition.
- 52.(8) **Restrictions On The Employment Of Retired Engineers Of DFCCIL Services Within one Year Of Their Retirement:** The Contractor shall not, if he is a retired Government Engineer of Gazetted rank, himself engage in or employ or associate a retired Government Engineer of Gazetted rank, who has not completed one year from the date of retirement, in connection with this contract in any manner whatsoever without obtaining prior permission of the DFCCIL and if the Contractor is found to have contravened this provision it will constitute a breach of contract and administration will be entitled to terminate the contract and forfeit Earnest Money Deposits (EMD), Performance Guarantee (PG) and Security Deposits (SD) of that contract.
- 53.(1) **Non-employment of labours below the age of 15:** The Contractor shall not employ children

below the age of 15 as labourers directly or through petty contractors or subcontractors for the execution of work.

- 53.(2) **Medical Certificate of fitness for labour:** It is agreed that the contractor shall not employ a person above 15 and below 19 years of age for the purpose of execution of work under the contract unless a medical certificate of fitness in the prescribed form (Proforma at Form No.15) granted to him by a certifying surgeon certifying that he is fit to work as an adult is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with him, while at work; a token giving a reference to such certificate. It is further agreed that the responsibility for having the adolescent examined medically at the time of appointment or periodically till he attains the age of 19 years shall devolve entirely on the contractor and all the expenses to be incurred on this account shall be borne by him and no fee shall be charged from the adolescent or his parent for such medical examination.
- 53.(3) **Period of validity of medical fitness certificate:** A certificate of fitness granted or renewed for the above said purposes shall be valid only for a period of one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if in his opinion the holder of it is, no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.
- 53.(4) **Medical re-examination of labourer:** Where any official appointed in this behalf by the Ministry of labour is of the opinion that any person employed in connection with the execution of any work under this contract in the age group 15 to 19 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the Contractor, or on the person nominated by him in the regard, a notice requiring that such persons shall be examined by a certifying surgeon and such person shall not if the concerned official so directs, be employed or permitted to do any work under this contract unless he has been medically examined and certified that he is fit to work in the capacity stated in the certificate.

DETERMINATION OF CONTRACT

- 54.(1) **Right of DFCCIL of determine the contract:** The DFCCIL shall be entitled to determine and terminate the contract at any time should, in the DFCCIL's opinion, the cessation of work becomes necessary owing to paucity of funds or from any other cause whatever, in which case the value of approved materials at site and of work done to date by the Contractor will be paid for in full at the rate specified in the contract. Notice in writing from the DFCCIL of such determination and the reasons therefore shall be conclusive evidence thereof.
- 54.(2) **Payment on determination of contract:** Should the contract be determined under sub clause (1) of this clause and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the work, the DFCCIL shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The DFCCIL's decision on the necessity and propriety of such expenditure shall be final and conclusive.
- 54.(3) The contractor shall have no claim to any payment of compensation or otherwise, howsoever on

account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of determination of contract.

55.(1) Determination of contract owing to default of contractor: If the Contractor should:-

- (i) Becomes bankrupt or insolvent, or
 - (ii) Make an arrangement with of assignment in favour of his creditors, or agree to carry out the contract under a Committee of Inspection of his creditors, or
 - (iii) Being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or
 - (iv) Have an execution levied on his goods or property on the works, or
 - (iv) Assign the contract or any part thereof otherwise than as provided in Clause 7 of these conditions, or
 - (vi) Abandon the contract, or
 - (vii) Persistently disregard the instructions of the Engineer, or contravene any provision of the contract, or
 - (viii) Fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or
 - (ix) Fail to Execute the contract documents in terms of Clause 8 of the Regulations for Tenders and Contracts.
 - (x) Fails to submit the documents pertaining to identity of JV and PAN in terms of Clause of Tender Form available in the Regulations for Tenders and Contracts.
 - (xi) Fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected under clause 23 and 25 of these conditions, or
 - (xii) Fail to take steps to employ competent or additional staff and labour as required under clause 24 of the conditions
 - (xiii) Fail to afford the Engineer or Engineer's representative proper facilities for inspecting the work or any part thereof as required under clause 26 of the conditions, or
 - (xiv) Promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of the DFCCIL or to any person on his or on their behalf in relation to the execution of this or any other contract with DFCCIL.
- (xv)(A) At any time after the tender relating to the contract, has been signed and submitted by the Contractor, being a partnership firm admit as one of its partners or employee under it or being an incorporated company elect or nominate or allow to act as one of its directors or employee under it in any capacity whatsoever any retired engineer of the gazetted rank or any other retired gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the DFCCIL for the time being owned and administered by the President of India before the expiry of one year from the date of retirement from the said service of such Engineer or Officer unless such Engineer or Officer has obtained permission from the President of India or any officer

duly authorized by him in this behalf to become a partner or a director or to take employment under the contract as the case may be, or

(xv)(B) Fail to give at the time of submitting the said tender:-

- (a) The correct information as to the date of retirement of such retired engineer or retired officer from the said service, or as to whether any such retired engineer or retired officer was under the employment of the Contractor at the time of submitting the said tender, or
- (b) The correct information as to such engineers or officers obtaining permission to take employment under the contractor, or
- (c) Being a partnership firm, the correct information as to, whether any of its partners was such a retired engineer or a retired officer, or
- (d) Being in incorporated company, correct information as to whether any of its directors was such a retired engineer or a retired officer, or
- (e) Being such a retired engineer or retired officer suppress and not disclose at the time of submitting the said tender the fact of his being such a retired engineer or a retired officer or make at the time of submitting the said tender a wrong statement in relation to his obtaining permission to take the contract or if the contractor be a partnership firm or an incorporated company to be a partner or director of such firm or company as the case may be or to seek employment under the contractor.
- (f) Submits copy of fake documents / certificates in support of credentials, submitted by the tenderer

Then and in any of the said clause, the Engineer on behalf of the DFCCIL may serve the Contractor with a notice (Proforma at Form No.16) in writing to that effect and if the contractor does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid of the entire satisfaction of the Engineer, the DFCCIL shall be entitled after giving 48 hours notice (Proforma at Form No. 17) in writing under the hand of the Engineer to rescind the contract as a whole or in part or parts (as may be specified in such notice) and after expiry of 48 hours notice, a final termination notice (Proforma at Form No. 18) should be issued.

Note: Engineer at his discretion may resort to the part termination of contract with notices (Proforma at Form 18), only in cases where progress of work is more than or equal to 80% of the original scope of work.

55.(2) Right of DFCCIL after, rescission of contract owing to default of contractor:

In the event of any or several of the courses, referred to in sub-clause (1) of the clause, being adopted.

- (a) the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract and contractor shall not be entitled to recover or be paid any sum for any work thereto for actually performed under the contract unless and until the Engineer shall have certified the performance of such work and the value payable in respect thereof and the contractor shall only be entitled to be paid the

value so certified.

- (b) In the contract which has been rescinded as a whole, the Security Deposit already with DFCCIL under the contract shall be encashed/ forfeited and the Performance Guarantee already submitted for the contract shall be encashed. The balance work shall be got done independently without risk & cost of the failed Contractor. The failed Contractor shall be debarred from participating in the tender for executing the balance work. If the failed Contractor is a JV or a Partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV /partnership firm.

Further the authorized representative of failed Contractor cannot be accepted as authorized representative in new contract.

- (c) In the contract rescinded in part or parts,
- (i) The full Performance Guarantee for the contract shall be recovered. No additional Performance Guarantee shall be required for balance of work being executed through the part terminated contract. The contract value of part terminated contract stands reduced to the balance value of work under the contract.
 - (ii) The Security Deposit of part terminated contract shall be dealt as per clause 14(2) of GCC.
 - (iii) The defaulting Contractor shall not be issued any completion certificate for the contract.
 - (iv) The balance work shall be got done independently without risk & cost of the failed Contractor. The failed Contractor shall be debarred from participating in the tender for executing the balance work. If the failed Contractor is a JV or a Partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV /partnership firm.
 - (v) Further the authorized representative of failed Contractor will not be accepted as authorized representative in new contract.
- (d) The Engineer or the Engineer's representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.
- (e) The Engineer shall as soon as may be practicable after removal of the contractor fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and shall certify what amount(if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the contractor in respect of the work then actually done by him

under the contract and what was the value of any unused, or partially used materials, any constructional plan and any temporary works upon the site. The legitimate amount due to the contractor after making necessary deductions and certified by the Engineer should be released expeditiously.

STATEMENT OF DISPUTES -

- 56. Reconciliation of disputes:** All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the Contractor to the "Chief Engineer" through "Notice of Dispute" provided that no such notice shall be served later than 30 days after the date of issue of Completion Certificate by the Engineer. Chief Engineer shall, within 30 days after receipt of the Contractor's "Notice of Dispute", notify the name of conciliator(s) to the Contractor, "who shall be chosen from the list of empanelled Conciliators maintained by DFCCIL".

The Conciliator(s) shall assist the parties to reach an amicable settlement in an independent and impartial manner within the terms of contract.

If the parties reach agreement on a settlement of the dispute, they shall draw up and sign a written settlement agreement duly signed by Engineer, Contractor and conciliator(s). When the parties sign the settlement agreement, it shall be final and binding on the parties.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.

The conciliation proceedings shall be terminated as per Section 76 of 'The Arbitration and Conciliation Act, 1996.

- 56.1 Matters finally determined by the DFCCIL:** All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the Managing Director, DFCCIL and the Managing Director, DFCCIL shall within 120 days after receipt of the contractor's representation make and notify decisions on all matters referred to by the contractor in writing provided that matter for which provision has been made in clauses 8, 16, 20.(5), 33, 37.(2), 39.(a), 48, 48A.(5), 50, 54.(1), 54.(2) and 55.(1) of General Conditions of contract or in any special clause of the conditions of the contract shall be deemed as 'excepted matters' (matters not arbitrable) and decisions of the DFCCIL authority, thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause.

57.(1) Demand for Arbitration:

- 57.(1).(i)** In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in

question, dispute or difference on any account or as to the withholding by the DFCCIL of any certificate to which the contractor may claim to be entitled to, or if the DFCCIL fails to make a decision within 120 days, then and in any such case, but except in any of the 'excepted matters' referred to in clause 56 of these conditions, the contractor, after 120 days but within 180 days of his presenting his final claim on disputed matters shall demand in writing that the dispute or difference be referred to arbitration.

57.(1).(ii).(a) The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item wise. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, given by the DFCCIL, shall be referred to arbitration and other matters shall not be included in the reference.

57.(1)(ii)(b): The parties may waive off the applicability of Sub-Section 12(5) of Arbitration and Conciliation (Amendment) Act 2015, if they agree for such waiver in writing, after dispute having arisen between them.

57.(1)(iii)(a) The arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the DFCCIL.

- (b) The claimant shall submit his claim stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.
- (c) The DFCCIL shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal thereafter, unless otherwise extension has been granted by Tribunal.
- (d) **Place of Arbitration:** The place of arbitration would be within the geographical limits of the CGM/GM where the cause of action arose or the Headquarters of the concerned CGM/GGM/GM Unit or any other place with the written consent of both the parties.

57.(1)(iv) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

57.(1)(v) If the contractor(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the DFCCIL that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the DFCCIL shall be discharged and released of all liabilities under the contract in respect of these claims.

57.(2) Obligation During Pendency of Arbitration: Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the DFCCIL shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

57.(3) Appointment of arbitrator

57.(3)(a)(i): In cases where the total value of all claims in question added together does not exceed ₹1,50,00,000/- (Rupees One Crore Fifty Lakh), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be 'Out of the approved panel of arbitrators in DFCCIL. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Managing Director/DFCCIL.

57.(3)(a)(ii)(a) In cases not covered by the clause 57(3)(a)(i), the Arbitral Tribunal shall consist of a Panel of three officials, as the Arbitrators. For this purpose, the DFCCIL will send a panel of more than 3 names of DFCCIL empanelled Arbitrators officers which may also include the name(s) of Officer(s) empanelled to work as Arbitrator to the contractor within 60 days from the day when a written and valid demand for Arbitration is received by the MD/DFCCIL. Contractor will be asked to suggest to MD/DFCCIL at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by DFCCIL. The MD/DFCCIL shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the second Arbitrator.

(b) Third member, who will also act as the presiding member, will be appointed by mutual consent of the first two members from the list of empanelled Arbitrators. If these two members fail to reach an agreement on the third member then, on request by either or both parties, appointment will be made by the Managing Director/DFCCIL.

