



**NORTH EASTERN RAILWAY**

**[S&T DEPARTMENT- OPEN LINE]**

## **E-Tender Document**

**Comprehensive annual maintenance  
Contract of RAVEL/ Honeywell make  
automatic Fire Detection & Alarm System  
installed at various locations of IZN Division**

Office of the -  
Divisional Rail Manager (S&T)  
North Eastern Railway  
Izzatnagar Division  
Izzatnagar, Bareilly-243122

## **Instructions to Tenderers**

- 1. Conditions of Tender :** The following Conditions & documents form part of Tender/Contract:
  - (a) Tender conditions (shown in all tabs of online bid submission form on IREPS website), and all conditions.
  - (b) Special & Additional Conditions /Specifications included in the documents uploaded on IREPS website against this tender.
  - (c) Schedule of approximate quantities (as shown in there Levant tab in the bid submission form on IREPS website)
  - (d) Standard General Conditions of Contract – April- 2022 and Standard Specifications for Materials and Works of Indian Railway as amended/corrected up to latest Correction Slips, copies of which can be seen in the office of DRM/S&T/IZN or obtained from the office of the Principal Chief Signal & Telecommunication Engineer, NER, Gorakhpur, on payment of prescribed charges.
  - (e) All general and detailed drawings pertaining to this work which will be issued by the Engineer or his representatives (from time to time) with all changes and modifications.
  - (f) “Contractor’s authorized Engineer” shall mean a graduate engineer or equivalent, having more than 3 years’ experience in the relevant field of construction work involved in the contract, duly approved by the Engineer.
  - (g) Date of inviting tender shall be the date of publishing tender notice on IREPS website if tender is published on website or the date of publication in newspaper in case tender is not published on website.
  - (h) “Bill of Quantities” shall mean Schedule of Item(s) included in the tender document along with Respective quantities
- 2. Drawings For The Work:** The Drawing for the work can be seen in the office of the DRM/S&T/IZN, at any time during the office hours. The drawings are only for the guidance of Tenderer(s). Detailed working drawings (if required) based generally on the drawing mentioned above, will be given by the Engineer or his representative from time to time.
- 3.** The Tenderer(s) shall quote his / their rates as a percentage above or below the Standard Schedule of Rates (SSOR) of NORTH EASTERN RAILWAY as applicable to IZZATNAGAR Division except where he/they are required to quote item rates and must tender for all the items shown in the Bill(s) of Quantities attached. The quantities shown in the attached Bill(s) of Quantities are given as a guide and are approximate only and are subject to variation according to the needs of the Railway. The Railway does not guarantee work under each item of the Bill(s) of Quantities. The tenderer(s) shall quote rates / rebates only at specified place in Tender Form supplied by Railway. Any revision of rates / rebates submitted (quoted) through a separate letter whether enclosed with the bid (Tender Form) or submitted separately or mentioned elsewhere in the document other than specified place shall be summarily ignored and will not be considered.
- 4.** Tenders containing erasures and / or alterations of tender documents are liable to be rejected. Any correction made by tender(s) in his/their entries must be attested by him/them.

### **5. Bid Security (Page 4 of GCC April 2022):**

- (1) (a) The tenderer shall be required to submit the Bid Security with the tender for the due performance with the stipulation to keep the offer open till such date as specified in the Tender, under the conditions of tender. The Bid Security shall be as under:

Value of the Work	Bid Security
For all works	2% of the estimated cost of the work

Note:

- (i) The Bid Security shall be rounded off to the nearest ₹100. This Bid Security shall be applicable for all modes of tendering.
  - (ii) Any firm recognized by Department of Industrial Policy and Promotion (DIPP) as 'Startups' shall be exempted from payment of Bid Security detailed above.
  - (iii) Labor Cooperative Societies shall submit only 50% of above Bid Security detailed above.
- (b) It shall be understood that the tender documents have been 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 Engineer. Should the tenderer fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the Railway.
  - (c) If his tender is accepted, this Bid Security mentioned in sub para (a) above will be retained as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the Standard General Conditions of Contract. The Bid Security of other Tenderers shall, save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation that may happen thereto while in their possession, nor be liable to pay interest thereon.
- (2) The Bid Security shall be deposited either in cash through e-payment gateway or submitted as Bank Guarantee bond from a scheduled commercial bank of India or as mentioned in tender documents. The Bank Guarantee bond shall be as per **Annexure-2** and shall be valid for a period of 90days beyond the bid validity period.
  - (3) **In case, submission of Bid Security in the form of Bank Guarantee, following shall be ensured:**
    - i. A scanned copy of the Bank Guarantee shall be uploaded on e-Procurement Portal (IREPS) while applying to the tender.
    - ii. The original Bank Guarantee should be delivered in person to the official nominated as indicated in the tender document within 5 working days before closing date for submission of bids.
    - iii. Non submission of scanned copy of Bank Guarantee with the bid on e-tendering portal (IREPS) and/or non-submission of original Bank Guarantee within the specified period shall lead to summary rejection of bid.
    - iv. The Tender Security shall remain valid for a period of 90 days beyond the validity period for the Tender.
    - v. The details of the BG, physically submitted should match with the details available in the scanned copy and the data entered during bid submission time, failing which the bid will be rejected
    - vi. The Bank Guarantee shall be placed in an envelope, which shall be sealed. The envelope shall clearly bear the identification "**Bid for the \*\*\*\*\* Project**" and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of the envelope.
    - vii. The envelope shall be addressed to the officer and address as mentioned in the tender document.
    - viii. If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.

