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Request for Proposal (RFP)

for

**Comprehensive Study on Suitability of rail to
facilitate running of Heavier Axle Load on DFCCIL**

RFP No. HQ-ENWC0MMS(MISC)/1/2022-O/o GGM/WC-I/DFCC/ 14040

Issued on: 01.04.2022

Client:

**DEDICATED FREIGHT CORRIDOR CORPORATION OF
INDIA LIMITED**

(A Government of India Enterprise)

Under

Ministry of Railway

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Signature of tenderer (s)



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Disclaimer

1. This RFP is not an Agreement, neither an offer, nor an invitation from DFCCIL (Client) to the prospective Consultants.
2. The information, contained, in this RFP is subject to terms & Conditions stipulated therein the RFP document.
3. The assessments, assumptions, statements information contained in this RFP, may not be accurate, complete or accurate. Each consultant shall conduct their own checking / investigation; do their own analysis to ascertain the veracity of the aforesaid assessments, assumptions, statements information contained in this RFP without any additional liability on part of the client.
4. The aforesaid information, provided in this RFP may be based upon an interpretation of applicable Law/Laws. Client accepts no responsibility for the accuracy or otherwise of any such interpretation or opinion on Law.
5. The Client, Client's representative(s)/Employees, hereby, do not make any representation or Warranty and thus, Client shall have no liability to any person, including any Consultant under any Law, Statute, rules or regulations or TORT, Principles of restitution, unjust enrichment or otherwise any loss, damages, cost or expense which may arise from, be incurred on account of anything (including accuracy & adequacy) contained therein this RFP or deemed to form part of this RFP.
6. The Client shall not be liable in case of negligence or otherwise howsoever caused from reliance of any Consultant placed upon any statements contained in this RFP.

Signature of tenderer (s)


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(PART – I)

NOTICE INVITING TENDER

Signature of tenderer (s)



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TECHNICAL BID (PACKET-A)

Signature of tenderer (s)


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PART – I

Chapter - I

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

NOTICE INVITING TENDER

RFP No. HQ-ENWC0MMS(MISC)/1/2022-O/o GGM/WC-I/DFCC/ 14040 Date: 01.04.2022

Name of Work: Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on DFCCIL

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 offers on Single Stage Two Packet System on prescribed forms from firms / Companies / Joint Ventures prequalified/selected on the basis of EOI having requisite 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. Tenders/offers in sealed cover shall be submitted at GGM/WC-I /DFCCIL Corporate Office New Delhi, in the tender box placed at 4th floor.

Table-1				
SN	Name of Work	*Estimated Cost of Work (Rs.)	**Earnest Money (Rs.)	Completion Period
1.	Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on DFCCIL	5,72,06,721=00 (inclusive of GST)	Rs.11,44,135=00 (inclusive of GST)	09 Months
Note: *Rs.4,84,80,272/- plus GST@18% and **Rs.9,69,606 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. 1.3.13 (i) A & B of Preamble and General instruction to tenders/offers (Part-I, Chapter III).

1.1.3 Tender document can be obtained/downloaded from DFCCIL's website w.e.f. from **01.04.2022**. The Cost of the tender document is Rs.11,800/- (inclusive of taxes@18%) which is non-refundable and to be paid 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.dfccil.com In case

Signature of tenderer (s)

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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/offers 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.dfccil.com at least three days in advance of date of opening of tender. The tenderer who have purchased tender documents or 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/offers. 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 except Bill of Quantities are to be submitted in technical bid. Summary of Prices (Form No.3) with % age above or below or at par on the amount of Price Schedule duly filled in along with Schedule of Prices (Form-4) are to be submitted in "Financial Bid".

1.1.6 Submission of Offer

Tenders/offers in sealed cover shall be submitted at GGM/WC-I /DFCCIL Corporate Office New Delhi, in the tender box placed at 4th floor. All the required documents (legible) as mentioned in Check list have to be enclosed along with the offer, **failing which, the bid shall be summarily rejected and shall not be considered for further evaluation.**

Signature of tenderer (s)


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CHECK LIST FOR DOCUMENTS TO BE SUBMITTED

SNo.	Documents to be Attached	Tick Yes/No
1.	The Covering Letter as per format given in the Part-III.	
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 favour 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 (As applicable)	
4.	Constitution of the Company/Firm/Agency in the form prescribed in Part-III.	
5.	Complete Tender Document including Corrigendum/ Addendums Signed by the Bidder.	

Important Notes:

Documents No.1 to 5, should be submitted along with offer as attachment.

The Addendum/Corrigendum, if any; shall be hosted on the website www.dfccil.com only.

The tender will be accepted only in sealed cover (hard bound and soft copy) and **no other mode** of submission shall be accepted. The supporting documents for Eligibility Criteria are essentially required to be submitted along with Technical Bid.

Tenderers are required to give Un-Conditional Tenders/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/offers) in the form as specified in the tender documents shall not be considered and shall be summarily rejected.

All the required payments towards EMD, TD etc. must be made in favour of “**Dedicated Freight Corridor Corporation Of India Limited, New Delhi**”, Bank details are as under:

Bank	Union Bank of India, Motibagh Branch New Delhi
IFSC Code	UBIN0546836
Account No.	468301010130814

Signature of tenderer (s)


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- 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/offers without assigning any reason thereof. 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.
- 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 **45 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/offers only on the documents purchased / downloaded from DFCCIL website: www.dfccil.com by them.