(c) The tribunal shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, and any decision of the conciliator/s, relevant to the dispute.

(d) Neither party shall be limited in the proceedings before the tribunal to the evidence or arguments previously put before the conciliator/s to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction,

(e) Arbitration may be commenced prior to or after completion of the works. The obligations of the Parties, the Engineer and the conciliator/s shall not be altered by reason of any arbitration being conducted during the progress of the Works

57.(3)(a)(iii) If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the MD/DFCCIL fails to act without undue delay, the MD/DFCCIL shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator(s).

57.(3) (b) (i): (a) The Arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. The proceedings shall normally be conducted on the basis of documents and written statements.

(b) Before proceeding into the merits of any dispute, the Arbitral Tribunal shall first decide and pass its orders over any plea submitted/objections raised by any party, if any, regarding appointment of Arbitral Tribunal, validity of arbitration agreement, jurisdiction and scope of the Tribunal to deal with the dispute (s) submitted to arbitration, applicability of time 'limitation' to any dispute, any violation of agreed procedure regarding conduct of the arbitral proceedings or plea for interim measures of protection and record its orders in day to day proceedings. A

copy of the proceedings duly signed by all the members of tribunal should be provided to both the parties.

- 57.(3)(c)(i):** The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred therefrom.
- 57.(3)(c)(ii):** A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.
- 57.(3)(c)(iii):** A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.
- 57.(4)** In case of the Tribunal, comprising of three Members, any ruling on award shall be made by a majority of Members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 57.(5)** Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.
- 57.(6)** The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by the DFCCIL from time to time and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by DFCCIL from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the DFCCIL or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.
- 57(7)** Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and any statutory modifications thereof shall apply to the arbitration proceedings under this clause.

SPECIAL CONDITIONS OF CONTRACT

PART - I

CHAPTER V

SPECIAL CONDITIONS OF CONTRACT

- 1.5.1** This Tender shall be governed by Preamble and General instructions to tenderers, General condition of Contract, Special conditions of contract, Technical Specifications, Additional Technical specifications (if any), Drawings, Forms, Annexures etc.
- 1.5.2** If there are varying or conflicting provisions in the documents forming part of the contract, Engineer shall be deciding authority with regard to the intentions of the provision and decision of Engineer will be final and binding on the contractor.
- 1.5.3** **Scheme of work:** Within a period of 30 days beginning from the date of issue of Letter of Acceptance of Tender, the Contractor shall submit the detailed time schedule for execution of work and various documents enumerated in tender papers to the employer.
- 1.5.4** **Expenses of Employer' Representative:** All the expenses of Engineer's representative shall be borne by the Employer whether the inspected material is finally utilised in work or not.
- 1.5.5** The decision of the Engineer shall be final in respect of acceptability or otherwise of any material, fittings, component or equipment required for the work.
- 1.5.6** This programme of the Contractor shall generally cover the followings: -
- 1.5.6.1** The organization to manage and implement the Quality Assurance programme.
- 1.5.6.2** The documentation control system:
- (i) Basic control system.
 - (ii) Adopted at manufacturer's work
 - (iii) Adopted at the Contractor Plants/Control Centres and work site.
- 1.5.6.3.** Procedure adopted for:
- (i) Source Inspection- Machine/Software
 - (ii) Incoming Machine/Software inspection.
 - (iii) Verification of Machine/Software purchased.
- 1.5.8.4** Inspection and Test Procedure for:
- (i) Manufacture and quality control procedure.
 - (ii) Field activity.
- 1.5.8.5** System of handling and storage.
- 1.5.8.6** System of quality audit.
- 1.5.8.7** System of maintenance of records.

1.5.8.8 For the purpose of obtaining ‘On Account Payment’, the Contractor shall submit along with the invoice, the documents indicated in the prescribed quality Assurance standards which should inter alia cover the following as may be applicable in each case.

- (i) System test reports on Machine/Software used.
- (ii) System type and routine test report on components specification.
- (iii) Inspection Plan with reports of the inspection Plan check points.
- (iv) Routine test report.
- (v) Factory test results as required under the specification.
- (vi) Quality audit report including test check report of Employer’s representative if any.

1.5.9 Traffic Blocks

- (a) The contractor shall obtain Traffic Block in the name of authorized representative of DFCCIL. Engineer/Engineer’s representative will facilitate to make arrangements to obtain traffic blocks (hereinafter referred to as blocks) for works to be carried out along or adjacent to the track work. The requirement of shut down, power blocks etc. shall be assessed by the contractor and will be submitted to the Engineer/Engineer’s representative. All works shall be done under block. Contractor will arrange adequate labours. with supervisors and sufficient tools and tackles required as per site conditions.
- (b) Blocks will be subject to normal operating conditions and rules of the DFCCIL. All formalities of exchanging private number etc with the traffic controller will be carried out by the Engineer staff and for this purpose the Engineer will depute a representative for each location, who will be responsible for imposing traffic block and also removing the same after men, material and equipment have been cleared by the Contractor from running tracks and the same declared safe for traffic by Engineer/Engineer’s representative in case of works involving safety of running tracks.
- (c) The works required to be done under traffic block shall be carried out only in the presence of DFCCIL officials. The DFCCIL supervisor shall certify safe conditions for passage of trains before resumption of traffic. The works to be done under traffic block shall be carried out under the provision of banner flag and protection of engineering flagman.

1.5.11 Infringement of patents:

- (a) The Contractor is forbidden to use any patents or registered drawings, process or pattern in fulfilling his contract without the previous consent in writing of the owner of such patent, drawing, pattern or trade mark, except where these are specified by the Employer himself. Royalties where payable for the use of such patented processes, registered drawings of patterns shall be borne exclusively by the Contractor. The contractor shall advise the Employer of any proprietary right that may exist on such processed drawings or patterns which he may use of his own accord.
- (b) In the case of patent taken out by the Contractor of the drawings or patterns registered by him, or of those patents, drawings, or patents for which he holds a licence, the signing of the Contract automatically gives the Employer the right to repair by himself the

purchased articles covered by the patent or by any person or body chosen by him and to obtain from any sources he desires the component parts required by him in carrying out the repair work. In the event of infringement of any patent rights due to above action of the Employer, he shall be entitled to claim damages from the contractor on the grounds of any loss of any nature which he may suffer e.g. in the case of attachment because of counterfeiting.

- (c) **Indemnification by contractor:** In the event of any claim or demand being made or action being brought against the Employer for infringement of later patent in respect of any equipment, machine, plant, work or thing used or supplied by the Contractor under this contract or in respect of any methods of using or working by the Employer of such equipment machine, plant work or thing, the contractor shall indemnify the employer and keep him indemnified and harmless against all claims, costs, charges and expenses arising from or incurred by reason of such claim provided that the Employer shall notify the contractor immediately any claim is made and that the contractor shall be at liberty, if he so desires with the assistance of the Employer if required but at the Contractor's expense, to conduct all negotiations for the settlement of the same or any litigation that may arise there from and provided that no such equipment, machine, plant work or thing, shall be used by the Employer for any purpose or in any manner other than that for which they have been supplied by the Contractor and specified under this contract.

1.5.12 Insurance: -

Before commencing of works, it shall be obligatory for the contractor to obtain, at his own cost, insurance cover should ideally be in INR currency in the joint name of the contractor and employer and be taken from Insurance Firms operating in India under the applicable laws of India under the following requirements:

- (a) Liability for death of or injury to any person/ employer's staff/ animals or things or loss of or damage to any property / things / the work of other contractor (other than the work) arising out of the performance of the Contract.
- (b) Construction Plant, Machinery and equipment brought to site by the Contractor.
- (c) Any other insurance cover as may be required by the law of the land.

The contractor shall provide evidence to the employer/Engineer before commencement of work at site that the insurances required under the contract have been effected and shall within 60 days of the commencement date, provide the insurance policies to the Employer/Engineer, the contractor shall, whenever, called upon, produce to the engineer or his representative the evidence of payment of premiums paid by him to ensure that the policies indeed continue to be in force.

The Contractor shall also obtain any additional insurance cover as per the requirements of the Contract.

The Employer/Engineer shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or his sub-contractor or petty contractor / other contractor working there. The Contractor shall indemnify and keep

indemnified the employer/Engineer against all such damages and compensation for which the contractor is liable.

The Policies of the contractor shall remain in force throughout the period of execution of the works and till the expiry of the defect liability period except for any specific insurance covers necessary for shorter period.

If the Contractor fails to effect or keep in force or provide adequate cover as acceptable to the engineer in the insurance policies mentioned above, then in such cases, the engineer may effect and keep in force any such insurance or further insurance on behalf of the Contractor. The recovery shall be made at the rate of 1.5 times the premium/premiums paid by the engineer in this regard from the payment due to the Contractor or from the contractor's Performance security. However, the Contractor shall not be absolved from his responsibility and /or liability in this regard.

1.5.13 Accident:

- (a) The contractor shall, in respect of all staff engaged by him or by his sub-contractor, indemnify and keep the employer at all times indemnified and protected against all claims made and liabilities incurred under Workman's Compensation Act, the Factories Act and the Payment of Wages Act, and rules made thereunder from time to time or under any other labour and Industrial Legislation made from time to time.
- (b) The contractor shall indemnify and keep the employer indemnified and harmless against all actions, suits, claim demands, costs, charges or expenses arising in connection with any death or injury sustained by any person or persons sustained due to the acts or omission of the contractor, his sub-contractors, his agents or his staff during the executions of this contract irrespective of whether such liability arises under the Workman's Compensation Act, or Fatal Accident Act or any other statute in force for the time being.
- (c) The contractor's liability to meet third party claims of the type outlined above will be applicable only in cases where accidents have been caused by workmanship, material, execution or negligence on the part of the contractor and further the liability of the contractor will be limited to Rs.5 lakh for any one accident.
- (d) The contractor shall be responsible for all repairs and rectification of damages to completed works or works under execution due to DFCCIL accidents, thefts, pilferage or any other cause, without delay to minimize or to avoid traffic detentions, in a section until the installation are provisionally handed over to the employer.

1.5.14 Safety Measures:

- (a) The contractor shall take all precautionary measures in order to ensure the protection of his own personnel moving about or working on the DFCCIL premises, but shall then conform to the rules and regulations of the DFCCIL if and when, in the course of the work there is likely to be any danger to persons in the employment of the contractor due to running traffic while working in the Railway siding and premises, the contractor shall provide flagman or look out

men for protection of such persons. The employer shall remain indemnified by the contractor in the event of any accident occurring in the normal course of work, arising out of the failure of contractor or his men to exercise reasonable precaution at all places of work.

- (b) Work shall be done only after due notice is given to the employer and time/s and date/s for experiments/trial operations agreed to by the employer. The contractor shall follow detailed instructions which will be issued to him regarding blasting operations in the vicinity of tracks.
- (c) The works must be carried out most carefully without any infringement of the Indian Railway Act or the General and Subsidiary Rules in force on the DFCCIL, in such a way that they do not hinder DFCCIL operation or affect the proper functioning of or damage any DFCCIL equipment, structure or rolling stock except as agreed to by the employer, provided that all damage and disfiguration caused by the contractor at his own cost failing which cost of such repairs shall be recovered from the contractor.
- (e) If safety of track is affected as a consequence of works undertaken by the contractor, the contractor shall take immediate steps to restore normal conditions. In case of delay, the employer shall, after giving due notice to the contractor in writing.

1.5.15 Guarantee/ Defect Liability Period:

- (a) The Contractor shall guarantee that all the works executed under this contract shall be free from all defects and faults shall be of acceptable standards for the contracted work and in full conformity with the technical specifications, drawings and other contract stipulations, for a period of 60days from the date of its successful completion certified by the Engineer.
- (b) During the period of guarantee the Contractor shall keep available an experienced engineer/ man power to attend to any defective works by the Contractor.

1.5.16 Final Acceptance:

- (a) The final acceptance of the entire work executed shall take effect from the date of expiry of the period of guarantee/ Defect Liability period as defined in paragraph 1.5.15 above, provided in any case that the Contractor has complied fully with his obligations under clause 1.5.15 .
- (b) If on the other hand the contractor has not so complied with his obligation under Para 1.5.15 above in respect of any work, the Employer may either extend the period of guarantee in respect of that work until the necessary works are carried out by the Contractor or carry out those works or get them carried out Suo moto on behalf of the Contractor at the Contractor's expenses. After expiry of the period of guarantee for each work, a certificate of final acceptance for the section shall be issued by the Employer and the last of such certificate will be called the last and final acceptance certificate. The contract shall not be considered as completed until the issue of final acceptance certificate by the Employer.