**6. Care in Submission of Tenders:**

- (a) (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-37 of the Standard General Conditions of Contract for the completion of works to the entire satisfaction of the Engineer.
- (a)(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.
- (a)(iii) The successful tenderer who is liable to be registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN along with other details required under CGST/IGST/UTGST/SGST Act to railway immediately after the award of contract, without which no payment shall be released to the Contractor. The Contractor shall be responsible for deposition of applicable GST to the concerned authority.
- (a)(iv) In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/ SGST Act, the railway shall deduct the applicable GST from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned authority.
- (b) 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.
- (c) The Railway 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.

**6.1** The tenderers shall submit a copy of certificate stating that all their statements/documents submitted along with bid are true and factual. Standard format of certificate to be submitted by the bidder is enclosed as **Annexure-1**. **In addition to Annexure-1, in case of other than Company/Proprietary firm, Annexure-1(A) shall also be submitted by the each member of a partnership Firm/Joint venture (JV)/ Hindu Undivided Family (HUF) /Limited Liability Partnership (LLP) etc. As the case may be.** Non submission of above certificate 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/digitally signed by which they/he is qualifying the Qualifying Criteria mentioned in the Tender Document.

- 7. Rights of The Railway To Deal With Tender :** The authority for the acceptance of the tender will rest with the Railway. It shall not be obligatory on the said authority to accept the lowest tender or any other tender and no tenderers(s) shall demand any explanation for the cause of rejection of his/their tender nor the Railway to assign reasons for declining to consider or reject any particular tender or tenders.
- 8. If the tenderer(s) deliberately gives / give wrong information in his / their tender or creates / create circumstances for the acceptance of his / their tender, the Railway reserves the right to reject such tender at any stage.
- 9. If any partner(s) of a partnership firm expires after the submission of its tender or after the acceptance of its tender, the Railway shall deem such tender as cancelled/contract as terminated under clause 61 of the Standard General Conditions of Contract, unless the firm retains its character as per partnership agreement. If a sole proprietor expires after the submission of tender or after the acceptance of tender,

the Railway shall deem such tender as cancelled / contract as terminated under clause 61 of the Standard General Conditions of Contract.

# **10. ELIGIBILITY CRITERIA :- (Page 12 of GCC- April 2022)**

**(FOR WORKS WHOSE ADVERTISED TENDER VALUE IS COSTING ABOVE ` 50 LAKHS).  
For Tenders of value more than ` 10 Crore, JV Firm is eligible for the Tender subject to  
Fulfillment of Technical and Financial eligibility as per IRSGCC April - 2022.**

## **\*Definitions of Similar nature of work described in Standard**

### **10.1 Technical Eligibility Criteria:**

<b>Similar nature of work successfully completed during the last 07 (Seven) years, ending last day of month previous to the one in which tender is invited.</b>	<p><b>Eligibility in terms of Experience: 10.1(a)</b> The tenderer must have successfully completed or substantially completed any one of the following categories of work(s) during last 07 (seven) years, ending last day of month previous to the one in which tender is invited:</p> <p>Three similar works each costing not less than the amount equal to 30% of advertised value of the tender</p> <p style="text-align: center;">or</p> <p>Two similar works each costing not less than the amount equal to 40% of advertised value of the tender</p> <p style="text-align: center;">or</p> <p>One similar work each costing not less than the amount equal to 60% of advertised value of the tender.</p> <p>10.1(b) (i) In case of tenders for composite works (e.g. works involving more than one distinct component, such as Civil Engineering works, S&amp;T works, Electrical works, OHE works etc. and in the case of major bridges – substructure, superstructure etc.), tenderer must have successfully completed or substantially completed any one of the following categories of work(s) during last 07 (seven) years, ending last day of month previous to the one in which tender is invited:</p> <p>Three similar works each costing not less than the amount equal to 30% of advertised value of each component of tender,</p> <p style="text-align: center;">or</p> <p>Two similar works each costing not less than the amount equal to 40% of advertised value of each component of tender,</p> <p style="text-align: center;">or</p> <p>One similar work each costing not less than the amount equal to 60% of advertised value of each component of tender.</p> <p>Note for b(1): Separate completed works of minimum required values shall also be considered for fulfillment of technical eligibility criteria for different components.</p> <p>(b) (ii) In such cases, what constitutes a component in a composite work shall be clearly pre-defined with estimated tender cost of it, as part of the tender documents without any ambiguity.</p> <p>(b) (iii) To evaluate the technical eligibility of tenderer, only components of work as stipulated in tender documents for evaluation of technical eligibility, shall be considered. The scope of work covered in other remaining components shall be either executed by tenderer himself if he has work experience as mentioned in clause 7 of the Standard General Conditions of Contractor through subcontractor fulfilling the requirements as per clause 7 of the Standard General Conditions of Contract or jointly i.e., partly himself and remaining through subcontractor, with prior approval of Chief Engineer in writing.</p>
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	<p>However, if required in tender documents by way of Special Conditions, a formal agreement duly notarized, legally enforceable in the court of law, shall be executed by the main contractor with the subcontractor for the component(s) of work proposed to be executed by the subcontractor(s), and shall be submitted along with the offer for considering subletting of that scope of work towards fulfilment of technical eligibility. Such subcontractor must fulfill technical eligibility criteria as follows:</p> <p>The subcontractor shall have successfully completed at least one work similar to work proposed for subcontract, costing not less than 35% value of work to be subletted, in last 5 years, ending last day of month previous to the one in which tender is invited through a works contract.</p> <p>Note: for subletting of work costing up to Rs 50 lakh, no previous work experience of subcontractor shall be asked for by the Railway.</p> <p>In case after award of contract or during execution of work it becomes necessary for contractor to change subcontractor, the same shall be done with subcontractor(s) fulfilling the requirements as per clause 7 of the Standard General Conditions of Contract, with prior approval of Chief Engineer in writing.</p> <p>Note for Item 10.1:</p> <p>Work experience certificate from private individual shall not be considered. However, in addition to work experience certificates issued by any Govt. Organization, work experience certificate issued by Public listed company having average annual turnover of Rs 500 crore and above in last 3 financial years excluding the current financial year, listed on National Stock Exchange or Bombay Stock Exchange, incorporated/registered at least 5 years prior to the date of closing of tender, shall also be considered provided the work experience certificate has been issued by a person authorized by the Public listed company to issue such certificates.</p> <p>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.</p> <p><b>[As per Annexure –B attached in tender document]</b></p>
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## 10.2. Financial Eligibility Criteria:

The tenderer must have minimum average annual contractual turnover of V/N or 'V' whichever is less; where  
V= Advertised value of the tender in crores of Rupees

N= Number of years prescribed for completion of work for which bids have been invited.

The average annual contractual turnover shall be calculated as an average of "total contractual payments" in the previous three financial years, as per the audited balance sheet. However, in case balance sheet of the previous year is yet to be prepared/ audited, the audited balance sheet of the fourth previous year shall be considered for calculating average annual contractual turnover.

The tenderers shall submit requisite information as per **Annexure-C**, along with copies of Audited Balance Sheets duly certified by the Chartered Accountant/ Certificate from Chartered Accountant duly supported by Audited Balance Sheet.

**[A] The "tenderer[s]" mentioned in Para 10.1 and 10.2 above means – In the "name and style",**

**the tenderer[s] who are submitting their offers in the capacity of individual/ proprietary/ partnership firms/JVetc.**

- [B] Normally, the credentials [technical and financial] should be in the “name and style” of the tenderer[s] who are submitting their offer as a tenderer[s].**
- [C] The tenderer[s] who have acquired necessary credentials [technical and financial] as a constituent in the partnership/Joint Venture firm, such apportioned credentials [technical and financial] will be considered. [Documents shall be furnished].**
- [D] The technical credentials with regard to execution and successful completion of similar work (As per mention in para 10.1).**
- [E] Permissibility of Joint Venture/MOU/Consortium in this tender. [As mentioned in NIT Header]**
- [F] Authentic copy of the documents should be uploaded by the tenderer[s] along with their offer to fulfill the eligibility criteria otherwise their offers will not be considered and summarily rejected.**

**10.3 Bid Capacity:** The tender/technical bid will be evaluated based on bid capacity formula detailed as Annexure-5.

**10.4** No Technical and Financial credentials are required for tenders having advertised value up to Rs 50.00 lakh.

**10.5** Credentials if submitted in foreign currency shall be converted into Indian currency i.e., Indian Rupee as under:

The conversion rate of US Dollars into Rupees shall be the daily representative exchange rates published by the Reserve Bank of India or entity authorized by RBI to do so for the relevant date or immediately previous date for which rates have been published. Where, relevant date shall be as on the last day of month previous to the one in which tender is invited. In case of any other currency, the same shall first be converted to US Dollars as on the last day of month previous to the one in which tender is invited, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date or immediately previous date for which rates have been published.

**[Explanation for clause 10.0 including clause 10.1 to 10.5 - Eligibility Criteria:]**

1. Substantially Completed Work means an ongoing work in which payment equal to or more than 90% of the present contract value (excluding the payment made for adjustment of Price variation (PVC), if any) has been made to the contractor in that ongoing contract and no proceedings of termination of contract on Contractor's default has been initiated. The credential certificate in this regard should have been issued not prior to 60 days of date of invitation of present tender.
2. In case a work is started prior to 07 (seven) years, ending last day of month previous to the one in which tender is invited, but completed in last 07 (seven) years, ending last day of month previous to the one in which tender is invited, the completed work shall be considered for fulfillment of credentials.
3. If a work is physically completed and completion certificate to this extent is issued by the concerned organization but final bill is pending, such work shall be considered for fulfillment of credentials
4. In case of completed work, the value of final bill (gross amount) including the PVC amount (if paid) shall be considered as the completion cost of work. In case final bill is pending, only the total gross amount already paid including the PVC amount (if paid) shall be considered as the completion cost of work.  
In case of substantially completed work, the total gross amount already paid including the PVC amount (if paid), as mentioned in the certificate, shall be considered as the cost of substantially completed work.
5. If a bidder has successfully completed a work as subcontractor and the work experience certificate has been issued for such work to the subcontractor by a Govt. Organization or public listed company as defined in Note for Item 10.1 Para 10 of the Tender Form (Second Sheet), the same shall be considered for the purpose of fulfillment of credentials.