PART - I

Chapter II

GENERAL INFORMATION / DATA SHEET

Table-1		
1.	NIT No.	No.HQ-ENWC0MMS(MISC)/1/2022-O/oGGM/WC-I/DFCC/ 14040 Date:01.04.2022
2.	Name of Work	Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on DFCCIL
3.	Bidding Type	Normal Tender
4.	Tender Type	Limited
5.	Bidding System	Single Stage Two Packet System
6.	Bidding Style	Single Rate for Each Schedule
7.	Pre-bid required	N/A
8.	Advertised Tender Value	Rs. 5,72,06,721=00 (Inclusive of GST@18%)
9.	Period of Completion	9 Months
10.	Validity of the offer	45 Days
11.	Are Joint Venture (JV) firms allowed to bid	Yes
12.	Tender Document Cost (Non-Refundable)	11800/- (INR) inclusive of all taxes
13.	Earnest Money	Rs.11,44,135/- (Inclusive of GST @18%)
Date & Time Schedule		
14.	Date Time of Uploading of NIT & Tender Document	01/04/2022 on www.dfccil.com
15.	Date and Time of Issue of Tender	Tender document can be downloaded from 01/04/2022 from DFCCIL website www.dfccil.com
16.	Bidding Start Date	01/04/2022
17.	Last Date & Time of submission of Tender	05/05/2022 at 15:00 hrs
18.	Date and Time of Opening of Tender - Technical bids (Packet A)	05/05/2022 at 15:30 hrs
19.	Date and Time of Opening of Tender - Financial bids (Packet B)	To be communicated later to only those Agencies/Firms 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 Guarantee Bank	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 5% of the contract value in the form as given in clause 9.4 of GCC

PREAMBLE & GENERAL INSTRUCTIONS TO TENDERERS

PART I

Chapter - III

PREAMBLE & GENERAL INSTRUCTIONS TO TENDERERS

1.3.1 Introduction

(i) General

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.

(ii) Dedicated Freight Corridor

Dedicated Freight Corridor Corporation of India Ltd. (hereafter referred as DFCCIL) is a Special Purpose Vehicle set up under the administrative control of Ministry of Railways to undertake planning & development, mobilization of financial resources and construction, maintenance and operation of these Dedicated Freight Corridors on various identified routes in INDIA. DFCCIL is currently constructing Eastern and Western corridors and appx 1000 Km of the Corridor has already been completed and is under operation (New Rewari- New Palanpur (Appx 650 Km) and New Khurja-New Bhaupur (350Km).

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 conduct a detailed study on the mentioned aspects for suitability of 60kg (90 UTS) rail for 25t axle load at 100 Kmph, in DFCCIL corridor.

Signature of tenderer (s)


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(iii) **Scope of Work (Terms of References)**

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

" Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on DFCCIL" as per scope defined in Technical specification (Part-II) of RFP document.

- (iv) **Cost of the work:** The estimated cost of the tendered work is approx. **5,72,06,721=00** (i.e 4,84,80,272/- plus GST@18%)
- (v) 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.

(vi) **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 1.3.1 (iii) above in the jurisdiction and the contractor shall be bound to execute the work.

- (vii) **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

1.3.2(a) Tender Bid

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

Signature of tenderer (s)


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Packet - A

Eligibility/Qualifying element of the Tender Bid along with other documents mentioned in para 1.3.2 (b) (i), here in after called "TECHNICAL BID "

Packet - B

Price elements of the Tender Bid as per para 1.3.2 (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 1.3.5.

1.3.2(b) Form of Tender

Tenders/offers 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 1.3.13 (i) & (ii) of Preamble and General Instructions to Tenderers.	Form No. 2A, 2B & 2C
(3)	Earnest money in accordance with Para 1.3.7 and Cost of Tender Document in accordance with Para 1.3.4.23 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.	

(ii) Documents to be enclosed with the FINANCIAL BID (Packet B):-

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

Signature of tenderer (s)


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1.3.3 Tender Document

This tender document consists of following five parts:

CHAPTERS	DESCRIPTION
TECHNICAL BID ((Packet - A)	
PART - I	
Chapter I	Notice Inviting Tender
Chapter II	General Information / Data sheet
Chapter III	Preamble and General Instructions to Tenderers/Consultants
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 (Packet - B)	
PART - V	Schedule of Price & Payment Schedule

1.3.4.0 Sale and Submission of Tender Document

1.3.4.1 Tender Document Obtaining Process: as mentioned in the following clause(s)

1.3.4.2 It is mandatory for all Tenderers that the person who will submit the Tender is authorized to do so.

1.3.4.5 Tenders/offers shall be submitted duly sealed cover at GGM/WC-I /DFCCIL Corporate Office New Delhi, in the tender box placed at 4th floor only.

1.3.4.6 All the required documents (legible) as mentioned in Check list from S.No.1-5 have to be submitted along with the offer, **failing which, the bid shall be summarily rejected and shall not be considered for further evaluation.**

1.3.4.7 The Addendum/Corrigendum, if any; shall be hosted on the website www.dfccil.com.

Signature of tenderer (s)


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- 1.3.4.8** The supporting documents for Eligibility Criteria are essentially required to be submitted along with the bid.
- 1.3.4.9** Tenderers are required to give Un-Conditional Tenders/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 .
- 1.3.4.10** 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 atleast ten days before the due date of submission of the tender.
- 1.3.4.11** 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.
- 1.3.4.12** 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.
- 1.3.4.13** 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.
- 1.3.4.14 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, if any.
 - (vi) General Conditions of Contract.

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.

- 1.3.4.15** Contractor must fill up all the schedules and furnish all the required information as per the instructions given in various sections of the Tender Document.

- 1.3.4.16** 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.
- 1.3.4.17** DFCCIL reserves all rights to reject any tender including of those tenders/offers 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.
- 1.3.4.18** 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.
- 1.3.4.19** Evaluation of tenders/offers 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.

1.3.4.20 Modification/Substitution/Withdrawal of Bids:

- i) Once bid is submitted, the tenderer will not be allowed to withdraw the offer.
- ii) The tenderer can however modify their bid till closing time of tender. In case of revising the bid, the revised bid will supersede earlier bids and the latest bid will be considered for evaluation.

1.3.4.21 Opening and Evaluation of Bids:

- (i) Tender shall be opened at the address given below and 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 Tender Opening.

Address: Opening of Tender

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

- (ii) For participating in the tender, the Authorized Signatory holding Power of Attorney shall be the Signatory.
- (iii) The Authority shall Open Bid Documents received in the tender box (closing time, 15:00 hrs) at **15.30 hours on 05/05/2022.**

1.3.4.22 Deadline for Submission of Tender:

Tenderer must ensure to submit the tender in time. No tender/Bid shall be accepted after Tender Closing Due Date & Time **(15:00 Hrs. of 05/05/2022)**.

1.3.4.23 Cost of Tender Document:

The Tenderer shall deposit cost of tender as prescribed in Para 1.1.3 in favour of DFCCIL as per Bank details mentioned in Para 1.1.7, Part-I, chapter-I.