-
- (c) The Employer shall not be liable to the Contractor for any matter arising out of or in connection with the contract or execution of the work unless the Contractor shall have made a claim in writing in respect thereof before the issue of final acceptance certificate under this clause.

Notwithstanding the issue of final acceptance certificate, the Contractor and the Employer (subject to sub-clause as above) shall remain liable for fulfilment of any obligation incurred under the provision of the contract prior to the issue of final acceptance certificate which remains unperformed at the time such certificate is issued and for determining the nature and extent of such obligation the contract shall be deemed to remain in force between the parties hereto.

Or

- (a) The final acceptance of the entire work executed shall take effect from the date of expiry of the period of guarantee, if any or acceptance of final report by the DFCCIL. The contract shall not be considered as completed until the issue of final acceptance certificate by the Employer.
- (b) The Employer shall not be liable to the Contractor for any matter arising out of or in connection with the contract or execution of the work unless the Contractor shall have made a claim in writing in respect thereof before the issue of final acceptance certificate under this clause.

Notwithstanding the issue of final acceptance certificate, the Contractor and the Employer (subject to sub-clause as above) shall remain liable for fulfilment of any obligation incurred under the provision of the contract prior to the issue of final acceptance certificate which remains unperformed at the time such certificate is issued and for determining the nature and extent of such obligation the contract shall be deemed to remain in force between the parties hereto.

- (c) The contract shall not be considered as completed until the issue of final acceptance certificate by the Employer.

1.5.17 Payment:

Payment will be governed by the terms specified in Part-I, Chapter IV and in accordance with accepted schedule of prices, read with relevant para of the other parts and Chapters of the Tender Papers. The employer retains the right to withhold money due to the contractor arising out of this contract for any default of the contractor.

- (i) The Contractor shall, whenever required, produce or cause to be produced for examination by the Employer any quotation / invoice, cost of other account, book of account, voucher, receipt letter, memorandum paper or writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in anyway relating to the execution of this contract or relevant for verifying or ascertaining the cost of the execution of this Contract (the decision of the employer on the question of relevancy of any documents, information or return being final and binding on the parties). The Contractor shall similarly produce vouchers etc., if required, to prove to the Employer that services /

materials supplied by him are in accordance with the specifications laid down in the contract.

- (ii) If any portion of the work be carried out by a sub-contractor or any subsidiary or allied firm or company the Employer shall have power to secure the books of such sub-contractor or any subsidiary or allied firm or company, through the Contractor, and such books shall be open to his inspection. The Contractor should seek prior permission from the employer for subletting whole and/or part of the work to any sub-contractor.
- (iii) The obligations imposed by sub-clause (i) and (ii) above are without prejudice to the obligation of the Contractor under any statute, rules or order binding to the Contractor or other conditions of the contract.
- (iv) It is an agreed term of the contract that the employer reserves the right to carry out post-payment Audit and/or technical examination of the works and the final bill, including all supporting vouchers, abstracts etc. and to make a claim on the Contractor for the refund of any excess amount paid to him if as a result of such examination any over payment to him is discovered to have been made in respect of any work done or alleged to have been done by him under the contract.

1.5.18 All payments in respect of the contract during the currency of the contract shall be made through Electronic Clearing System (ECS)/ National Electronic Funds Transfer (NEFT/RTGS). The successful tenderer on award of contract must submit ECS/NEFT/RTGS Mandate Form complete in all respects as detailed at Form No. 8 of the tender document. However, if the facility of ECS/NEFT/RTGS is not available at a particular location, the payments shall be made by cheque.

1.5.19 Performance Guarantee:

- (i) The Bank Guarantee for performance Guarantee shall remain valid until a date 60 days (or as specified in the Contract) after expiry of Defects Liability Period.
- (ii) The Bank Guarantee for performance Guarantee shall be submitted invariably in the format given in the bidding document.
- (iii) The performance Guarantee shall be released 21 days after issue of performance certificate.

1.5.20 Integrity Pact:

As per office memorandum no F.No DPE/13(12)/11-Fin Dated 09.09.2011 issued by Ministry of Heavy Industries (DPE) all PSU should enter into Integrity pact in the required proforma in their procurement transaction/ Contracts with suitable changes specific to the situation in which the pact is to be used. The pact, entering into which would be a preliminary qualification for any bidder, essentially envisages an agreement between the prospective vendors / bidders and the DFCCIL, committing the persons/ officials on both sides not to resort to any corrupt practices in any aspect / stage of the contract.

A copy of pre contract integrity pact is enclosed as **Form no. 19** for signature of bidder as acceptance, as and when Independent External monitor is appointed.

TECHNICAL SPECIFICATION

PART - II

Technical Specifications

For

Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Scheme on DFCCIL (TCMMM)

Table of Contents		
SNo	ITEM	PAGE No.
1.	Scope	94
2.	Functional & Technical Requirements	95
3.	Software	96
4.	Track Parameters	97-98
5.	Other physical condition through Vision Device	98-99
6.	Functional requirement for Points and Crossings	99-101
7.	Server Requirement	102
8.	Planning for maintenance	102
9	Acceptance Test	103
10.	Field Validation Test	103

1. Scope

The scope of this document is for implementation of the Intelligent Track Condition Monitoring & Maintenance Management System (TCMMM) on DFCCIL to monitor the health and performance of Track assets to keep in the best of health all the time and provide solutions for deployment of necessary infrastructure, by capturing track condition parameters, recording of such data, its analysis, providing solution for maintenance strategy for normal/planned (predictive)/ urgent (reactive) attention. The period for the above shall be for three years with the provision of extension by two years on mutual consent. The work to include following:

- a) **Self-propelled/Portable Track Condition Monitoring System** with the provision of capturing & recording Track Parameters and conditions (listed as above) at not less than 40 Kmph.
- Data acquisition can be on 3.0 m chord , but system should be able to correctly extrapolate it for 9.0 m chord also to match with defined short chord of TRC
 - Track Measurements as above have to be taken in an interval of minimum 7 days for every running track of main line and loop lines (Frequency 15 days).
 - **Portable Vision Device** can be attached to the Portable Track Condition Monitoring System for simultaneous reception of this data also along with other track parameters as above.
 - The generated data need to be developed in digital/numerical and graphical form showing various parameters recorded and their inter-relationship where ever applicable.
 - Scripts to provide workflows that guide field official through the asset condition verification process effectively providing a list of questions that they need to answer in order to complete the condition verification exercise.
 - Analyze the data / parameters feed recorded by measuring equipment as above/by inspecting official/ Track recording Cars being procured by DFCCIL, Oscillograph results and any other method deployed by DFCCIL etc to monitor the health and performance of track assets as above.
 - Categorizing the analyzed data and giving outputs for planned, predictive and preventive/immediate maintenance need giving alert for immediate attention through SMS, email, mobile app etc
 - Record rectifications done / due etc..
 - The output should also be provided to users through mobile app.
 - System must have software module to generate the following reports from the recorded track geometry.
 - I. To access the improvement/deterioration of track, provision in software is to be made to compare upto four previous technical data.
 - II. Track irregularity peaks with magnitude above user selectable threshold value along with its location.
 - III. Evaluation and printing of standard deviation of each parameter for 200 meters block in a kilometer, the distance of last block in the kilometer may be more or less than 200 m. If the distance in last block is less or equal to 50 m it should be combined with previous block

otherwise it shall be dealt as separate block i.e. the maximum and minimum length of last block may be 250 m and 51m respectively. Purchaser will inform about evaluation of the results of production and printing of a kilometer.

- b) **Portable Vision Devices** for capturing the visual conditions of rails, sleepers, missing fittings, mud pumping locations and analyze the data by Artificial Intelligence for giving input to TCMMM for normal/planned (predictive)/ urgent (reactive) attention based on threshold parameters **furnished to the service provider**.
- c) Android /ios based softwares for hand **held devices like tabs/mobiles** etc for measurement/ online recording required parameters at Field level including “in the field” data entry of track inspections, defects and repairs, for its implementation of TCMMM as per suggested yardsticks with due approval by DFCCIL.
- d) Android /ios based softwares for hand **held devices like tabs/mobiles** etc for online recording observations during Footplate /Last vehicle/Motor trolley inspection and generation of report of inspection, after saving the inspection data by the field officials along with online communication facility to asset maintainers. For making this module effective, the existing track features are to be seeded (GPS based) on software and on clicking the observation during inspection, the location and track features shall be picked up from software itself.
- e) Training to DFCCIL maintenance staff for using the TCMMM system.

2. Technical & Functional Requirements

The system shall be capable of storing raw data (Transducer/Sensor signals), profile/chord in ASCII/Binary and processed data in ASCII/Database format in separate files for 10,000 km of track recording. An additional mirror image disk of the same capacity shall also be provided to guard against possible loss of data in case of hard disk crash.

System shall have the capability for real time reporting of the following peak information to TMS server, concerned DFC officials through cellular communication network/ Wireless Broadband or Satellite communication.

The System shall be capable of real time (during recording) processing, analysis, storage, reporting and printing of the recorded data/reports. During recording the digital reports and analogue chart shall be displayed on separate VDUs and printed on separate printers. Two copies of exception report and one copy of analogue report shall be printed during recording. Option to take or not to take the print of exception report and analogue report shall be available to user.

System shall be such that results are not affected by electronic noise, spikes, surges of the generator, power line and EMI generated by over-head electric traction lines, return current & track circuiting currents in the rails etc. Adequate shielding, line filters with surge suppressors etc. shall be provided.

Route Feature Information and Synchronisation:

Route Feature location file is a data file for each route. This file is in ASCII format containing the location of various route features viz. turnout, level crossing, bridges, station etc. in terms of distance from the previous km post along with latitude and longitude of the route feature.

System shall be capable to record route features with its distance from previous chainage post accurately using previously prepared route feature location file & manually entered route features by event marker key pad using navigation system and incorporate the same in the exception and analogue reports along with storing the same in data files.

Km post,	Bridge (Steel Girder) Out,	Curve In,
TP/OHE Mast,	Bridge (Others) In,	Curve Out,
Pt.& Crossing,	Bridge (Others) Out,	Tunnel In,
Level Crossing,	Cutting In,	Tunnel Out,
Switch Expansion Joint,	Cutting Out,	Speed Restriction In,
Road Over Bridge,	Siding/loop In,	Speed Restriction Out,
Bridge (Steel Girder) In,	Siding/loop Out,	Gradient in and out

3. SOFTWARE:

The software shall have option to select either profile or chord mode. In case of profile mode, the software shall be capable of recording the profiles on two user selectable bands of wavelengths in the range of 3m to 100m. In case of chord mode there shall be a single band of wave length in the range of 3m to 100m with processing of data on two user selectable chords in the range of 2 m to 20 m, with actual chord length being an even multiple of sampling distance.

Software shall be able to generate the following from the profile and chord data. The formats will be finalized and provided after the award of the Contract.

- Recording & printing of route features along with distance from km post in exception reports and analogue charts being printed during recording and offline.
- Evaluation and reporting of peak distribution for both profile and chord modes according to various predefined limits / bands.
- Categorization of track for each parameter in categories based on the predefined criteria.
- Determination and storage of peaks in the categorization as specified for all parameters and reporting of 10 worst peaks out of the determined total no of peaks in decreasing order of magnitude along with distance from the last km post.
- Evaluation of the average speed km wise.
- Generation and printing of exception report for wear above the predefined limit in the

format.

- Generation and printing of curvature report in the format.
- Recording run summary, Section wise summary and various other reports using different peak-based exception limits. The formats of reports will be provided after award of contract.
- Reports for comparison of successive recording results as per formats provided award of the contract.
- The comparison software shall also indicate the improvement or deterioration among various recordings.

The system shall also have the capability to store the analog output in suitable format for it's future viewing, processing and printing. The graphical / analog output shall also include following for each kilometre.

- Two level lines for each parameter as per predefined limits.
- Vertical lines at every 100 or 200 m distance.
- Average speed for every 100 or 200 m section.
- Route Features
- Header details e.g. DFC Corridor, Section, Section speed, Kilometer, Date of recording, file name in which analog data has been stored etc.