6. In case a work is considered similar in nature for fulfillment of technical credentials, the overall cost including the PVC amount (if paid) of that completed work or substantially completed work, shall be considered and no separate evaluation for each component of that work shall be made to decide eligibility.
7. In case of newly formed partnership firm, the credentials of individual partners from previous propriety firm(s) or dissolved previous partnership firm(s) or split previous partnership firm(s), shall be considered only to the extent of their share in previous entity on the date of dissolution / split and their share in newly formed partnership firm. For example, a partner A had 30% share in previous entity and his share in present partnership firm is 20%. In the present tender under consideration, the credentials of partner A will be considered to the extent of  $0.3 \times 0.2$  \* value of the work done in the previous entity. For this purpose, the tenderer shall submit along with his bid all the relevant documents which include copy of previous partnership deed(s), dissolution deed(s) and proof of surrender of PAN No.(s) in case of dissolution of partnership firm(s) etc.
8. In case of existing partnership firm, if any one or more partners quit the partnership firm, the credentials of remaining partnership firm shall be re-worked out i.e., the quitting partner(s) shall take away his credentials to the extent of his share on the date of quitting the partnership firm (e.g. in a partnership firm of partners A, B & C having share 30%, 30% & 40% respectively and credentials of Rs 10 crore; in case partner C quits the firm, the credentials of this partnership firm shall remain as Rs 6 crore). For this purpose, the tenderer shall submit along with his bid all the relevant documents which include copy of previous partnership deed(s), dissolution deed(s) and proof of surrender of PAN No.(s) in case of dissolution of partnership firm(s) etc.
9. In case of existing partnership firm if any new partner(s) joins the firm without any modification in the name and PAN/TAN no. of the firm, the credentials of partnership firm shall get enhanced to the extent of credentials of newly added partner(s) on the same principles as mentioned in item 8 above. For this purpose, the tenderer shall submit along with his bid all the relevant documents which include copy of previous partnership deeds, dissolution/splitting deeds and proof of surrender of PAN No.(s) in case of dissolution of partnership firm etc.
10. Any partner in a partnership firm cannot use or claim his credentials in any other firm without leaving the partnership firm i.e., In a partnership firm of A&B partners, A or B partner cannot use credentials of partnership firm of A&B partners in any other partnership firm or propriety firm without leaving partnership firm of A&B partners.
11. In case a partner in a partnership firm is replaced due to succession as per succession law, the proportion of credentials of the previous partner will be passed on to the successor.
12. If the percentage share among partners of a partnership firm is changed, but the partners remain the same, the credentials of the firm before such modification in the share will continue to be considered for the firm as it is without any change in their value. Further, in case a partner of partnership firm retires without taking away any credentials from the firm, the credentials of partnership firm shall remain the same as it is without any change in their value.
13. In a partnership firm "AB" of A&B partners, in case A also works as propriety firm "P" or partner in some other partnership firm "AX", credentials of A in propriety firm "P" or in other partnership firm "AX" earned after the date of becoming a partner of the firm AB shall not be added in partnership firm AB.
14. In case a tenderer is LLP, the credentials of tenderer shall be worked out on above lines similar to a partnership firm.
15. In case company A is merged with company B, then company B would get the credentials of company A also.]

#### **11.0 Tenderer Credentials : (Page 16 of GCC-2022)**

Documents testifying tenderer previous experience and financial status should be produced along with the tender.

Tenderer(s) who is /are not borne on the approved list of the Contractors of **North Eastern Railway** 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) Audited Balance Sheet duly certified by the Chartered Accountant 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 certificate 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 certificate to be submitted by the bidder is enclosed as **Annexure-1. in addition to Annexure-1, in case of other than Company/Proprietary firm, Annexure-1(A) shall also be submitted by the each member of a partnership Firm/Joint venture (JV)/ Hindu Undivided Family (HUF) /Limited Liability Partnership (LLP) etc. as the case may be.** Non submission of a copy of certificate 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/ digitally signed by which they/he are/is qualifying the Qualifying Criteria mentioned in the Tender Document.
  - (v) The Railway 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 Railway, 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 Railway shall not relieve the bidder of its obligations or liabilities hereunder nor will it affect any rights of the Railway 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, it shall lead to forfeiture of the tender Bid Security besides banning of business for a period of upto two 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. Bid Security, Performance Guarantee and Security Deposit available with the railway 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 two years.
12. Non-compliance with any of the conditions set forth therein above is liable to result in the tender being rejected.

13. **Execution Of Contract Documents :**

The Tenderer whose tender is accepted shall be required to appear in person at the office of Divisional Railway Manager(S&T)/NER/IZN or concerned Engineer, as the case may be, or if tenderer is a firm or corporation, a duly authorized representative shall appear (there would be no need for appear in person if agreement is signed digitally) and execute the contract agreement with the President of India acting through the North Eastern Railway 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 Railway as amended/corrected upto latest correction slips, mentioned in tender form (First Sheet) within seven days of notice from Railways that the Contract Agreement is ready. Failure to do so shall constitute a breach of the agreement affected by the acceptance of the tender. The Contract Agreement shall be entered into by Railway only after submission of valid Performance Guarantee by the Contractor. In such cases the Railway may determine that such tenderer has abandoned the contract and there upon his tender and acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the Bid Security and other dues payable to the Contractor under this contract. The failed Contractor shall be debarred from participating in the re-tender for that work.