1.3.4.24 Earnest Money Deposit (Bid Security):

- (i) The tenderer must deposit the amount of Earnest Money for the amount prescribed, in favour of DFCCIL as per Bank details mentioned in Para 1.1.7, Part-I, chapter-I.
- (ii) Tenders/offers 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 5% of contract value) as per Part-III (Form-6) 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.

1.3.4.25 Clause applicable for tender documents downloaded from Internet

Tenderer/s are free 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

Signature of tenderer (s)

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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.

- 1.3.4.27** Tender/bid documents duly sealed must be submitted duly completed in all respects on upto **15.00hrs on 05/05/2022**. 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/offers is declared a holiday, the tenders/offers will be opened on the next working day at the same time. Any modified date and time for submission of tenders/offers shall be uploaded on website www.dfccil.com. The detailed procedure of tender opening will be as per para 1.3.5.
- 1.3.4.28** 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.
- 1.3.4.29** 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.
- 1.3.4.30** Tenders/offers 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.
- 1.3.4.31 Pre-bid conference:** Although, there will be no pre-bid conference. However, Bidders may give their queries in writing at least 20 days prior to last date of submission of Tender/Bid. All communication between the Employer and the tenderer shall be in writing. For the purposes of seeking clarification, the Employer's address is:

Dedicated Freight Corridor Corporation of India Limited
Attention: Manager/Civil/WC,
O/o GGM/WC-I,
Telephone: +91(011-23454665), Facsimile number: +91(011-23454701)
Electronic mail address: rajbirsingh@dfcc.co.in

Signature of tenderer (s)


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1.3.5 Opening of Tender:

- (a) Tender will be opened at **15:30 hrs on 05/05/2022** 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 and the Employer may also hold discussions with the tenderers after giving due notice. The names of the tenderers whose bid are considered complete and meet eligibility criteria shall be short listed.
- (c) The **FINANCIAL BID (Packet –B)** shall be opened on a subsequent date and time duly notified well in advance. Financial bid of the tenders/offers who do not qualify 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.

1.3.6 Validity of Tender

Tenderer shall keep his offer open for a minimum period of 45 days from the date of opening of the tender or as mentioned in the Tender Notice.

1.3.7 Earnest Money

- (a) The Earnest money should be deposited/paid as mentioned earlier vide clause 1.3.4.24.
- (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, thereof in a manner not acceptable to the Employer. 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.

1.3.9 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.

1.3.10 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 9.1 to 9.3 of General Conditions of Contract (GCC).

1.3.11 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.

1.3.12 Right of DFCCIL to Deal with Tenders/offers

- (a) The DFCCIL reserves the right of not to invite tenders/offers for any of DFCCIL work or works or to invite open or limited tenders/offers and when tenders/offers are called to accept a tender in whole or in part or to reject any tender or all tenders/offers 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/offers.

1.3.13(i) Eligibility Criteria

(A): Technical Eligibility Criteria

Criteria	Compliance Requirement		Documents
Requirement	Single Entity	Joint venture	Submission Requirements
1. The tenderer must have successfully completed any study on Railway Track for Heavy Haul Indian Railways / Foreign Railways valuing not less than Rs.1.00 Crore (or equivalent FC) during last 07 (seven) years, ending last day of month previous to the one in which tender is invited.	Must meet requirement	Any member of proposed JV-Must meet requirement	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
2. The Tenderer or member of JV must be a renowned and reputed Rail Research Institute / University			

Signature of tenderer (s)

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having Railway specialization cell.			true and factual. Standard format of the affidavit to be submitted by the bidder is enclosed as Form-19 . 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.
3. All members of JV must have Railway working experience in the way of Consultancy/Service Contracts			

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. Regarding S.N.3 above, an affidavit as per Part-III (Form-11) from the Railway Institute / University of International repute confirming to the commitment to conduct the requisite scope of work as defined in Tender must be enclosed, failing which the tenderer shall be summarily rejected.
3. In case the tenderer/s is a partnership firm, the work experience shall be in the name of partnership firm only.

Signature of tenderer (s)

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(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	Any member of proposed JV-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-19 . 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 Indian /Foreign Railways, 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 (or equivalent FC) 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.

1.3.13 (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 Indian/Foreign Railways, 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.
- (i) 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/railwayboard>) 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.
- (ii) 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>.
- (iii) 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.



1.3.13(iii) Care in Submission of Tenders/offers:

- (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-33 of the 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 DFCCIL 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 DFCCIL 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.

1.3.13.(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-19**. 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 there under.
- (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/offers, it shall lead to forfeiture of the tender Earnest Money Deposit besides banning of business for a period of upto five years.
- (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.

1.3.14. Non-compliance of any of the conditions set forth therein above is liable to result in the tender being rejected.

1.3.15. 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).

1.3.16. 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, Research Institute / University of international repute 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.
 - (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.
- 1.3.17.** 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.



1.3.18. 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/offers 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.
- (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/offers 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 44 of standard general conditions of contract.

JOINT VENTURE (JV) IN WORKS TENDERS/OFFERS

1.4.1 Participation of Joint Venture (JV) in Works/Consultant Tender:

1.4.2 Joint Venture (JV), Consortium or Association shall mean an association with or without legal Personality distinct from that of Its Constituent Members, of more than One consultant where one Consultant, having the maximum stake & being, designated, hereafter, as the Lead Member, has the authority to conduct all business for and on behalf of the any and all the members of the JV, Consortium or Association, and where the Members of the JV, Consortium or Association shall be jointly and severally liable, as manifestly reflected in the Specific JV /Consortium/Association Agreement , to the Client for the performance of the Contract.