DFCCIL will provide the formats of reports after award of contract. The data of all reports shall also be stored in comma separated ASCII files. For section wise summary, the software shall be capable of storing the data in file or data base in the desired format.

The software should also be able to generate reports compatible with IR's TMS for the various inputs required by TMS from TRC.

4. Track Parameters

Measurement Specifications: TCMMM to record, analyse and monitor Track Condition with details and parameters as under:

S.N.	Characteristic	Gauge	Cross Level	Long level	Alignment	Twist	Rail Wear
1	Measurement Method	Smallest distance between gauge faces of rails,	Difference in height of two running tables/surfaces	Both Rails, Chord or	Both Rails, Chord or inertial	Direct measurement at a fixed distance	Direct

		perpendicular to the direction of movement at 14mm below running surface		inertial		Indirect measurement calculated from cross levels at fixed interval	
2	Resolution	≤ 0.5 mm	≤ 0.5 mm	≤ 0.5 mm	≤ 0.5 mm	≤ 0.5 mm	≤ 0.5 mm
3	Uncertainty	± 1 mm	± 3 mm	± 1 mm (3 m chord)	± 1.5 mm (3 m chord)	± 1 mm (3 m chord)	≤ 0.5 mm
4	Range	-15 mm to +50 mm	± 200 mm	± 12 mm (3 m chord)	± 15 mm (3 m chord)	± 25 mm (3 m chord)	15mm (Head) 10 mm(Side)
5	Output requirements	Graphical and digital	Graphical and digital	Graphical and digital	Graphical and digital	Graphical and digital	Graphical and digital
6	Output presentation	Difference between measured and nominal gauge	Absolute value	Versine based on 3 m chord	Versine based on 3 m chord For curves Versine based on 20m chord	Absolute Values	Absolute Values

Data acquisition can be on 3.0 mt chord , but system should be able to correctly extrapolate it for 9.0 mt chord also to match with defined short chord of TRC.

5. Other Physical Conditions through Vision Device

S.N.	Item	Physical condition	Output requirements	Output presentation	Limits for alerts
	Rail	Corrugation	Digital	Location Length in mm Maximum width mm	NBL

		Plastic Flow	Digital	Location Length in mm	UML
		Shelling	Digital	Location Length in mm	UML
		Gauge Corner Cracks	Digital	Location Length in mm	UML
		Flaking	Digital	Location Length in mm	UML
		Squat	Digital	Location Length in mm Maximum width mm	UML
		Visible Crack	Digital	Location Length in mm	UML
	Sleepers	Visible crack	Digital	Location Length in mm	UML
	Missing Fittings	ERC	Digital	Location numbers	NBL
		Liner	Digital	Location numbers	NBL
		Rubber Pad	Digital	Location numbers	NBL

6. Functional Requirements for Points and crossings:

To record following items visually and compare it with Indian standard. It should be able to display and print in Y/N as well as green and red ink.

Particulars	Details of inspection
General-	
1. Condition of sleeper	Good (Y/N)
2. Condition of ballast and drainage	Good (Y/N)
3. Availability of: a) Ballast in shoulders and cribs b) Clean ballast cushion	(Y/N) (Y/N)
4. Condition of tongue rails: a) Whether chipped or cracked over 200 mm length within 1000 mm from ATS. LH: RH: b) Whether twisted or bent : LH & RH: c) Whether knife edge : LH & RH:	Visual (Y/N) ----mm ----mm
5. Condition of fittings of switches	Good (Y/N)
6. Packing condition under the switch assembly	Good (Y/N)

7. Housing of stock and tongue rails: : LH & RH:	Good (Y/N)
8. Seating of tongue rails on slide chairs: : LH & RH:	Good (Y/N)
9. Type of crossing	Built-up/CMS
10. Condition of check rail fitting viz bearing plates, keys, blocks, bolts and elastic fastenings	Good (Y/N)
11. Divergence at heel block a) Right hand b) Left hand	Value
12. Throw of switch a) Right hand b) Left hand	Value
13. Creep at toe of switch	Value
14. Distance between gauge faces of stock rails at JOH	Value
15. Distance between web to web of tongue rails at stretcher bar s: a) Leading stretcher bar b) 1 st following stretcher bar c) 2 nd following stretcher bar	Value
16. Gap between top edge of stretcher bar and bottom of rail foot at: a. Leading stretcher bar b. 1 st following stretcher bar c. 2 nd following stretcher bar	Value
17. Clearance at JOH: a) When set for main line -On open tongue rail side On closed tongue rail side ii) When set for turnout side- On open tongue rail side On closed tongue rail side	Value
18. Condition of crossing a. Sign of propagation of crack(if any) in crossing assembly: b. Burring on top surface at nose;	(Y/N) (Y/N)
19. Clearance of wing rail opposite nose of crossing and up to 450 mm towards heel end. Right & Left	Value
20. Clearance of check rails: a. Opposite ANC: Left & Right	Value
b) At following locations with respect to Centre of check rails. i) 500 m ahead towards toe of crossing: Left & Right ii) 500 mm behind heel of crossing: Left & Right c) At the flared end towards heel: Left & Right d) At the flared end towards toe; : Left & Right	
21. Straightness of straight stock rail: (measured on 10m chord)	
22. Straightness of straight tongue rail: (measured on 10m chord)	
23. Wear	
i. Switch assembly and lead portion	
a) Vertical wear Right Hand i. At point with 13 mm head width ii. At point where tongue rail and stock rail level is same	

<p>Left Hand</p> <p>iii. At point with 13 mm head width</p> <p>iv. At point where tongue rail and stock rail level is same</p> <p>b) Lateral wear (to be measured at 13 mm to 15 mm below top of stock rail)</p> <p>Right Hand</p> <p>i. At point with 13 mm head width</p> <p>ii. At point where tongue rail and stock rail level is same.</p> <p>Left Hand</p> <p>i. At point with 13 mm head width</p> <p>ii. At point where tongue rail and stock rail level is same.</p> <p>Vertical and lateral wear may be measured starting at point 'Q' (13 mm head width) and at a point where the tongue and stock rails are at same level</p>	
ii. Stock rail (to be measured at 13 mm to 15 mm below top of stock rail)	
<p>a) Right hand:</p> <p>i. Vertical wear</p> <p>ii. Lateral wear</p> <p>b) Left hand</p> <p>i. Vertical wear</p> <p>ii. Lateral wear</p>	Value
iii. Crossing	
<p>A. Built up/ Heat-treated welded crossing (wear to be measured with straight edge at 100 mm from ANC):</p> <p>i) On left wing rail</p> <p>ii) On nose</p> <p>iii) On right wing rail</p> <p>B. CMS crossing (wear to be measured with straight edge):</p> <p>i) On left wing rail(opposite ANC) ii)On nose (At 100 mm from ANC)</p> <p>Actual wear for 60 Kg section: Measured wear – 2.5 mm</p> <p>iii) On right wing rail (opposite ANC):</p>	Value

7. Server Requirement

The above includes providing required server with adequate capacity for storage of data received from the TCMMS System.. Also, the space shall be utilized to develop the program for processing of the data and generation of the Reports and csv file. The storage space and the program developed by the contractor will be owned by the Client.

8. Planning of Maintenance –

For planning/taking up maintenance of track in respect of Alignment, Unevenness, Gauge and Twist Parameters based on results, track shall be categorized under following three categories:

(1) **Track requiring planned maintenance:** Planned Maintenance Limit (PML) - These tolerances provide a guidance to plan through maintenance of track in a complete block section. These Limits, if exceeded, require that track geometry condition be analysed and considered for planned maintenance operations.

(2) **Track requiring need-based maintenance:** Need Based Maintenance Limit (NBML) –These limits are defined for applying timely correction before the defects size grows to the level of Urgent Maintenance Limit (UML); requiring traffic slow down.

(3) **Track requiring urgent maintenance:** Urgent Maintenance Limits (UML) –These limits are so specified that upon their exceedances, the permitted speed should be reduced; which can be restored only after attending the track.

Maintenance Limits: Based on results, various limits of PML NBML and UML for Unevenness, Alignment, Gauge and Twist Parameters for different speed bands are stipulated as under:

S.N.	Parameter	Normal Maintenance Limit	Predictive/ Need Based Maintenance Limit	Reactive/Urgent Maintenance Limit
1	Gauge-Straight	-5 mm to +3 mm	-5 mm to -8 mm +3 mm to +10 mm	-8 mm <, > +10 mm
	Curve with radius >440m	-3 mm to +3 mm	-3 mm to -5 mm +3 mm to +14 mm	-5 mm<, > +14 mm
2	Unevenness	4mm to 8 mm	8mm – 17 mm	> 17mm
3	Alignment	3mm-6mm	6mm -11mm	>11 mm
4	Twist		4mm/m	6mm/m
5	Rail wear	<6 mm	6-10 mm	>10 mm

Action to be taken on Reactive/Urgent ML:

Spots/blocks exceeding track Parameter limits, and acceleration peak limits set as UML to be recorded and conveyed on real time basis through message/ email to concerned DFCCIL officials for necessary action.

Action to be taken on exceedance of Predictive/Need based ML:

Locations requiring Need Based Maintenance on the basis of laid down NBML as above shall be recorded and advised to the concerned DFCCIL officials after the end of days run

9. ACCEPTANCE TESTS:

The system shall be subjected to both laboratory and field validation tests, before acceptance. **Supplier shall submit detailed lab and field validation schemes after award of contract for approval.** The decision of the purchaser regarding validation and testing of the system shall be final and binding on the supplier. Inspection, validation and acceptance of the system (laboratory & field) will be done by the nominated officials of DFCCIL.

10. FIELD VALIDATION TESTS:

Field validation shall be done on short stretches of up to 10 km as well as on long stretches of 100 to 200 km in well maintained and/or run down track including straight, curves, bridges and station yards.

The magnitude of the defect peaks/exceedances recorded at various speeds will be compared with that measured by actual field measurements. The variation in results shall be within a reasonable accuracy to the satisfaction of the inspecting engineers of the purchaser.

The Agency shall submit detailed laboratory and field validation test schemes based on the aforementioned stipulations within 3 months of award of contract, for the approval of the purchaser. The decision of purchaser regarding the lab and field validation schemes to be adopted shall be final and binding.

If field validation/tests show any deficiency in the system from the specifications, the supplier shall rectify the deficiencies within a reasonable time to complete the commissioning in the specified period.

TENDER FORMS (INCLUDING SCHEDULE OF PRICES)

PART- III

TENDER FORMS			
SN	FORM No.	SUBJECT	
1.	Form No. 1	Offer Letter	
2.	Form No. 2	Tenderer's Credentials	
3.	Form No. 2A	Technical Eligibility Criteria Details	
4	Form No. 2B	Financial Eligibility Criteria Details	
5	Form No. 2C	Applicant's Party Information Form	
6	Form No. 3	Summary of Prices	
7	Form No. 4	Schedule of Prices and Total Prices	
8	Form No. 5	Contract Agreement	
9	Form No. 6	Performance Guarantee Bond	
10	Form No. 7	Standing indemnity bond for on account payment.	
11	Form No. 8	ECS / NEFT / RTGS	
12	Form No. 9	Draft MOU for Joint Venture Participation	
13	Form No.10	Draft Agreement for JV	
14	Form No.11	Pro-forma of Participation from each partner of JV	
15	Form No.12	Power of Attorney for authorized signatory of JV Partners	
16	Form No.13	Power of Attorney to lead partner of JV	
17	Form No. 14	Proforma for Time Extension	
18	Form No. 15	Certificate of Fitness	
19	Form No. 16	Proforma of 7 days Notice	
20	Form No. 17	Proforma of 48 Hours Notice for Whole Work	
21	Form No. 17A	Proforma of 48 Hours Notice for Part of the Work	
22	Form No. 18	Proforma of Termination Notice	
23	Form No. 18A	Proforma of Termination Notice for Part of the Work	
24	Form No. 19	Format of Integrity pact.	
25	Form No. 20	Format for affidavit to be uploaded by tenderer along with the tender document.	
26	Form No. 21	Final Supplementary Agreement	

OFFER LETTER

Tender No. No. HQ-ENWC0MMS(TCMM)/1/2022-O/o GGM/WC-I/DFCC/13568

For

Name of Work: Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMMM)