**14. Documents to be submitted Along with Tender (Page 17 of GCC-2022):-**

- 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 / Hindu Undivided Family (HUF) / Limited Liability Partnership (LLP) 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. Following documents shall be submitted by the tenderer:
    - (a) **Sole Proprietorship Firm:**
      - (i) All documents in terms of Para 10 of the Tender Form (Second Sheet) above.
    - (b) **HUF:**
      - (i) A copy of notarized affidavit on Stamp Paper declaring that he who is submitting the tender on behalf of HUF is in the position of 'Karta' of Hindu Undivided Family (HUF) and he has the authority, power and consent given by other members to act on behalf of HUF.
      - (ii) All other documents in terms of Para 10 of the Tender Form (Second Sheet) above.
    - (c) **Partnership Firm:**
      - (i) All documents as mentioned in para18 of the Tender Form (Second Sheet).
    - (d) **Joint Venture (JV):** All documents as mentioned in para17 of the Tender Form (Second Sheet).
    - (e) **Company registered under Companies Act2013:**
      - (i) The copies of **MOA (Memorandum of Association) / AOA (Articles of Association)** of the company
      - (ii) A copy of Certificate of Incorporation
      - (iii) A copy of Authorization/Power of Attorney issued by the Company (backed by the resolution of Board of Directors) in favor of the individual to sign the tender on behalf of the company and create liability against the company.
      - (iv) All other documents in terms Para 10 of the Tender Form (Second Sheet) above.
    - (f) **LLP (Limited Liability Partnership):**
      - (i) A copy of LLP Agreement
      - (ii) A copy of Certificate of Incorporation
      - (iii) A copy of Power of Attorney/Authorization issued by the LLP in favor of the individual to sign the tender on behalf of the LLP and create liability against the LLP.
      - (iv) An undertaking by all partners of the LLP that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP or JV in which they were / are partners/members. Concealment / wrong information in regard to above shall make the contract liable for determination under Clause 62 of the Standard General Conditions of Contract.
      - (v) All other documents in terms of Para 10 of the Tender Form (Second Sheet).
    - (g) **Registered Society & Registered Trust:**
      - (i) A copy of Certificate of Registration
      - (ii) A copy of Memorandum of Association of Society/Trust Deed
      - (iii) A copy of Power of Attorney in favor of the individual to sign the tender documents and create liability against the Society/Trust.

- (iv) A copy of Rules & Regulations of the Society
- (v) All other documents in terms of Para 10 of the Tender Form (Second Sheet) above.
- (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 / HUF/LLP etc. shall be neither asked nor considered, if submitted. Further, no suomoto cognizance of any document available in public domain (i.e., on internet etc.) or in Railway's record/office files etc. will be taken for consideration of the tender, if no such mention is available in tender offer submitted.
- (v) A tender from JV shall be considered only where permissible as per the tender conditions.
- (vi) The Railway will not be bound by any change of power of attorney or in the composition of the firm made subsequent to the submission of tender. Railway may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Contractor.
- 15. The tenderer whether sole proprietor / a company or a partnership firm / registered society / registered trust / HUF / LLP 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 favor of the specific person whether he/they be partner(s) of the firm or any other person, specifically authorizing him/them to sign the tender, submit the tender and further to deal with the Tender/ Contract up to the stage of signing the agreement except in case where such specific person is authorized for above purposes through a provision made in the partnership deed / Memorandum of Understanding / Article of Association /Board resolution, failing which tender shall be summarily rejected.  
A separate power of attorney duly stamped and authenticated by a Notary Public or by Magistrate in favor of the specific person whether he/they be partner(s) of the firm or any other person, shall be submitted after award of work, specifically authorizing him/them to deal with all other contractual activities subsequent to signing of agreement, if required.

*Note: A Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.*

**16. Employment/Partnership Etc. Of Retired Railway Employees:**

- a) Should a tenderer:-
  - i) Be a retired Engineer of the gazette rank or any other gazette 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 railways owned and administered by the President of India for the time being,

OR

- ii) Being partnership firm / joint venture (JV) / registered society / registered trust etc have as one of its partners/members a retired Engineer of the gazetted rank or any other gazetted officer working before his retirement, OR

- iii) Being an incorporated company have any such retired Engineer of the gazetted rank or any other gazetted officer working before his retirement as one of its directors

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

THEN

The tenderer will give full information as to the date of retirement of such Engineer or gazetted officer from the said service and 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, 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.

- b) In case, upon successful award of contract, should a tenderer depute for execution of the works under or to deal matters related with this contract, any retired Engineer of gazette rank or retired gazetted officer working before his retirement in the Engineering or any other department of any of the railways owned and administered by the President of India for the time being, and now in his employment, then the tenderer will ensure that retired Engineer or retired gazetted officer had retired from government service at least 1 year prior to the date of his employment with tenderer and in case he had retired from service within a year then he possesses the requisite permission from the President of India or any officer, duly authorized by him in this behalf, to get associated with the tenderer.
- c) Should a tenderer or Contractor being an individual, have member(s) of his family or in the case of partnership firm/ company / joint venture (JV) / registered society / registered trust etc. one or more of his partner(s)/shareholder(s) or member(s) of the family of partner(s)/shareholder(s) having share of more than 1% in the tendering entity employed in gazetted capacity in the Engineering or any other department of the railway, then the tenderer at the time of submission of tender, will inform the authority inviting tenders the details of such persons.

Note: -If information as required as per 16.a), b), c) above has not been furnished, contract is liable to be dealt in accordance with provision of clause 62 of the Standard General Condition of contract.

### **JOINT VENTURE (JV) IN WORKS TENDERS (Clause 17.0 Page 20 of GCC-2022)**

**(JV is applicable in the tenders valuing Rs.10 Crore & more)**

**17.0 Participation of Joint Venture (JV) in Works Tender:** This para shall be applicable for works tenders wherein tender documents provide for the same.

17.1 Separate identity/name shall be given to the Joint Venture.

17.2 Number of members in a JV shall not be more than three, if the work involves only one department (say Civil or S&T or Electrical or Mechanical) and shall not be more than five, if the work involves more than one Department. One of the members of the JV shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV. The other members shall have a share of not less than 20% each in case of JV with upto three members and not less than 10% each in case of JV with more than three members. In case of JV with foreign member(s), the Lead Member has to be an Indian firm/ company with a minimum share of 51%.