Signature of tenderer (s)


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- 1.4.3** All the constituent Members of the JV, Consortium or Association shall be represented by respective Authorized Representative who shall be Authorized, by the designated Authority of the respective Constituent Member, carrying the necessary Authorization for issuing such Authorization to the Authorized Representative of the Constituent Member, by way of issuance of a "Power of Attorney (POA-1)" to the aforesaid Authorized Representative which (the POA) shall be valid for a period equivalent to "Time for Completion" subject to any change/replacement of the Authorized Representative through issuance of a fresh POA.
- 1.4.4** All the constituent Members of the JV, Consortium or Association shall designate the Constituent Member having the maximum stake in the JV/Consortium/Association as Lead Member.
- 1.4.5** All the constituent Members of the JV, Consortium or Association shall , subsequently, nominate the Authorized Representative of the Lead member as the Authorized Representative of the JV/Consortium/Association and issue of Power of Attorney (POA-2), jointly signed by all the Constituent Members of the JV/Consortium/Association, dully authorizing the such nominated (by all the constituent Members of the JV/Consortium/Association) Authorized Representative of the JV/Consortium/Association to carry out all the work or any of the acts/deeds or things, necessary to or incidental to the JV/Consortium/Association Proposal for the Contract, including submission of the proposal, participating in the Conferences, responding to queries, submission of information/document and generally represent the JV/Consortium/Association in all its dealings with the client or any other Government Agency or any Person, in connection with the Contract for the Assignment, until culmination of the process of the Tendering i.e. till Contract Agreement is entered into , by the Parties i.e. the client (DFCCIL) and Consultant () and thereafter till the expiry of the Contract Agreement.
- 1.4.6** Earnest Money Deposit (EMD) shall be deposited by JV or authorized person of JV through e-payment gateway or as mentioned in tender document.
- 1.4.7** A copy of Memorandum of Understanding (MoU) duly executed by the JV members on a stamp paper, shall be submitted by the JV alongwith 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.
- 1.4.8** 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.
- 1.4.9** All the constituent Members shall, in addition, aver to ratify all acts, deeds and things lawfully done by the Authorized Representative of the JV/Consortium/Association, pursuant to this Power of Attorney (POA) and all such acts, deeds or things done by aforesaid Attorney shall, always, be deemed to have been done by the Constituent Members of the JV/Consortium/Association.
- 1.4.10** 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.
- 1.4.11** 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, Bank Guarantee for Mobilization Advance, Machinery Advance etc. shall be accepted only in the name of the JV and no splitting of guarantees amongst the members of the JV shall be permitted.
- 1.4.12** Joint and Several Liability - Members of the JV 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 JV members 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.
- 1.4.13** Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
- 1.4.14** 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.
- 1.4.15** Documents to be enclosed by the JV along with the tender:
- 1.4.15.1** In case one or more of the members of the JV is/are partnership firm(s), following documents shall be submitted:
- (a) A copy of the Partnership Deed,
 - (b) 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,
 - (c) A copy of Power of Attorney (duly registered as per prevailing law) in favour of the individual to sign the MOU/JV Agreement on behalf of the partnership firm and create liability against the firm.
- 1.4.15.2** All the Members of JV shall certify that they are not blacklisted or debarred by DFCCIL or any other Ministry / Department / PSU (Public Sector Undertaking) of the Govt. of India/State Govt. from participation in tenders/offers/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.
- 1.4.15.3 Credentials & Qualifying Criteria:** Technical, financial eligibility and Bid capacity of the JV shall be adjudged based on satisfactory fulfilment of the aforementioned criteria.
- 1.4.15.4 Financial Eligibility Criteria:**
- The JV shall satisfy the requirement of “Financial Eligibility Criteria” mentioned at para 1.3.13 (i) (B) 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.

1.5.0 Participation of Partnership Firms in works tenders/offers:

- 1.5.1** The Partnership Firms participating in the tender should be legally valid under the provisions of the Indian Partnership Act.
- 1.5.2** 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.
- 1.5.3** 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.
- 1.5.4** 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 44 of General Conditions of Contract.
- 1.5.5** A 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.
- 1.5.6** The 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.



- 1.5.7** One 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.
- 1.5.8** On issue of Letter of Acceptance (LOA) to the partnership firm, all the guarantees like Performance Guarantee, Guarantee for various Advances to the Contractor shall be submitted only in the name of the partnership firm and no splitting of guarantees among the partners shall be acceptable.
- 1.5.9** 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.
- 1.5.10** In 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 44 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.
- 1.5.11** 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/offers / 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 44 of the General Conditions of Contract.

1.5.12 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.

1.6.1 Period of Completion:

The entire work is required to be completed in all respects within **09 (Nine)** months (3 months for S.N. 1 of the work [Chapter III, 1.3.1(iv) 1] and further 6 months for Field instrumentation and study [Chapter III, 1.3.1(iv) 2] 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.

- 1.6.2** If the Tenderer/s deliberately gives any wrong information about credentials / documents in his/their tenders/offers 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.

1.6.3 Quantum of work and materials:

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

1.6.4 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.

1.6.5 Schedule of Prices

The 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.

1.6.6 Performance Guarantee: Refer relevant clause of GCC.

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

1.6.8 Negotiation:

Signature of tenderer (s)

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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,".

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

Signature of tenderer (s)



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GENERAL CONDITIONS OF CONTRACT

Signature of tenderer (s)



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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 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 and assigns.
- (b) “General Manager of DFCCIL” shall mean the officer-in-charge of the General Superintendence and Control of the 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/GM of DFCCIL.
- (d) “Engineer” and Employer’s Engineer shall mean the Chief General Manager of DFCCIL or DFCCIL officer-in-charge of CGM Unit.
- (e) “Engineer’s Representative” shall mean the Assistant Engineer, Assistant Signal and Telecommunication Engineer and Assistant Electrical Engineer, APM / PM / Dy.CPM / Add. CPM of DFCCIL in direct charge of the work and shall include any Sr. Sec. / Sec / Jr. Engineer / Executive / Sr. Executive, APM/PM / Dy CPM of DFCCIL of Civil Engineering / Signal & Telecommunication Engineering / Electrical Engineering Department appointed by the DFCCIL 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.
 - (k) "Drawing" shall mean the maps, drawings, plans and tracings or prints there of 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 there to 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. **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 44 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.
7. **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 44 of these conditions.
8. **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.
- 9.(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 10% of the total value of the contract.

Further, in case Security Deposit has been submitted as Term Deposit Receipt/Bank Guarantee Bond 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.