To,
The Managing Director,
DFCCIL, New
Delhi

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda.;
- (b) We offer to execute the Works in conformity with the Bidding Documents;
- (c) Our bid shall be valid for a period of 120 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) We have not been blacklisted/banned in accordance with para.1.3.18 (ii)(v)(a) of Preamble and General Instructions to tenderers.
- (e) We are neither Bankrupt/Insolvent nor in the process of winding-up nor there is a case pending before any Court on deadline of submission of the Bid in accordance with para. 1.3.18 (ii) (v) (b) of Preamble and General Instructions to tenderers.
- (f) If our bid is accepted, we commit to obtain a Performance Guarantee in accordance with the Bidding Documents;
- (g) If our bid is accepted, we commit to deploy key equipment and key personnel consistent with the requirements of the work.
- (h) We understand that this bid, together with your written acceptance thereof included in your notification of award/Letter of Acceptance (LOA), shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (i) All information, statements and description in this bid are in all respect true, correct and complete to the best of our knowledge and belief and we have not made any tampering or changes in the bidding documents on which the bid is being submitted and if any tampering or changes/incorrect information are detected at any stage, we understand the bid will invite summarily rejection and forfeiture of bid security, the contract will be liable to be terminated along with forfeiture of performance security, even if LOA has been issued.
- (j) We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

Name

In the capacity of

Signed

Duly authorized to sign the Bid for and on behalf of

Date

TENDERER'S CREDENTIALS

SNo	Description
1	For technical experience/competence, give details of similar completed works during the last seven years in the proforma given in Form-2A
2	For financial capacity and organizational resources, give details of contractual payments received for the last three financial years (i.e current Financial year and three previous financial years) as per audited balance sheet certified by Chartered Accountant in the proforma given in Form-2B
3	Give constitution of your firm. Attach certified copies of legal documents in support thereof. Form-2C

TECHNICAL ELIGIBILITY CRITERIA DETAILS

**Details of the similar works completed (as per Para 1.3.18 (i) of
Preamble and General Instructions to Tenderers)**

Similar Contract No.		
Contract Identification		
Award date		
Completion date		
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>
Total Contract Amount (Rs.)		
If member in a JV , specify participation in total Contract amount	<i>[insert a percentage amount]</i>	<i>Total contract amount in Rs.</i>
Employer's Name: Address: Telephone/fax number E-mail:		
Description of the similarity in accordance with Criteria 1.3.18(i)(A)		

Note :- The bidder shall attach Certified completion certificates issued by the client duly attested by Notary as per Eligibility Criteria of the tender documents. In case of JV, Technical credential shall be as per 1.3.24.16.1.

Signature of the
Tenderer with Seal

FINANCIAL ELIGIBILITY CRITERIA DETAILS

Each Bidder or each member of JV must fill in this form separately. Name of Bidder/JV Partner

Details of contractual payments (Construction only) received during the last three financial years and current financial year

Contractual payments received (Construction only)	
Year	Value of payment received in Rs. (Contract Receipts)
Current Year(2021-2022)	
2020– 2021	
2019 – 2020	
2018 - 2019	
Total Contractual Payment	

Note: The details should be extracted from the audited balance sheet Certified by the Chartered Accountant or form 16-A issued by the Employer as per clause 1.3.18 of Preamble and General Instructions to Tenderers.

The bidder shall attach necessary documents in support of the above.

Signature of the
Tenderer with Seal

APPLICANT'S PARTY INFORMATION FORM

Applicant name: <i>[insert full name]</i>
Applicant's Party name: <i>[insert full name of Applicant's Party]</i>
Applicant's Party country of registration: <i>[indicate country of registration]</i>
Applicant Party's year of constitution: <i>[indicate year of constitution]</i>
Applicant Party's legal address in country of constitution: <i>[insert street/ number/ town or city/ country]</i>
Applicant Party's authorized representative information Name: <i>[insert full name]</i> Address: <i>[insert street/ number/ town or city/ country]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers, including country and city codes]</i> E-mail address: <i>[indicate e-mail address]</i>
<p>1. Attached are copies of original documents of</p> <p><input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above.</p> <p><input type="checkbox"/> In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status.</p> <p>2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.</p>

Signature of the
Tenderer with Seal

SUMMARY OF PRICES

(Refer- Form-4)

PRICE SCHEDULE

SCHEDULE OF PRICES & TOTAL PRICES

**(Schedule of Prices & Total Prices have been separately attached in
Financial Packet "B").**

SAMPLE

AGREEMENT**CONTRACT AGREEMENT**

THIS AGREEMENT ("Agreement") is made at New Delhi on the _____ day of ____
BETWEEN

Dedicated Freight Corridor Corporation of India Ltd, a Govt. of India Enterprise under Ministry of Railways and a company incorporated under the provisions of the Companies Act, 1956 having its registered office at 5th Floor, Supreme Court Metro Station Complex, New Delhi-110001 represented through its Managing Director or GGM/GM (hereinafter referred to as "DFCCIL" which expression shall, unless repugnant to the context, be deemed to include its successors & assigns and called '**the Employer**'), and -----
-----, a company / corporation / JV incorporated under the laws of -----
having its principal place of business at ----- (hereinafter called "**the Contractor**"), which expression shall, unless repugnant to the context, be deemed to include its successors & assigns.

WHEREAS in reference to a call for Tender for "**Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL**"
_____ as per scope of work in Tender paper
_____ at Annexure "A" here to, the Contractor has submitted a Tender hereto and
whereas the said Tender of the contractor has been accepted for **Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL** _____.

as per copy of the Letter of Acceptance of Tender No----- dated ----complete with enclosure at the accepted rates and at an estimated contract value of Rs. _____ (Rupees _only). Now the agreement with witnesses to that in consideration of the premises and the payment to be made by the Employer to the Contractor provided for herein below the Contractor shall supply all equipments and materials and execute and perform all works for which the said Tender of the Contractor has been accepted, strictly according to the various provisions in Annexure 'A' and 'B' hereto and upon such supply, execution and performance to the satisfaction of the Purchaser, the Purchaser shall pay to the contractor at the rates accepted as per the said Annexure 'B' and in terms of the provisions therein. The completion period of the work is 36 months extendable to 60 Months (additional 06 months for Installation & Commissioning) from the date of Letter of Award of the work.

This Agreement shall not be varied, altered, modified, cancelled, changed, or in any way amended except by mutual agreement of the parties in a written instrument executed by the parties hereto, their legal representatives or their respective successors or assignees.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF the parties hereto have caused their respective Common Seals to be hereunto affixed/ (or have hereunto set their respective hands and seals) the day and year first above

Signature of tenderer (s)

written.

For and on behalf of the Contractor

For and on behalf of the Employer

Signature of the authorized official
Name of the official

Signature of the authorized official
Name of the official

Stamp/seal of the Contractor

Stamp/Seal of the Employer

SIGNED, SEALED AND DELIVERED

By the said

_____ Name

By the said

_____ Name

on behalf of the Contractor in the
of:

Witness _____

Name _____

Address _____

on behalf of the Employer in the presence
presence of:

Witness _____

Name _____

Address _____

Enclosures:-

1. Annexure 'A' - Tender Papers No.
2. Annexure 'B' - Letter of Acceptance of Tender No. _____ Dated _____
along with Summary of Prices

SAMPLE

Name of the Bank _____

Managing Director/ DFCCIL Bank Guarantee Bond No. _____
 Acting through (Designation Dated _ and address of contract signing authority)

PERFORMANCE GUARANTEE BOND

In consideration of the Managing Director/ DFCCIL acting through _____
 (Designation & Address of Contract Signing Authority), Dedicated Freight Corridor Corporation of India Limited, New Delhi hereinafter called "DFCCIL") having agreed under the terms and conditions of agreement/Contract Acceptance letter No. _____ dated made between _____ (Designation & address of contract signing Authority) and _____ (hereinafter called "the said contractor(s)" for the work _____ (hereinafter called "the said agreement") having agreed for submission of a irrevocable Bank Guarantee Bond for Rs. _____ (Rs. _____ only) as a performance security Guarantee Bond from the contractor(s) for compliance of his obligations in accordance with the terms & conditions in the said agreement.

1. We (indicate the name of the Bank) hereinafter referred to as the Bank, undertake to pay to the DFCCIL an amount not exceeding Rs. _____ (Rs. _____ only) on demand by the DFCCIL.
2. We _____ (indicate the name of the bank, further agree that (and promise) to pay the amounts due and payable under this guarantee without any demur merely on a demand from the DFCCIL through the GROUP GENERAL MANAGER/ FINANCE Dedicated Freight Corridor Corporation of India Limited, New Delhi or _____ (Designation & Address of contract signing authority) DFCCIL, stating that the amount claimed is due by way of loss or damage caused to or would be caused or suffered by the DFCCIL by reason of any breach by the said contractor of any of the terms or conditions contained in the said agreement or by reason of the contractor failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____ (Rs. _____ only)
- 3 (a) We, _____ (indicate the name of Bank) further undertake to pay to the DFCCIL any money so demanded notwithstanding any dispute or dispute raised by the contractor (s) in any suit or proceeding pending before any court or Tribunal relating to liability under this present being absolute and unequivocal.
- (b) The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor(s) shall have no claim against us for making such payment.
4. We, _ (indicate the name of bank) to further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the DFCCIL under or by virtue of the said agreement have been fully paid and its claims satisfied or discharged by _____ (Designation & Address of contract signing authority) on behalf of the DFCCIL, certify that the terms and conditions of the said agreement have been fully and properly carried out by the said contractor (s) and accordingly discharges this guarantee.
5. (a) Notwithstanding anything to the contrary contained herein the liability of the bank under this guarantee will remain in force and effect until such time as this guarantee is discharged in writing

by the DFCCIL or until (date of validity/extended validity) whichever is earlier and no claim shall be valid under this guarantee unless notice in writing thereof is given by the DFCCIL within validity / extended period of validity of guarantee from the date aforesaid.

- (b) Provided always that we _____ (indicate the name of the Bank) unconditionally undertakes to renew this guarantee to extend the period of guarantee form year to year before the expiry of the period or the extended period of the guarantee, as the case may be on being called upon to do so by the DFCCIL. If the guarantee is not renewed or the period extended on demand, we _____ (indicate the name of the Bank) shall pay the DFCCIL the full amount guarantee on demand and without demur.
6. We, (indicate the name of Bank) further agree with the DFCCIL that the DFCCIL shall have the fullest liberty without our consent and without effecting in any manner out of obligations hereunder to vary any of the terms and conditions of the said contract from time to time or to postpone for any time or from time to time any to the powers exercisable by the DFCCIL against the said contractor (s) and to forbear or enforce any of the terms and conditions of the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said contractor (s) or for any bearance act or omission on the part of the DFCCIL or any indulgence by the DFCCIL to the said contractor (s) or by any such matter or thing whatsoever which under the law relating to sureties for the said reservation would relive us from the liability.
7. This guarantee will not be discharged by any change in the constitution of the Bank or the Contractor (s).
8. We, _____ (indicate the name of the Bank) lastly undertake not to revoke this guarantee except with the previous consent of the DFCCIL in writing.
9. This guarantee shall be valid upto _____ (Date of completion plus 60 days beyond that). Unless extended on demand by DFCCIL. Notwithstanding anything to the contrary contained herein before, our liability under this guarantee is restricted to Rs. _____ (Rs. _____ only) unless a demand under this guarantee is made on us in writing on or before _____ we, shall be discharged from our liabilities under this guarantee thereafter.

Dated _____ the _____ day of _____ for
_____ (indicate the name of bank)

1. _____

Witness:

Signature of Bank Authorize
official
(Name):

Designation: Full
Address.

2. _____

**SAMPLE
STANDING INDEMNITY BOND FOR “ON ACCOUNT” PAYMENTS**

(On paper of requisite stamp value)

We, M/s _____ hereby undertake that we hold at our stores Depot/s at _____ for and on behalf of the Managing Director/ DFCCIL acting in the premises through the Chief Project Manager / DFCCIL/ or his successor (hereinafter referred to as “The Employer”) all materials for which “On Account” payments have been made to us against the Contract for (_____) on the section _____ DFCCIL also referred to as Group/s _____ vide letter of Acceptance of Tender _____ dated _____ and material handed over to us by the employer for the purpose of execution of the said contract, until such time the materials are duly erected or otherwise handed over to him.