17.3 A member of JV shall not be permitted to participate either in individual capacity or as a member of another JV in the same tender.

17.4 The tender form shall be purchased and submitted only in the name of the JV and not in the name of any constituent member. The tender form can however be submitted by JV

or any of its constituent member or any person authorized by JV through Power of Attorney to submit tender.

- 17.5 Bid Security shall be submitted by JV or authorized person of JV either as :
  - (i) Cash through e-payment gateway or as mentioned in tender document, or
  - (ii) Bank Guarantee bond either in the name of JV, or in the name of all members of JV as per MOU irrespective of their share in the JV if the JV has not been constituted legally till the date of submission of tender.
- 17.6 A copy of Memorandum of Understanding (MoU) duly executed by the JV members on a stamp paper, shall be submitted by the JV along with the tender. The complete details of the members of the JV, their share and responsibility in the JV etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU.
- 17.7 Once the tender is submitted, the MoU shall not normally be modified / altered / terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Bid Security shall be liable to be forfeited.
- 17.8 Approval for change of constitution of JV shall be at the sole discretion of the Railway. The constitution of the JV shall not normally be allowed to be modified after submission of the bid by the JV, except when modification becomes inevitable due to succession laws etc., provided further that there is no change in qualification of minimum eligibility criteria by JV after change of composition. However, the Lead Member shall continue to be the Lead Member of the JV. Failure to observe this requirement would render the offer invalid.
- 17.9 Similarly, after the contract is awarded, the constitution of JV shall not be normally 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.
- 17.10 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.
- 17.11 On issue of LOA (Letter of Acceptance), the JV entity to whom the work has been awarded, with the same shareholding pattern as was declared in the MOU/JV Agreement submitted along with the tender, shall be got registered before the Registrar of the Companies under 'The Companies Act -2013' (in case JV entity is to be registered as Company) or before the Registrar/Sub-Registrar under the 'The Indian Partnership Act, 1932' (in case JV entity is to be registered as Partnership Firm) or under 'The LLP Act 2008' (in case JV entity is to be registered as LLP). A separate PAN shall be obtained for this entity. The documents pertaining to this entity including its PAN shall be furnished to the Railways before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation within 60 days of issue of LOA, contract is liable to be terminated. In case contract is terminated railway shall be entitled to forfeit the full amount of the Bid Security and other dues payable to the Contractor under this contract. The entity so registered, in the registered documents, shall have, inter-alia, following Clauses:
  - 17.11.1 Joint and Several Liability - Members of the entity to which the contract is awarded, shall be jointly and severally liable to the Railway for execution of the project in accordance with General and Special Conditions of Contract. The members of the entity shall also be liable jointly and severally for the loss, damages caused to the Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.
  - 17.11.2 Duration of the Registered Entity - It shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period

after the work is completed.

17.11.3 Governing Laws - The Registered Entity shall in all respect be governed by and interpreted in accordance with Indian Laws.

17.12 Authorized Member - Joint Venture members in the JV MoU shall authorize Lead member on behalf of the Joint Venture to deal with the Contract, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV.

17.13 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 Railway in respect of the said tender/contract.

17.14 Documents to be enclosed by the JV along with the tender:

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

- (i) A notarized copy of the Partnership Deed or a copy of the Partnership deed registered with the Registrar.
- (ii) A copy of consent of all the partners or individual authorized by partnership firm, to enter into the Joint Venture Agreement on a stamp paper,
- (iii) A notarized or registered copy of Power of Attorney in favour of the individual to sign the MOU/JV Agreement on behalf of the partnership firm and create liability against the firm.
- (iv) An undertaking by all partners of the partnership firm that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP in which they were / are partners/members. Any Concealment / wrong information in regard to above shall make the bid ineligible or the contract shall be determined under Clause 62 of the Standard General Conditions of Contract.

17.14.2 In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:

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

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

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

17.14.4 In case one or more members of the JV is/are LLP firm/s, the following documents shall be submitted:

- (i) A copy of LLP Agreement
- (ii) A copy of Certificate of Incorporation of LLP

- (iii) A copy of resolution passed by partners of LLP firm, permitting the Firm to enter into a JV agreement
- (iv) A copy of Authorization /copy of Power of Attorney issued by the LLP firm (backed by resolution passed by the Partners) in favour of the individual, to sign the tender and/or sign the MOU/ JV agreement on behalf of the LLP and create liability against the LLP.
- (v) An undertaking by all partners of the LLP that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP or JV in which they were / are partners/members. Any Concealment / wrong information in regard to above shall make the contract liable for determination under Clause 62 of the Standard General Conditions of Contract.

17.14.5 In case one or more members of the JV is/are Society/s or Trust/s, the following documents shall be submitted:

- (i) A copy of Certificate of Registration
- (ii) A copy of Memorandum of Association of Society/Trust Deed
- (iii) A copy of Rules & Regulations of the Society
- (iv) A copy of Power of Attorney, in favour of the individual to sign the tender documents and create liability against the Society/Trust.

17.14.6 All other documents in terms of Para 10 of the Tender Form (Second Sheet) above.

17.14.7 A power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.

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

17.15.1 Technical Eligibility Criteria ('a' or 'b' mentioned hereunder):

- (a) For Works without composite components:  
The technical eligibility for the work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'Lead member of the JV'.