- 9.(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 as per clause 35.(1) **and**
 - (b) Execution of Final Supplementary Agreement or Certification by Engineer that DFCCIL has No Claim on Contractor **and**
 - (c) Maintenance Certificate issued, on expiry of the maintenance period as per clause 33.(1), in case applicable.
- 9. (2) (ii) Forfeiture of Security Deposit:** Whenever the contract is rescinded as a whole under clause 44 (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 44 (1) of GCC, the Security Deposit shall not be forfeited.
- 9.(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 9.(4)(b) of this clause will be payable with interest accrued thereon.
- 9.(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 5% (five 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 (notwithstanding 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 44 of the GCC
- (h) The tenderer who has offered lower total cost as compared to tender value by more than 10 %, shall be required to submit additional Performance Guarantee of value equal to percentage of tender value by which offer is lower than 10%.

10. 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.

10-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 Sub-Clause of Clause 12 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.

10-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 10 and 10-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.

SN	Duration of extension of time under Clause 10-B	Rate of Liquidated Damages
(i)	Up to Twenty percent of original period of completion including period of extension of DOC granted under Section 10A(i)	As decided by Engineer, between 0.01% to 0.10% of contract value 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 10A(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 10A(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 10A(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 44 of these Conditions, whether or not actual damage is caused by such default.

- 11.(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.
- 11.(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

Signature of tenderer (s)

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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

- 12.(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.
- 12.(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.
- 12.(3) Accepted Programme of work:-** The contractor who has been awarded the work shall as soon as possible but not later than 15 days after the date of receipt of the acceptance submit the detailed programme of work indicating the time schedule of various items of works. 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.
- 13.(1) 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.
- 13.(2) Separate contracts in connection with works: -** The DFCCIL shall have the right to let other contracts in connection with the works. The contractor shall afford other contractors reasonable opportunity for the storage of their materials and the execution of their works and shall properly connect and coordinate his work with theirs. If any part of the contractor's work depends for proper execution or result upon the work of another contractor(s), the contractor shall inspect and promptly report to the Engineer any defects in such works that render it unsuitable for such proper execution and results. The contractor's failure so-to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution of his work.

14. **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.
- 15.(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.
- 15.(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.
- 15.(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.
- 15.(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.
- 15.(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.
16. **Working during night:** - The contractor shall not carry out any work between sun-set and sun-rise without the previous permission of the Engineer.
17. **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.

- 18. 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.
- 19. Provision of efficient and competent Staff at work sites by the Contractor**
- 19.1** 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.
- 19.2** 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.
- 19.3** 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 44 of these conditions.



19A. Deployment of Qualified Engineers at Work Sites by the Contractor:

- 19A.1** The contractor shall also employ renowned Rail Professional of International Repute having the capability and credentials of undertaking the study as per scope of work and shall submit the details of such professional and **an affidavit** from him giving the consent for association in the aforesaid work.
- 19A.2** In case the contractor fails to employ the Engineer, as aforesaid in Para 19A.1, he shall be liable to pay penalty at the rates, as may be prescribed by the DFCCIL through separate instructions from time to time for the default period for the provisions, as contained in Para 19A.1.
- 19A.3** No. of qualified Engineers/Technical Professional required to be deployed by the Contractor for various activities contained in the contract shall be specified in the tender documents as 'Special Condition of Contract' by the tender inviting authority."
- 20. 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.
- 21. 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 22 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.
- 22. 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.
- 23.(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.
- 23.(2)** The Contractor shall not be entitled to the extra costs, if any, incurred by him during the

Signature of tenderer (s)

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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.

23.(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.

24. 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 28 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, 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 10 & 10A 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.

25.(1) Rates for extra items of works:- Any type of work carried out by the Contractor on the instructions of the Engineer which is not included in the accepted schedules of rates shall be executed at the rates set forth in the "Schedule of Rates" modified by the tender percentage and such items are not contained in the latter, at the rate agreed upon between the Engineer and the Contractor before the execution of such items of work and the Contractors shall be bound to notify the Engineer at least seven days before the necessity arises for the execution of such items of works that the accepted schedule of rates does not

include rate or rates for the extra work involved. The rates payable for such items shall be decided at the meeting to be held between the Engineer and Contractor, in as short a period as possible after the need for the special item has come to the notice.

- 25.(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.
- 26.(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.
- 26.(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.

VARIATIONS IN EXTENT OF CONTRACT

27. **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.

- 28.(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.
- 28.(2)**
- (i) Unless otherwise specified in the contract, the accepted variation in quantity of each individual item of the contract would be up to 25% of the quantity originally contracted.
 - (ii) The contractor shall be bound to carry out the work at the agreed rates and shall not be entitled to any claim or any compensation whatsoever up to the limit of 25% variation in quantity of individual item of works.
 - (iii) In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, then same shall be executed at following rates
 - (a) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;
 - (b) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;
 - (c) Variation in quantities of individual items beyond 150% will be avoided and would be permitted only in exceptional unavoidable circumstances and shall be paid at 96% of the rate awarded for that item in that particular tender.
 - (d) Variation to quantities of Minor Value Item:
The limit for varying quantities for minor value items shall be 100% (as against 25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1 % of the total original agreement value.
 - d.(i) Quantities operated upto and including 100% of the agreement quantity of the concerned minor value item, shall be paid at the rate awarded for that item in that particular tender;
 - d.(ii) Quantities operated in excess of 100% but upto 200% of the agreement quantity of the concerned minor value item, shall be paid at 98% of the rate awarded for that item in that particular tender;
 - d.(iii) Variation in quantities of individual minor value item beyond 200% will be avoided and would be permitted only in exceptional unavoidable circumstances and shall be paid at 96% of the rate awarded for that item in that particular tender.



(vi) As far as SOR items are concerned, the limit of 25% would apply to the value of SOR schedule as a whole and not on individual SOR items. However, in case of NS items, the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate (single percentage rate or individual item rate).

- 28.(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 expressly 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-25 of these conditions.

CLAIMS

- 29. 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

- 30. 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.
- 31(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 9 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 10% 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.