We shall be entirely responsible for the safe custody and protection of the said materials against all risk till they are duly delivered as erected equipment to the employer or as he may direct otherwise and shall indemnify the employer against any loss /damage or deterioration whatsoever in respect of the said material while in our possession and against disposal of surplus materials. The said materials shall at all times be open to inspection by any officer authorized by the Chief Project Manager/DFCCIL/ in charge of Dedicated Freight Corridor Corporation of India Limited (Whose address will be intimated in due course).

Should any loss, damage or deterioration of materials occur or surplus material disposed off and refund becomes due, the Employer shall be entitled to recover from us the 85% of supply portion of Part IV, Chapter – II (Form - 4) to the Contract (as applicable) and also compensation for such loss or damage if any long with the amount to be refunded without prejudice to any other remedies available to him by deduction from any sum due or any sum which at any time hereafter becomes due to us under the said or any other Contract.

Dated this day _____ day of 202
for and on behalf of
M/s _____ (Contractor)
Signature of witness
Name of witness in Block letter.

Address.

**ECS / NEFT / RTGS
MANDATE FORM**

Date :

To,

GM (F) / GGM (F)
DFCCIL, New Delhi.

Sub : ECS / NEFT / RTGS payments

We refer to the ECS / NEFT / RTGS set up by DFCCIL for remittance of our payments using RBI's NEFT / RTGS scheme, our payments may be made through the above scheme to our under noted account.

Name of Bank	
Name of City	
Bank Code No	
Name of Bank Branch	
Branch Code No	
Address of Bank Branch	
Telephone Number of Bank Branch	
Fax No of Bank Branch	
Name of customer / Tenderer as per account	
Account Number of Tenderer appearing on cheque book	
Type of Account (S. B. / Current / Cash credit)	
IFSC code for NEFT	
IFSC code for RTGS	
9-Digit-code number of the bank and branch appearing on the MICR cheque issued by the bank.	
GST Number	
PAN Number	
Details of Cancelled Cheque leaf	
Telephone no of tenderer	
Cell Phone Number of the tenderer to whom details with regard to the status of bill submitted to Accounts Office i.e Co6 & Co7 & Cheque Purchase Orders particulars can be intimated through SMS	
Tenderer's E - mail ID	

Confirmed by Bank signature of tenderer with stamp and address
Enclose a copy of crossed cheque

**DRAFT MEMORANDUM OF UNDERSTANDING (MOU) For
JOINT VENTURE PARTICIPATION BETWEEN**

M/s having its registered office at (hereinafter referred to as) acting as the Lead Partner of the first part,

and

M/shaving its registered office at (hereinafter referred to as ` ') in the capacity of a Joint Partner of the other part.

and

M/shaving its registered office at..... (hereinafter referred to as ` ') in the capacity of a Joint Partner of the other part.

The expressions of and shall wherever the context admits, mean and include their respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as “the Parties” and individually as “ the Party”

WHEREAS:

Dedicated Freight Corridor Corporation of India Limited (DFCCIL) [hereinafter referred to as “Client”] has invited bids for ... “[Insert name of work] ”

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The following documents shall be deemed to form and be read and construed as an integral part of this MOU.
 - (i) Notice for Bid, and
 - (ii) Bidding document
 - (iii) Any Addendum/Corrigendum issued by Dedicated Freight Corridor Corporation of India Limited
 - (iv) The bid submitted on our behalf jointly by the Lead Partner.
2. The `Parties` have studied the documents and have agreed to participate in submitting a `bid` jointly.
3. M/s.....shall be the lead member of the JV for all intents and purpose and shall represent the Joint Venture in its dealing with the Client. For the purpose of submission of bid proposals, the parties agree to nominate.....as the leader duly authorized to sign and submit all documents and subsequent clarifications, if any, to the Client. However M/s shall not submit any such proposals, clarifications or commitments before securing the written clearance of the other partner which shall be expeditiously given by M/s.....to M/s.....
4. The `Parties` have resolved that the distribution of responsibilities and their proportionate share in the Joint Venture is as under:
 - (a) Lead Partner;
 - (i)
 - (ii)
 - (iii)
 - (b) Joint Venture Partner
 - (i)
 - (ii)
 - (iii)

[Similar details to be given for each partner]

5. JOINT AND SEVERAL RESPONSIBILITY

The Parties undertake that they shall be jointly and severally liable to the Client in the discharge of all the obligations and liabilities as per the contract with the Client and for the performance of contract awarded to their JV.

6. ASSIGNMENT AND THIRD PARTIES

The parties shall co-operate throughout the entire period of this MOU on the basis of exclusivity and neither of the Parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the Project except with prior written consent of the other party.

7. EXECUTIVE AUTHORITY

The said Joint Venture through its authorized representative shall receive instructions, payments from the Client. The management structure for the project shall be prepared by mutual consultations to enable completion of project to quality requirements within permitted cost and time.

8. BID SECURITIES

Till the award of the work, JV firm/Lead Partner of JV firm shall furnish Bid Security to the Client on behalf of the joint venture which shall be legally binding on all the members of the Joint Venture.

9. BID SUBMISSION

Each Party shall bear its own cost and expenses for preparation and submission of the bid and all costs until conclusion of a contract with the Client for the Project. Common expenses shall be shared by all the parties in the ratio of their actual participation.

10. INDEMNITY

Each party hereto agrees to indemnify the other party against its respective parts in case of breach/default of the respective party of the contract works of any liabilities sustained by the Joint Venture.

11. For the execution of the respective portions of works, the parties shall make their own arrangements to bring the required finance, plants and equipment, materials, manpower and other resources.

12. DOCUMENTS & CONFIDENTIALITY

Each Party shall maintain in confidence and not use for any purpose related to the Project all commercial and technical information received or generated in the course of preparation and submission of the bid.

13. ARBITRATION

Any dispute, controversy or claim arising out of or relating to this agreement shall be settled in the first instance amicably between the parties. If an amicable settlement cannot be reached as above, it will be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 or any amendments thereof. The venue of the arbitration shall be Delhi.

14. VALIDITY

This Agreement shall remain in force till the occurrence of the earliest to occur of the following, unless by mutual consent, the Parties agree in writing to extend the validity for a further period.

- a. The bid submitted by the Joint Venture is declared unsuccessful, or
- b. Cancellation/ shelving of the Project by the client for any reasons prior to award of work
- c. Execution of detailed JV agreement by the parties, setting out detailed terms after award of work by the Client.

15. This MOU is drawn in number of copies with equal legal strength and status. One copy is held by M/s and the other by M/s.....&M/s..... and a copy submitted with the proposal.

16. This MOU shall be construed under the laws of India.

17. NOTICES

Notices shall be given in writing by fax confirmed by registered mail or commercial courier to the following fax numbers and addresses:

Lead Partner

.....

(Name & Address)

Other Partner(s)

.....

(Name & Address)

IN WITNESS WHEREOF THE PARTIES, have executed this MOU the day, month and year first before written.

M/s.....

.....

(Seal)

M/s.....

.....

(Seal)

Witness

1 (Name & Address)

2 (Name & Address)

Notes: (1) In case of existing joint venture, the certified copy of JV Agreement may be furnished.

DRAFT FORMAT OF JOINT VENTURE AGREEMENT

To be executed on non-judicial stamp paper of appropriate value in accordance with relevant Stamp Act and to be registered with appropriate authority under Registration Act.

The JV agreement shall be structured generally as per contents list given below:

A.CONDITIONS AND TERMS OF JV AGREEMENT

1. Definitions and Interpretation
2. Joint Venture – Include Equity of members, transferability of shareholding of equity of a partner leaving during the subsistence of the contract.
3. Proposal Submission
4. Performance – To indicate scope of responsibility of each member
5. Language and Law
6. Exclusively
7. Executive Authority
8. Documents
9. Personnel
10. Assignment and Third Parties
11. Severability
12. Member in Default
13. Duration of the Agreement
- 14 Liability and sharing of risks
15. Insurance
16. Sharing of Promotion and Project Costs, Profits, Losses and Remuneration
17. Financial Administration and Accounting
18. Guarantees and Bonds
19. Arbitration
20. Notices
21. Sole Agreement and Variation

B. SCHEDULES

1. Project and Agreement Particulars
2. Financial Administration Services
3. Allocation of the obligations
4. Financial Policy and Remuneration

**PRO-FORMA LETTER OF PARTICIPATION FROM EACH PARTNER OF JOINT VENTURE
(JV)**

(To be executed on non-judicial stamp paper of appropriate value in accordance with relevant Stamp Act and to be registered with appropriate authority under Registration Act.)

No....

Dated

From:

.....
.....

To,

The Managing Director,

Dedicated Freight Corridor Corporation of India Limited

Supreme Court Metro Stn. Building Complex. Pragati Maidan, New
Delhi 110001.

Gentlemen,

Re: ...“*[Insert name of work]*”.

Ref: Your notice for Invitation for
dated

1. We wish to confirm that our company/firm has formed a Joint Venture with(i)..... &
ii)for the purposes associated with IFB referred to above.

(Members who are not the lead partner of the JV should add the following paragraph).*

2. ‘The JV is led by ... whom we hereby authorise to act on our behalf for the purposes of submission of Bid forand authorise to incur liabilities and receive instructions for and on behalf of any and all the partners or constituents of the Joint Venture.’

OR

*(Member(s) being the lead member of the group should add the following paragraph)**

2. ‘In this group we act as leader and, for the purposes of applying for Bid, represent the Joint Venture:
3. In the event of our JV being awarded the contract, we agree to be jointly with i) & ii)
(names of other members of our JV) and severally liable to the Dedicated Freight Corridor Corporation of India Limited, its successors and assigns for all obligations, duties and responsibilities arising from or imposed by the contract subsequently entered into between Dedicated Freight Corridor Corporation of India Limited and our JV.
4. ***I/We, further agree that entire execution of the contract shall be carried out exclusively through the lead partner.**

Yours faithfully,

(Signature)

(Name of Signatory).....

(Capacity of Signatory).....

Company Seal

* Delete as applicable

Note : In case of existing joint venture, the certified copy of JV Agreement may be furnished.

**FORMAT FOR POWER OF ATTORNEY FOR AUTHORISED SIGNATORY OF JOINT
VENTURE (JV) PARTNERS**

POWER OF ATTORNEY*

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the power of Attorney)

Know all men by these presents, we ... do hereby constitute, appoint and authorise Mr/Ms. who is presently employed with us and holding the position ofas our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the work of

... Including signing and submission of all documents and providing information / responses to Dedicated Freight Corridor Corporation of India Limited , representing us in all matters, dealing with Dedicated Freight Corridor Corporation of India Limited in all matters in connection with our bid for the said project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

Dated this the day of..... 202..

(Signature of authorised Signatory)

Signature of Lead Partner

Signature of JV Partner(s)

.....

.....

(Signature and Name in Block letters of Signatory)

Seal of Company

Witness

Witness 1:

Name:

Address:

Occupation:

Witness 2:

Name:

Address:

Occupation:

**Notes:*

- i) To be executed by all the partners jointly, in case of a Joint Venture.

**FORMAT FOR POWER OF ATTORNEY TO LEAD
PARTNER OF JOINT VENTURE (JV)**

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the power of Attorney)

“POWER OF ATTORNEY*

Whereas Dedicated Freight Corridor Corporation of India Limited has invited Bids for the work of “Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL.”

Whereas, the members of the Joint Venture comprising of M/s. ..., M/s. ..., M/s., and M/s. are interested in submission of bid for the work of ...*[Insert name of work]*... in accordance with the terms and conditions contained in the bidding documents.

Whereas, it is necessary for the members of the Joint Venture to designate one of them as the Lead Partner, with all necessary power and authority to do, for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture's bid for the project, as may be necessary in connection the Joint Venture's bid for the project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT:

We, M/s., hereby designate M/s., being one of the partners of the Joint Venture, as the lead partner of the Joint Venture, to do on behalf of the Joint Venture, all or any of the acts, deeds or things necessary or incidental to the Joint Venture's bid for the contract, including submission of bid, participating in conferences, responding to queries, submission of information/ documents and generally to represent the Joint Venture in all its dealings with the DFCCIL or any other Government Agency or any person, in connection with the Bid/contract for the said work until culmination of the process of bidding till the contract agreement if successful,

Dedicated Freight Corridor Corporation of India Limited is entered into with the and thereafter till the expiry of the contract agreement.

**To be executed by all the members of the JV except the lead member. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*

We hereby agree to ratify all acts, deeds and things lawfully done by lead member, our said attorney, pursuant to this power of attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/ Joint Venture.