Each other (non-lead) member(s) of JV, who is/ are not satisfying the technical eligibility for the work as per para 10.1 above, shall have technical capacity of minimum 10% of the cost of work i.e., each non-lead member of JV member must have satisfactorily completed or substantially completed during the last 07 (seven) years, ending last day of month previous to the one in which tender is invited, one similar single work for a minimum of 10% of advertised value of the tender.

- (b) For works with composite components  
The technical eligibility for major component of work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'Lead member of the JV' and technical eligibility for other component(s) of work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'any member of the JV'.

Each other (non-lead) member(s) of JV, who is/ are not satisfying the technical eligibility for any component of the work as per para 10.1 above, shall have technical capacity of minimum 10% of the cost of any component of work mentioned in technical eligibility criteria. i.e., each other (non-lead) member of must have satisfactorily completed or

substantially completed during the last 07 (seven) years, ending last day of month previous to the one in which tender is invited, one similar single work for a minimum of 10% of cost of any component of work mentioned in technical eligibility criteria.

Note for Para 17.15.1:

- a) The Major component of the work for this purpose shall be the component of work having highest value. In cases where value of two or more component of work is same, any one work can be classified as Major component of work.
- b) Value of a completed work done by a Member in an earlier JV shall be reckoned only to the extent of the concerned member's share in that JV for the purpose of satisfying his/her compliance to the above mentioned technical eligibility criteria in the tender under consideration.

17.15.2 Financial Eligibility Criteria: The JV shall satisfy the requirement of “Financial Eligibility” mentioned at para 10.2 above. The “financial capacity” of the lead member of JV shall not be less than 51% of the financial eligibility criteria mentioned at para 10.2 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.

17.15.3 Bid Capacity: The JV shall satisfy the requirement of “Bid Capacity” requirement mentioned at para 10.3 above. The arithmetic sum of individual “Bid capacity” of all the members shall be taken as JV’s “Bid capacity” to satisfy this requirement.

## **18.0 Participation of Partnership Firms in works tenders:**

- 18.1 The Partnership Firms participating in the tender should be legally valid under the provisions of the Indian Partnership Act.
- 18.2 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 as per the Indian Partnership Act, prior to submission of tender.
- 18.3 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.
- 18.4 Once the tender has been submitted, the constitution of the firm shall not normally 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 Railway 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 Railways and the tenderer shall have no claims what-so-ever. Any change in the constitution of Partnership firm after submission 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 Bid Security shall be forfeited.

If any Partner/s withdraws from the firm after submission of the tender and before the award of the contract, the offer shall be rejected and Bid Security of the tenderer will be forfeited. If any new partner joins the firm after submission 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 Railway 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 62 of the Standard General Conditions of Contract.

- 18.5 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.
- 18.6 The tender form shall be submitted only in the name of partnership firm. The Bid Security shall be submitted by partnership firm. The Bid Security submitted in the name of any individual partner or in the name of authorized partner (s) shall not be considered.
- 18.7 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.
- 18.8 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.
- 18.9 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 Railway 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 Railway 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 Railway, shall constitute a breach of the contract, liable for determination of the contract under Clause 62 of the Standard 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 Railway.
- 18.10 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:
  - (i) A notarized copy of the Partnership Deed or a copy of the Partnership deed registered with the Registrar.
  - (ii) A notarized or registered copy of Power of Attorney in favour of the individual to tender for the work, sign the agreement etc. and create liability against the firm.
  - (iii) An undertaking by all partners of the partnership firm that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP in which they were / are partners/members. Any Concealment / wrong information in regard to above shall make the bid ineligible or the contract shall be determined under Clause 62 of the Standard General Conditions of Contract.

- (iv) All other documents in terms of Para 10 of the Tender Form (Second Sheet) above.

**18.11 Evaluation of eligibility of a partnership firm:**

Technical and financial eligibility of the firm shall be adjudged based on satisfactory fulfillment of the eligibility criteria laid down in Para 10 of the Tender Form (Second Sheet) above.

**19.0 Advances to Contractor –**

If specifically provided in Tender Documents of tender having advertised value more than Rs 50 Crores, Railway shall make payment, as an Interest bearing advances, as per Contractor's request. These advances shall carry a simple interest \_\_\_\_\_ as indicated in the Tender documents. The payment and recovery of such advances shall be made as per manners prescribed in Clause 46.4 of the Standard General Conditions of Contract.

(Signature)  
(Designation)