- 31.(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/-
- 31.(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.
- 31.(4) Manner of Payment:** Unless otherwise specified payments to the Contractor will be transferred electronically to his bank account.
- 32.0 Maintenance of works:** The Contractor shall at all times during the progress and continuance of the works effectively maintain and uphold in good substantial, sound and perfect condition all and every part of the works and shall make good from time to time and at all times as often as the Engineer shall require, any damage or defect that may during the above period arise in or be discovered or be in any way connected with the works, provided that such damage or defect is not directly caused by errors in the contract documents, act of providence or insurrection or civil riot, and the contractor shall be liable for and shall pay and make good to the DFCCIL or other persons legally entitled thereto whenever required by the Engineer so to do, all losses, damages, costs and expenses they or any of them may incur or be put or be liable to by reasons or in consequence of the operations of the Contractor or of his failure in any respect.
- 33.(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.
- 33.(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, shrinkages 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,

shrinkages 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.

- 33(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 20, the parties shall execute the Final Supplementary Agreement as per Form 20.
- 34.(1) 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.
- 34.(2) 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.
- 35.(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 35 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.
- 35.(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.

35A. 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-contract 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.

36.1 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.



36A. 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.

37.0 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 interse.

LABOUR

38.0 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.

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 from any moneys due or accruing to the Contractor under this or any other Contract with the DFCCIL.

- 38A. 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.

- 39.0 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 or 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.

- 39A. Provisions of Contract labour (Regulation and Abolition) Act, 1970:**

- 39A.(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.
- 39A.(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.



- 39A.(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.
- 39A.(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.
- 39A.(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 sub-contractor 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.
- 39B.** 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.
- 39C.** 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.

Signature of tenderer (s)

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- 39-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.

- 40.0 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 arrangement to render all possible assistance.
- 41.0 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.
- 42.(1) 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.
- 42.(2) 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.
- 42.(3) 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.

- 42.(4) **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.

DETERMINATION OF CONTRACT

- 43.(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.
- 43.(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.
- 43.(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.
- 44.(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/offers and Contracts.
- (x) Fails to submit the documents pertaining to identity of JV and PAN in terms of Clause 1.4 / Tender Form available in the Regulations for Tenders/offers 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 21 and 23 of these conditions, or
- (xii) Fail to take steps to employ competent or additional staff and labour as required under clause 19 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

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- 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.15) 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. 16) 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. 17) should be issued.

Note: Engineer at his discretion may resort to the part termination of contract with notices (Proforma at Form 17), only in cases where progress of work is more than or equal to 80% of the original scope of work.

44.(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 16(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 -

- 45. 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 "Executive Director" 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. Executive Director 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 In-charge, 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.

45.1 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, 11, 15.(5), 25(1), 29, 39, 39A.(5), 41, 43.(1), 43.(2) and 44.(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.

46.(1) Demand for Arbitration:

46.(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 45 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.



46.(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.

46.(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.

46.(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 Unit or any other place with the written consent of both the parties.

46.(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.

46.(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.

46.(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.

46.(3) Appointment of arbitrator

46.(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.



- 46.(3)(a)(ii)** (a) In cases not covered by the clause 46(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
- 46.(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).
- 46.(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.

- 46.(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.
- 46.(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.
- 46.(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.
- 46.(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.
- 46.(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.
- 46.(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.
- 46.(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

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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:
- 1.5.6.3.** Procedure adopted for:
- (i) Theoretical studies
 - (ii) Field instrumentation and studies
- 1.5.6.4** Inspection and Test Procedure for:
- (i) Field activity.
- 1.5.6.5** System of quality audit.
- 1.5.6.6** System of maintenance of records.
- 1.5.7** **Traffic Blocks / Power Blocks / Shut Down:**
- (a) The contractor shall obtain Power / Traffic / Shut down in the name of authorized representative of DFCCIL. Engineer/Engineer's representative will facilitate to make arrangements to obtain power blocks / shutdown (hereinafter referred to as blocks) for works to be carried out along or adjacent to the track work. However, if block is required due to safety considerations, the construction shall be done under block. The requirement of

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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 minimum power block/shut down. Contractor will arrange adequate labours. with supervisors and sufficient tools and tackles required as per site conditions.

- (b) There is provision of traffic corridor block of 4 Hrs in Up direction and 4 Hrs in Dn direction on DFCCIL corridor.
- (c) Block period shall be counted from the time the track is placed at the Contractor's disposal at the work-spot till it is cleared by the Contractor.
- (d) Blocks will be subject to normal operating conditions and rules of the DFCCIL. All formalities of exchanging private number etc with the traffic control/ traction power controller will be carried out by the Engineer staff and for this purpose the Engineer will depute a representative for each bridge, who will be responsible for imposing power blocks/shut down 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.
- (e) 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.
- (f) Any charges which may be levied by IR on account of "Possessions" shall be payable by the contractor but shall be reimbursed by the Employer. However, penalties, if any, levied by DFCCIL caused due to any careless working or otherwise of violation of the Terms and Conditions of the track block, shall be payable by the contractor.

1.5.8 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.

1.5.9 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.

1.5.10 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 there under 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.

1.5.11 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

Signature of tenderer (s)

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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

1.5.12 Final Acceptance:

- (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.

1.5.13 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.

1.5.14 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.

1.5.15 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 time of completion or 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.

1.5.16 Arbitration: - Refer to clause 46 of GCC.

1.5.17 Integrity Pact:

As per office memorandum no F.No DPE/13(12)/11-Fin Dated 09.09.2011 issued by Ministry

Signature of tenderer (s)

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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. 18 for signature of bidder as acceptance, as and when Independent External monitor is appointed.



(PART - II)

TECHNICAL SPECIFICATION

Signature of tenderer (s)


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PART - II

Technical Specifications

For

**Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on
DFCCIL**

❖ Scope of work (Terms of References)

The scope of this document is to conduct a detailed Study on Suitability of 60kg rail (90 UTS) for 25t axle load operation at 100 kmph to facilitate running of Heavier Axle Load on DFCCIL on the aspects mentioned.