Dated this the Day of..... 202

.....
(Signature)

..... (Name in
Block letters of Executants) Seal of Company

Witness 1	
Name:	
Address:	
Occupation:	
Witness 2	
Name:	
Address:	
Occupation:	

PROFORMA FOR TIME EXTENSION

No. _____ Dated : _____

Sub : (i) _____ (name of work).
(ii) Acceptance letter no. _____
(iii) Understanding/Agreement no. _____

Ref: _____ (Quote specific application of Contractor for extension to the date received) _____

Dear Sir,

1. The stipulated date for completion of the work mentioned above is _____. From the progress made so far and the present rate of progress, it is unlikely that the work will be completed by the above date (or 'However, the work was not completed on this date').
2. Expecting that you may be able to complete the work, if some more time is given, the competent authority, although not bound to do so, hereby extends the time for completion from _____ to _____.
3. Please note that an amount equal to the liquidated damages for delay in the completion of the work after the expiry of _____ (give here the stipulated date for completion with/without any penalty fixed earlier) will be recovered from you as mentioned in Clause, 17-B of the Standard General Conditions of Contract for the extended period, notwithstanding the grant of this extension. You may proceed with the work accordingly.
4. The above extension of the completion date will also be subject to the further condition that no increase in rates on any account will be payable to you.
5. Please intimate within a week of the receipt of this letter your acceptance of the extension of the conditions stated above.
6. Please note that in the event of your declining to accept the extension on the above said conditions or in the event of your failure after accepting or acting upto this extension to complete the work by _____ (here mention the extended date), further action will be taken in terms of Clause 55 of the Standard General Conditions of Contract.

Yours faithfully

For and on behalf of the Employer
Name of the Official:-

Stamp/Seal of the Employer

CERTIFICATE OF FITNESS

1. (a) Serial Number _____
(b) Date _____
2. Name of person examined _____
I certify that I have personally examined (*name*) _____
3. Father's Name: son/daughter of _____, residing at

4. Sex _____
5. Residence: _____
6. Date of birth, if available, and/or certified age _____
7. Physical fitness _____
8. Identification marks _____

9. Reasons for:
(a) refusal to grant certificate, or _____
(b) revoking the Certificate _____

Who is desirous of being employed in a factory or on a work requiring manual labour and that his / her age as nearly as can be ascertained from my examination, is _____ years and that he/she is fit for employment in a factory or on a work requiring manual labour as an adult/child.

Signature or Left Hand
Thumb Impression of the
person Examined

Signature of Certifying Surgeon

Note : In case of physical disability, the exact details of the cause of the physical disability should be clearly stated

PROFORMA OF 7 DAYS NOTICE
DFCCIL
(Without Prejudice)

To
M/s _____

Dear Sir,

Contract Agreement No. _____
In connection with _____

1. In spite of repeated instructions to you by the subordinate offices as well as by this office in various letters of even no. _____, dated _____; you have failed to start work/show adequate progress and/or submit detailed programme for completing the work.
2. Your attention is invited to this office/Chief Engineer's office letter no. _____, dated _____ in reference to your representation, dated _____.
3. As you have failed to abide by the instructions issued to commence the work/to show adequate progress of work you are hereby given 7 days' notice in accordance with Clause 55 of Standard General Conditions of Contract to commence works / to make good the progress, failing which further action as provided in Clause 55 of the Standard General Conditions of Contract viz. to terminate your Contract and complete the balance work without your participation will be taken.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the Employer

Name of the Official:-

Stamp/Seal of the Employer

PROFORMA OF 48 HRS. NOTICE FOR WHOLE WORK

DFCCIL
(Without Prejudice)

To

M/s _____

Dear Sir,

Contract Agreement No. _____
In connection with _____

1. Seven days' notice under Clause 55 of Standard General Conditions of Contract was given to you under this office letter of even no., dated _____; but you have taken no action to commence the work/show adequate progress of the work.
2. You are hereby given 48 hours' notice in terms of Clause 55 of Standard General Conditions of Contract to commence works / to make good the progress of works, failing which and on expiry of this period your above contract will stand rescinded and the work under this contract will be carried out independently without your participation and your Security Deposit shall be forfeited and Performance Guarantee shall also be encashed and consequences which may please be noted.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the Employer
Name of the Official:-
Stamp/Seal of the Employer

**PROFORMA OF 48 HRS. NOTICE FOR PART OF THE WORK (DETAILS OF PART
OF WORK TO BE MENTIONED)**

_____ **DFCCIL**
(Without Prejudice)

To

M/s _____

Dear Sir,

Contract Agreement No. _____

In connection with _____

1. Seven days' notice under Clause 55 of Standard General Conditions of Contract was given to you under this office letter of even no., dated _____ ; but you have taken no action to commence the work/show adequate progress of the part of work (details of part to be mentioned).
2. You are hereby given 48 hours' notice in terms of Clause 55 of Standard General Conditions of Contract to commence works / to make good the progress of works, failing which and on expiry of this period your above part of work (Details of part to be mentioned) in contract will be rescinded and the work will be carried out independently without your participation.
3. Your full Performance Guarantee for the contract shall be forfeited and you shall not be issued any completion certificate for the contract. However, no additional Performance Guarantee shall be required for balance of work being executed through the part terminated contract.
4. The contract value of part terminated contract shall stands reduced to _____

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the Employer
Name of the Official:-

Stamp/Seal of the Employer

PROFORMA OF TERMINATION NOTICEDFCCIL
(Without Prejudice)

No. _____ Dated _____

To
M/s _____

Dear Sir,

Contract Agreement No. _____
In connection with _____

Forty eight hours (48 hrs.) notice was given to you under this office letter of even no.,
dated _____; but you have taken no action to commence the work/show adequate progress of
the work.

Since the period of 48 hours' notice has already expired, the above contract stands rescinded in terms of
Clause 55 of Standard General Conditions of Contract and the balance work under this contract will be
carried out independently without your participation. Your participation as well as participation of every
member/partner in any manner as an individual or a partnership firm/JV is hereby debarred from
participation in the tender for executing the balance work and your Security Deposit shall be forfeited
and Performance Guarantee shall also be encashed.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the Employer
Name of the Official:-

Stamp/Seal of the Employer

**PROFORMA OF TERMINATION NOTICE FOR PART OF THE WORK (DETAILS OF
PART OF WORK TO BE MENTIONED)**

_____ **DFCCIL**

(Without Prejudice)

No. _____

Dated _____

To

M/s _____

Dear Sir,

Contract Agreement No. _____

In connection with _____

1. Forty eight hours (48 hrs.) notice was given to you under this office letter of even no., dated _____; but you have taken no action to commence the work/show adequate progress of the part of work.....(details of part to be mentioned).
2. Your above part of work in contract(details of part to be mentioned) stands rescinded in terms of Clause 55 of Standard General Conditions of Contract and the same will be carried out independently without your participation. Your participation as well as participation of every member/partner in any manner as an individual or a partnership firm/JV is hereby debarred from participation in the tender for executing the balance work
3. Your full Performance Guarantee for the contract shall be forfeited and you shall not be issued any completion certificate for the contract. However, no additional Performance Guarantee shall be required for balance of work being executed through the part terminated contract.
4. The contract value of part terminated contract stands reduced to Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the Employer
Name of the Official:-

Stamp/Seal of the Employer

Performa for Integrity Pact

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on---

-----day of the month of----- 2020, between, on one hand, the DFCCIL acting through Shri ----- Designation of the officer, (hereinafter called the CLIENT, which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and M/s--

----- represented by Shri -----Chief Executive Officer (hereinafter called the "BIDDER/SELLER" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second part.

WHEREAS the CLIENT proposes to procure (Name of the Stores/Equipment/Item, Name of the Consultancy Service, Name of Works Contract, Name of Services) and the [A] is willing to Offer/has offered for stores or works.

WHEREAS the [A] is a private company/ public company/ Government undertaking/ partnership/ registered export agency, constituted in accordance with the relevant law in the matter and the CLIENT is a PSU performing its functions or behalf of the President of India.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the CLIENT to obtain the desired said (Name of the Stores/Equipment/Item, Name of the Consultancy Service, Name of Works Contract, Name of Services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure [B] by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the CLIENT will commit to prevent corruption, in any form, by its Officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the CLIENT

- 1.0 The CLIENT undertakes that no official of the CLIENT, connected directly or indirectly with the [B], will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the [A] either for themselves or for any person, organization or third party related to the [B], in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the [B].
- 1.1 The CLIENT will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular [A] in comparison to other BIDDERS.
- 1.2 All the officials of the CLIENT will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2. In case any such preceding misconduct on the part of such official(s) is reported by the [A] to the CLIENT with full, and verifiable facts and the same is prima facie found to be correct by the CLIENT, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the CLIENT and such a person shall be debarred from further dealings related to the [B] process. In such a case while an enquiry is being conducted by the CLIENT the proceedings under the [B] would not be stalled.

Commitments of BIDDERS

3. The [A] commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage) in order to secure the [B] contract or in furtherance to secure it and in particular commit itself to the following:-
 - 3.1 The [A] will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission fees, brokerage or inducement to any official of the CLIENT, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the [B] in exchange for any advantage in the bidding, evaluation, contracting and implementation of the [B].
 - 3.2 The [A] further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any Material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the CLIENT or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the [B] or any other [B] with the Government for showing or forbearing to show favour or disfavor to any person in relation to the [B] or any other [B] with the Government.
 - 3.3 * [A] shall disclose the name and address of agents and representatives and Indian [A] shall disclose their foreign principals or associates.
 - 3.4 *[A] shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract.
 - 3.5 The [A] further confirms and declares to the CLIENT that the [A] is the original manufacturer/integrator/authorized government sponsored export entity of the defense stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the CLIENT or any of its functionaries, whether officially or unofficially to the award of the [B] to the [A] nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
 - 3.6 The [A] either while presenting the bid or during pre-contract negotiations or before signing the [B] shall disclose any payments he has made, is committed to or intends to make to officials of the CLIENT or their family members, agents, brokers or any other intermediaries in connection with the [B] and the details of services agreed upon for such payments.
 - 3.7 The [A] will not collude with other parties interested in the [B] to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the [B].
 - 3.8 The [A] will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
 - 3.9 The [A] shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the CLIENT as part of the business relationship, regarding plans, technical proposals and business details, including, information contained in any electronic data carrier. The [A] also undertakes to exercise due and adequate care lest any such information is divulged.

- 3.10 The [A] commits to refrain from giving any complaint directly or through any other manner without Supporting it with full and verifiable facts.
- 3.11 The [A] shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the, [A] or any employee of the [A] or any person acting on behalf of the [A], either directly or Indirectly, is a relative of any of the officers of the CLIENT, or alternatively, if any relative of an officer of the CLIENT has financial. Interest/stake in the Bidder's firm, the same shall be disclosed by the [A] at the time of filling of tender.
- The term 'relative' for this purpose would be as defined in section 6 of the companies act 1956.
- 3.13 The [A] shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the CLIENT.

4. Previous Transaction

The [A] declares that no previous transgression occurred in the last three years immediately before signing of this integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any public sector enterprise in India or any Government department in India that could justify BIDDER's exclusion from the tender process.

The [A] agrees that if it makes incorrect statement on this subject, [A] can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Earnest Money (Security Deposit)

- 5.1** While submitting commercial bid, the [A] shall deposit an amount (to be specified in BID) as Earnest Money/Security Deposit, with the CLIENT through any of the following instruments:-
- i. Bank draft or a pay order in favor of_____.
 - ii. A confirmed guarantee by an Indian nationalized bank, promising payment of the guaranteed sum to the CLIENT on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the CLIENT shall be treated as conclusive proof of payment.
 - iii. Any other mode or through any other instrument (to be specified in the BID).
- 5.2** The earnest money/Security deposit shall be valid up to a period of five years or the contractual obligations to the complete satisfaction of both the BIDDER and the CLIENT, including warranty period, whichever is later.
- 5.3** In case of the successful [A] a clause would also be incorporated in the article pertaining to performance Guarantee in the [B] that the provisions of sanctions for violation shall be applicable for forfeiture of performance bond in case of a decision by client to forfeit the same without assigning any reason for imposing sanction for violation of this pact.
- 5.4** No interest shall be payable by CLIENT to the [A] on earnest Money/Security Deposit for the period of its currency.