1. Criteria followed for selection of rail for operation of 25t axle load at 100 kmph & similar operational requirements. It may include:
 - 1.1 Rail stress calculations based on yield / allowable stress
 - i) Theoretical method for estimation of bending stress in rail due to dynamic wheel load of wagon at critical locations of rail cross section, using IR method or comparable calculations based on international practices of any other advance railway systems.
 - ii) Theoretical method for estimation of total stress in the rail which includes consideration of bending stress due to dynamic wheel load of wagon, thermal stress, residual stress, stress in rail for unforeseen factors & any other stress especially due to curvature in the track (if any), etc. based on IR method or comparable calculations based on international practices of any other advance railway systems.
 - iii) Estimation of various parameters required in rail stress calculations e.g. value of track modulus, Dynamic augment etc. for various speeds for freight stock DFC/IR conditions.
 - 1.2 Fatigue analysis of Rail
 - 1.3 Contact Stress Considerations (allowable shear stress, Yield and shakedown limit)
 - 1.4 Wear and hardness requirement of Rail
 - 1.5 Effect of small wheel diameter on strength requirement of rail (1000mm vis-a-vis 840mm new wheel diameter)

The above studies (para 1.1 to 1.5) should facilitate to work out minimum technical requirements for 60 kg rail section, in terms of steel grade, UTS, proof stress, max. value of permitted residual stress.

Report on the above studies shall include giving detailed analysis and design calculations duly examined and certified by the technical expert having similar experience of conducting studies and published Technical Books, Reports/papers on International journals.

2. Measurement of following on DFCCIL track through experiments:
 - i) Stress free temperature of LWR track.

- ii) Stress on critical points of rail section under no train load condition i.e. due to residual & thermal stress in rail.
- iii) Stress on critical points of rail section (rail foot centre, rail foot corner (GF & NG), Rail head (GF, NG) under train load condition for 25t @ 100 Kmph.

The above Field Studies will be conducted on commissioned DFC track and necessary traffic block shall be provided for installations of instruments/sensors. Required Freight train with loads of 25T axle load and 100 Kmph run shall be arranged by DFCCIL.

The above includes supply, installations and maintaining necessary instruments/sensors etc. and accessories and deployment of requisite number of field experts for measurements and recording data for assessment of stresses on all critical points of rail sections under no load condition and under train load condition of 25T axle load and at 100 kmph in stages of 25kmph increase i.e. at 25kmph, 50kmph, 70kmph and 100kmph.

The consultant shall get these above field tests calculated & analysed and submit detailed report along with detailed design calculations for the above duly examined and certified by the technical expert having similar experience of conducting studies and published Technical Books, Reports/papers on International journals.

The above includes for cost of all necessary experts, instruments, maintenance, travel, establishments, charges etc.

भारत सरकार
Government of India
रेल मंत्रालय
MINISTRY OF RAILWAYS



सत्यमेव जयते

भारतीय रेल मानक विशिष्टि
INDIAN RAILWAY STANDARD SPECIFICATION

समतल आधार रेलों के लिये
FOR FLAT BOTTOM RAILS

IRST-12-2009



अनुसंधान अभिकल्प एवं मानक संगठन लखनऊ, 11
Research, Design and Standards Organisation, Lucknow-11

PART-III


TENDER FORMS
(INCLUDING SCHEDULE OF PRICES)

PART- III

TENDER FORMS

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

Signature of tenderer (s)


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OFFER LETTER

RFP No. HQ-ENWC0MMS(MISC)/1/2022-O/o GGM/WC-I/DFCC/ 14040

Name of Work: Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load on DFCCIL

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 **45 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.1.3.13 (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. 1.3.13 (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.

Signature of tenderer (s)

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- (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

Signature of tenderer (s)


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TENDERER'S CREDENTIALS

S. No	Description
1.	For technical experience/competence, give details of similar completed works during the last three financial years (i.e current Financial year and three previous Financial 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

Signature of tenderer (s)Page 85

TECHNICAL ELIGIBILITY CRITERIA DETAILS

**Details of the similar works completed (as per Para 1.3.13 (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 1.3.13(i)(A)		

The bidder shall attach Certified completion certificates issued by the client duly attested by Notary as per Eligibility Criteria of the tender documents.

Signature of the
Tenderer with Seal

Signature of tenderer (s)

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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 1.3.13 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>
1. Attached are copies of original documents of <ul style="list-style-type: none"> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above. <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.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Signature of the
Tenderer with Seal

Signature of tenderer (s)

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SUMMARY OF PRICES

(Refer- Price Schedule in Financial Packet "B")

Signature of tenderer (s)

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SCHEDULE OF PRICE

SCHEDULE OF PRICES & TOTAL PRICES

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

Signature of tenderer (s)


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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**").

WHEREAS in reference to a call for Tender for "**Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load 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 **Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load 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/services 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 09 Months 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

Signature of tenderer (s)

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first above 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
presence of:

Witness _____

Name _____

Address _____

on behalf of the Employer in the
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

Signature of tenderer (s)


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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.

Signature of tenderer (s)

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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 any thing 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)

Signature of Bank Authorize official
(Name): Designation:
Full Address.

Witness:

1. _____

2. _____

Signature of tenderer (s) \


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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.

Signature of tenderer (s)

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**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

Signature of tenderer (s)


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

and

M/s having 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

Signature of tenderer (s)


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- (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

Other Partner(s)

.....
(Name & Address)

.....
(Name & Address)

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

M/s.....

M/s.....

.....
(Seal)

.....
(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.

Signature of tenderer (s)


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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

Signature of tenderer (s)


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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 LimitedSupreme 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 for and 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

Signature of tenderer (s)

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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.

Signature of tenderer (s)


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**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.

Signature of tenderer (s)


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**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 “Comprehensive Study on Suitability of rail to facilitate running of Heavier Axle Load 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, is entered into with the Dedicated Freight Corridor Corporation of India Limited 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.

Signature of tenderer (s)

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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:	

Signature of tenderer (s)


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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 62 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

Signature of tenderer (s)


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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 62 of Standard General Conditions of Contract to commence works / to make good the progress, failing which further action as provided in Clause 62 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

Signature of tenderer (s)


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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 62 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 62 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

Signature of tenderer (s)


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Registered Acknowledgement Due

**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 62 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 62 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

Signature of tenderer (s)

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PROFORMA OF TERMINATION NOTICE
DFCCIL
(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 62 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

Signature of tenderer (s)

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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 62 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

Signature of tenderer (s)

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Performa for Integrity Pact

FORM No. 18

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].

Signature of tenderer (s)


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- 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 or payment.

Signature of tenderer (s)

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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.

Signature of tenderer (s)


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- (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 was 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.

- 88 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 was may be

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

Signature of tenderer (s)

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**FORMAT FOR AFFIDEVIT TO BE UPLOADED BY TENDERER ALONGWITH THE
TENDER DOCUMENT
(Clause 1.3.13(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/offers, 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/offers, 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

Signature of tenderer (s)

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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**

Signature of tenderer (s)


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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 thereto 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 : _____

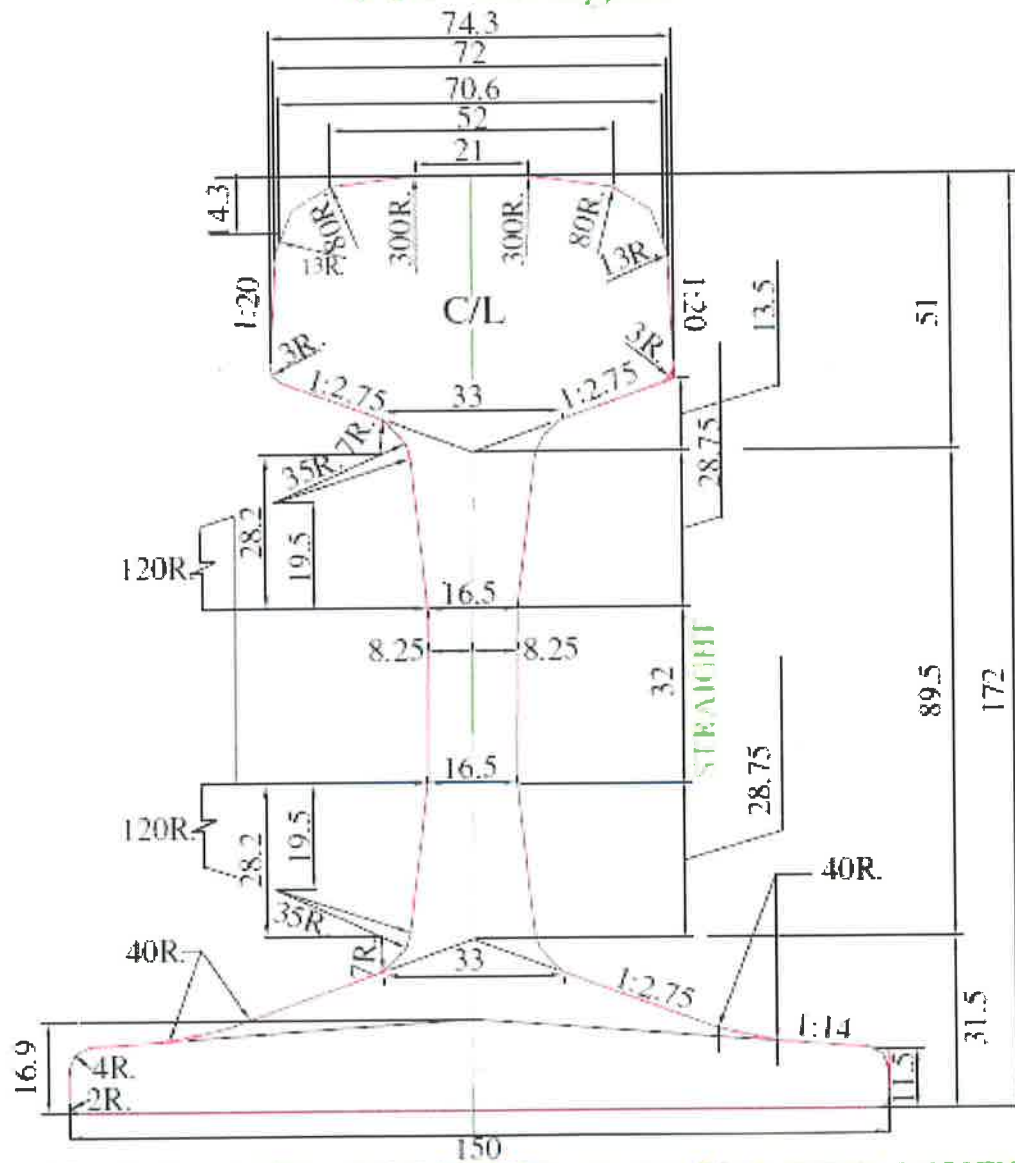
Signature of tenderer (s)


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DRAWINGS

(PART-IV)

UTC 60 kg/m



CALCULATED WEIGHT 60.34 KG PER METRE
CROSS SECTION AREA 76.86 sqcm



डेडीकेटेड फ्रेट कोरीडोर

**FINANCIAL BID
(PACKET-B)**

Tender Document

Request for Proposal (RFP)

for

**Comprehensive Study on Suitability of rail to facilitate
running of Heavier Axle Load on DFCCIL**

(RFP No. HQ-ENWC0MMS(MISC)/1/2022-O/o GGM/WC-I/DFCC/ 14040)

Issued on: 01.04.2022

Client:


**DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA
LIMITED**

(A Government of India Enterprise)

Under

Ministry of Railway

Signature of tenderer (s)


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Schedule of Price

Price Schedule for conducting the comprehensive study for suitability of 60kg (90 UTS) rail for 25t axle load operation at 100 kmph on DFCCIL

Item No.	Description Of Works	Unit	Quantity	Rate in words (₹)	Rate in figures (₹)	Amount in words (₹)	Amount in figures (₹)
1	Conducting theoretical studies and submission of report with all details as stipulated under Para-1 of Scope of work (Page No. 78)	1	1				
2	Conducting field instrumentation/ studies experiments and submission of report with all details as stipulated under Para-2 of Scope of work (Page No. 78)	1	1				
	Total Cost of Schedule (Excluding GST)						
		Rate(s) to be quoted in words and figures					

NOTE:

1. Agency is required to quote their rates in the given format in terms **of the total cost**. Only rates quoted shall be considered for Evaluation.

Payment Schedule

1. Payment against item 1, of Price Schedule shall be paid on submission and approval of report by DFCCIL.
2. Payment against item 2, of Price Schedule: 50% to be on conducting field trials and balance 50% on submission and approval of report by DFCCIL.