6. Sanctions for Violations

6.1 Any breach of the aforesaid provisions by the [A] or any one employed by it or acting on its behalf (whether with or without the knowledge of the [A]) shall entitle the CLIENT to take all or any one of the following actions, wherever required :-

- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the [A]. However, the proceedings with the other BIDDER(s) would continue.
- (ii) The earnest money deposit (in pre-contract stage) and/or security Deposit/performance Bond (after the [B] is signed) shall stand forfeited fully and the CLIENT shall not be required to assign any reason therefore.
- (iii) To immediately cancel the [B], if already signed, without giving any compensation to the [A].
- (iv) To recover all sums already paid by the CLIENT, and in case of an Indian [A] with interest thereon at 2% higher than the prevailing prime lending rate of state bank of India, while in case of a [A] from the country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to [A] from the CLIENT in connection with any other [B], such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and performance bond, if furnished by the [A], in order to recover the payments, already made by CLIENT, along with interest.
- (vi) To cancel all or any other contracts with the [A]. The [A] shall be liable to pay compensation for any loss or damage to the Client resulting from such cancellation/rescission and the client shall be entitled to deduct the amount so payable from the money(s) due to the [A].
- (vii) To debar the [A] from participating in future bidding processes of the DFCCIL/Government of India for a minimum period of five years, which may be further extended at the discretion of the CLIENT.
- (i) To recover all sums paid in violation of this pact by [A]) to any middleman or agent or broker with a view to securing [B] the contract.
- (ix) In cases where irrevocable letters of credit have been received in respect of any [B] signed by the client with the [A], the same shall not be opened.
- (x) Forfeiture of Performance Bond in case of a decision by the client to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

The client will be entitled to take all or any of the actions mentioned at para 6.1(i) to (x) of this pact also on the commission by the [A] or any one employed by it or acting on its behalf (whether with or without the knowledge of the [A]), of an offence as defined in chapter IX of the Indian penal code, 1860 or prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 The decision of the CLIENT to the effect that a breach of the provisions of this pact has been committed by the [A] shall be final and conclusive on the [A]. However, the [A] can approach the Independent Monitor(s) appointed for the purposes of this Pact.

7. Fall Clause

7.1 The [A] undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found at any stage that similar product/system or sub systems were supplied by [A] to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the [A] to the CLIENT, if the [B] has already been concluded.

8.0 Independent Monitors

- 8.1** The CLIENT has appointed Independent Monitors (hereinafter referred to as Monitors) for this pact in consultant with the central vigilance commission (Names and addresses of the Monitors to be given)
- 8.2** The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.
- 8.3** The monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 8.4** Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.
- 8.5** As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the CLIENT
- 8.6** The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the CLIENT including that provided by the BIDOER. The [A] will also grant the Monitor, upon his request and demonstration of a valid Interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the [A] with confidentiality.
- 8.7** The client will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.
- 8.8** The monitor will submit a written report to the MD/DFCCIL within 8 to 10 weeks from the date of reference or intimation to him by the CLIENT/BIDDER and, should the occasion arise, submit proposal for correcting problematic situations.

9. Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, the CLIENT or its agencies shall be entitled to examine all the documents including the Books of Accounts of the [A] and the [A] shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

10. Law and Place of Jurisdiction

This pact is subject to Indian law. The place of performance and jurisdiction is the seat of the CLIENT.

11. Other Legal Actions

The actions stipulated in this integrity pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

12. Validity

- 12.1 The validity of this integrity pact shall be from date of its signing and extend upto 5 years or the complete execution of the [B] to the satisfaction of both the CLIENT and the [A] including warranty period, whichever is later. In case [A] is unsuccessful, this integrity pact shall expire after six months from the date of the signing of the [B].
- 12.2 Should one or several provisions of this pact turn out to be invalid; the remainder of this pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 12.3 The parties hereby sign this integrity pact at on

.....

CLIENT

BIDDER

Name of the officer

CHIEF EXECUTIVE OFFICER

Designation

Deptt./Ministry/PSU

Witness witness

1. 2.

Note:

[A]- To be replaced by BIDDER/Seller/Consultant/Consultancy firm/Service provider as the case may be

[B]- To be replaced by contract/supply contract/consultancy contract/works contract as the case may be

FORMAT FOR AFFIDEVIT TO BE UPLOADED BY TENDERER ALONGWITH THE TENDER DOCUMENT

(Clause 1.3.18(ii), Part - I, Chapter - III)

(To be executed in presence of Public notary on non-judicial stamp paper of the value of Rs. 100/-
The stamp paper has to be in the name of the tenderer)**

Tender Notice No.....

Name of Work:.....

I.....(Name and designation)** appointed as the attorney/ authorized signatory of the tenderer (including its constituents), M/s..... (hereinafter called the tenderer) for the purpose of the Tender documents for the work of.....

.....as per the tender No.....of (..... DFCCIL), do hereby solemnly affirm and state on the behalf of the tenderer including its constituents as under:

1. I/we the tenderer(s), am/are signing this document after carefully reading the contents.
2. I/we the tenderer(s) also accept all the conditions of the tender and have signed all the pages in confirmation thereof.
3. I/we hereby declare that I/we have downloaded the tender document from the website www.dfccil.gov.in I/we have verified the content of the document from the website and there is no addition, no deletion or no alteration to the content of the tender document. In case of any discrepancy noticed at any stage i.e evolution of tenders, execution of work of final payment of the contract, the master copy available with the DFCCIL shall be final and binding up me/us.
4. I/we declare and certify that I/we have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements.
5. **I/we also understand that my/our offer will be evaluated based on the document/credentials submitted along with the offer and same shall be binding upon me/us.**
6. **I/we declare that the information and documents submitted along with the tender by me/us are correct and I/we are fully responsible for the correctness for the information and documents, submitted by us.**
7. I/we undersigned that if the certificates regarding eligibility criteria submitted by us are found to be forged/false or incorrect at any time during process for evaluation of tenders, it shall lead to forfeiture of the tender EMD besides banning of business for five year on entire IR/DFCCIL. Further, I/we (insert name of the tenderer)**..... and all my/our constituents understand that my/our offer shall be summarily rejected.
8. I/we also understand that if the certificates submitted by us found to be false/forged or incorrect at any time after the award of the contract, it will lead to termination of the contract, alongwith forfeiture of EMD/SD and Performance guarantee besides any other provided in the contract including banning of business for five year on entire DFCCIL.

DEPONENT
SEAL AND SIGNATURE
OF THE TENDERER

VERIFICATION

I/we above named tenderer do hereby solemnly affirm and verify that the contents of my/our above affidavit are true and correct. Nothing has been concealed and no part of it is false.

DEPONENT

SEAL AND SIGNATURE
OF THE TENDERER

Place:

Dated:

****The contents in Italics are only for guidance purpose. Details as appropriate are to be filled in suitably by tenderer**

FINAL SUPPLEMENTARY AGREEMENT

1. Articles of agreement made this day _____ in the year _____ between DFCCIL, acting through the _____ DFCCIL Administration having his office at _____ herein after called the DFCCIL of the one part and _____ of the second part.
2. Whereas the party hereto of the second part executed an agreement with the party hereto of the first part being agreement Number _____ dated _____ for the performance _____ herein after called the 'Principal Agreement'.
3. And whereas it was agreed by and between the parties hereto that the works would be completed by the party hereto of the second part on _____ date last extended and whereas the party hereto of the second part has executed the work to the entire satisfaction of the party hereto of the first part.
4. And whereas the party hereto of the first part already made payment to the party hereto of the second part diverse sums from time to time aggregating to ₹ _____ including the Final Bill bearing voucher No. _____ dated _____ of value _____ duly adjusted as per price variation clause, if applicable (the receipt of which is hereby acknowledged by the party hereto of the second part in full and final settlement of all his /its claims under the principal agreement.

And whereas the party hereto of the second part have received sum of ₹ _____ through the Final Bill bearing voucher No. _____ dated _____ duly adjusted as per price variation clause (PVC), if applicable (the receipt of which is hereby acknowledged by the party hereto of the second part) from the party hereto of the first part in full and final settlement of all his/its disputed claims under principal agreement.

Now, it is hereby agreed by and between the parties in the consideration of sums already paid by the party hereto of the first part to the party hereto of the second part against all outstanding dues and claims for all works done under the aforesaid principal agreement excluding the security deposit, the party hereto of the second part have no further dues of claims against the party hereto of the first part under the said Principal Agreement. It is further agreed by and between the parties that the party hereto of the second part has accepted the said sums mentioned above in full and final satisfaction of all its dues and claims under the said Principal Agreement.

(Applicable in case Final Supplementary Agreement is signed after release of Final Payment)

Or

And whereas the party hereto of the first part already made payment to the party hereto of the second part diverse sums from time to time aggregating to ₹ _____ through various On Account Bills (the receipt of which is hereby acknowledged by the party hereto of the second part).

And whereas the party hereto of the second part have received sum of ₹ _____ through various On Account Bills (the receipt of which is hereby acknowledged by the

party thereto of the second part) from the party hereto of the first part and party hereto of the second part have accepted final measurements recorded on Page No..... to Page No.... of Measurement Book No..... and corresponding Final Bill duly adjusted as per price variation clause (PVC), if applicable, for full and final settlement of all his/its disputed claims under principal agreement.

Now, it is hereby agreed by and between the parties in the consideration of sums already paid through various On Account Bills and sums to be paid through Final Bill duly adjusted as per price variation clause (PVC), if applicable, based on accepted final measurements including the security deposit by the party hereto of the first part to the party hereto of the second part against all outstanding dues and claims for all works done under the aforesaid principal agreement, the party hereto of the second part have no further dues of claims against the party hereto of the first part under the said Principal Agreement.

(Applicable in case Final Supplementary Agreement is signed before release of Final Payment)

5. It is further agreed and understood by and between the parties that the arbitration clause contained in the said principal agreement shall cease to have any effect and/or shall be deemed to be non-existent for all purposes.

Signature of the Contractor/s

for and on behalf of the DFCCIL

Witnesses

ADDRESS: _____

PART IV

DRAWINGS

-N.A-



**FINANCIAL BID
(PACKET-B)**

**E-Tender Document
Request for Proposal (RFP)**

for

**Installing, Commissioning and Operation of Intelligent Track Condition Monitoring &
Maintenance Management Services on DFCCIL (TCMM)**

RFP No.HQ-ENWC0MMS(TCMM)/1/2022-O/oGGM/WC-I/DFCC/13568

Dated: 18.04.2022

(Participation through e-Tender only)

Visit: www.ireps.gov.in/ its link at www.dfccil.com

(Help desk of IREPS: 011-23761525)

Client:

**DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA
LIMITED**

(A Government of India Enterprise)

Under

Ministry of Railway

Price Schedule

Price Schedule for Installing, Commissioning and Operation of Intelligent Track Condition Monitoring & Maintenance Management Services on DFCCIL (TCMMM):

ITEM NO.	DESCRIPTION OF WORKS	UNIT	Estimated QUANTITY Km	Estimated		Tenderer Quote
				RATE (₹)	AMOUNT (₹)	RATE * (₹)
1	Running of Portable Track Geometry Measurement System at speed more than 40 Kmph in DFCCIL commissioned sections to monitor health and performance of the Track assets to keep it in the best health for running of Freight Traffic at 100 Kmph including capturing and recording such data, its analysis, providing solution for maintenance strategy for normal/predictive (need based and reactive (Urgent) attention as per technical conditions defined in the Contract.	Per Km	492750	347 (Including GST @18%)	17,09,84,250 (Including GST @18%)	<p>----%</p> <p>Above/Below/At par w.r.t to estimated rate (in figure)</p> <p>----%</p> <p>Above/Below/At par w.r.t to estimated rate (in words)</p>
		Total				
	Rate(s) to be quoted in in figures and words					

Note:*Rate(s) to be quoted by bidders in %age above/below of estimated rates both in figure and words

Payment Schedule

1. Payment against item above will be done after installation, commissioning and successful running and operation of the TCMMM System.
2. Payment shall be made per Km on running and operation of the TCMMM System and submission of data to DFCCIL.
3. In case of any error/non submission of a particular parameter (Track Gauge/Alignment/X Level/Twist/Unevenness/Rail condition/Sleeper Condition/missing fittings), prorated rate reduction of 10% shall be made for seven days, if the fault continues beyond seven days, TCMMM System shall be stopped to run and start only after necessary rectifications.