Signature of Tenderer(s) \_\_\_\_\_ Railway Date \_\_\_\_\_  
Date \_\_\_\_\_

- 20. Right of Railway to Deal with Tenders (Para 7 of GCC- April 2022, Page No-12):** The Railway reserves the right of not to invite tenders for any of Railway work or works or to invite open or limited tenders and when tenders are called to accept a tender in whole or in part or reject any tender or all tenders without assigning reasons for any such action. In case if tender is accepted in part by Railway administration, Letter of Acceptance shall be issued as counter offer to the Tenderer, which shall be subject to acceptance by the Tenderer.
- 20A. Two Packets System of Tendering (Para 7A of GCC-2022):** With a view to assess the tenders technically without being influenced by the financial bids, 'Two Packets System of tendering' shall be adopted wherein tender documents provide for the same.
- 20B. Pre Bid Conference (Para 7B of GCC-2022):** Intenders having advertised value more than Rs 50 Crore or as mentioned in the tender document, Railway shall conduct Pre Bid Conference(s) with the prospective bidders.
- 20C. Make in India Policy (Para 7C of GCC-2022):** Provisions of Make in India Policy 2017 issued by Govt. of India, as amended from time to time, shall be followed for consideration of tenders.
- 20D. Permission to Bid for a bidder from a country which shares Land boundary with India (Para 7D of GCC-2022):** Any bidder from the countries sharing a land border with India will be eligible to bid in any procurement of works (including turnkey projects) only if the bidder is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), Government of India. For interpretation of this para, Department of Expenditure, Ministry of Finance, Government of India letter F.No.6/18/2019-PPD dated 23/07/2020 shall be referred.
- 20E. Clarification of Bids (Para 7E of GCC-2022):** To assist in the examination, evaluation & comparison and pre-qualification of the Tender, the Railway may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Railway shall not be entertained or considered. The Railway request for clarification and the response of the bidder in this regard shall be in writing.
- However, if a Bidder does not provide clarification of its bid by the date and time communicated in the Railway request for clarification, the bid shall be evaluated as per the documents submitted along with the bid.
- 21. Form of Contract Document (Para 9 of GCC- April 2022):** Every contract shall be complete in respect of the document it shall so constitute. Not less than 2 copies of the contract document shall be signed by the competent authority and the Contractor and one copy given to the Contractor (there would be no need of signing two copies if agreement is signed digitally).
- 22. Performance Guarantee: Ref-Indian Railways Standard GCC, April-2022)**  
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 22<sup>nd</sup> day after the date of issue of LOA. Further, if the 60<sup>th</sup> day happens to be a declared holiday in the concerned office of the Railway, 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 railway shall be entitled to forfeit Bid Security and other dues payable to the contractor against that particular contract, subject to maximum of PG amount. In case a tenderer has not submitted Bid Security 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.

- 23. Assignment or Subletting of Contract (Page 44 of GCC 2022) :** The Contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein in any manner whatsoever without the special permission in writing of the Chief Engineer, save as provided below. Any breach of this condition shall entitle the Railway to rescind the contract under Clause 62 of these Conditions and also render the Contractor liable for payment to the Railway 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. In case Contractor intends to subcontract part of work, he shall submit a proposal in writing seeking permission of Chief Engineer for the same. While submitting the proposal to railway, Contractor shall ensure the following:

- (a) (i) Total value of work to be assigned to sub-contractor(s) shall not be more than 50% of total contract value.
- (ii) The subcontractor shall have successfully completed at least one work similar to work proposed for subcontract in last 5 years, ending date of submission of proposal by Contractor to Railway, costing not less than 35% value of work to be subletted, through a works contract. For fulfilment of above, Work Experience Certificate issued by a Govt. Department/ Organization shall be considered. Further, Work Experience Certificate issued by a Public listed company shall be considered provided the company is having average annual turnover of Rs 500 crore and above in last 3 financial years excluding the current financial year, listed on National Stock Exchange or Bombay Stock Exchange, registered at least 5 years back from the date of submission of proposal by Contractor to Railway and work experience certificate issued by a person authorized by the Public Listed Company to issue such certificates.

Note: for subletting of work costing up to Rs 50 lakh no previous work experience shall be asked for by the Railway.

In case contractor submits subcontractor's work experience certificate issued by public listed company, the contractor 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.

- (iii) There is no banning of business with the sub-contractor in force over IR.
- (b) The Contractor shall provide to the Engineer a copy of the agreement to be entered into by Contractor with subcontractor. No subcontractor shall be permitted without a formal agreement between Contractor and subcontractor. This agreement shall clearly define the

scope of work to be carried out by subcontractor and the terms of payment in clear & unambiguous manner.

- (c) On receipt of approval from Chief Engineer, Contractor shall enter into a formal agreement legally enforceable in Court of Law with subcontractor and submit a copy of the same to the Engineer.
- (d) The Contractor shall intimate to the Engineer not less than 7 days in advance, the intended date of commencement of subcontractor's work.
- (e) Once having entered into above arrangement, Contractor shall discontinue such arrangement, if he intends to do so at his own or on the instructions of Railway, with prior intimation to Chief Engineer.
- (f) The Contractor shall indemnify railway against any claim of subcontractor.
- (g) The Contractor shall release payment to the Sub-contractor(s) promptly and shall endeavor to resolve all issues amicably and speedily with the Sub-contractor(s), so that the execution of work is not affected in any manner whatsoever
- (h) In addition to issuance of work experience certificate to Contractor, the Engineer, when, based on documents, is satisfied that subcontracted work has been carried out by subcontractor, shall issue work experience certificate to the subcontractor also for the portion of work subcontracted and successfully completed by the sub-contractor.

Note: Work Experience Certificate to the subcontractor shall be issued only when the contractor's work is complete and contractor is entitled for the issuance of Work Experience Certificate. However, in the same contract, when the Chief Engineer, based on documents, is satisfied that the subcontractor has successfully carried out subletted work; without issuance of work experience certificate to subcontractor at this stage, the Chief Engineer can, **only once**, consider the successfully completed subletted work for the fulfilment of eligibility for further subletting of work to the subcontractor in the same contract. When the contractor's work is complete and contractor is entitled for the issuance of work experience certificate, the subcontractor shall be issued one Work Experience Certificate for the total scope of work executed by the subcontractor in the contract.

- (i) The responsibility of successful completion of work by subcontractor shall lie with Contractor. Subcontracting will in no way relieve the Contractor to execute the work as per terms of the Contract.
- (j) Further, in case Engineer is of the view that subcontractor's performance is not satisfactory, he may instruct the Contractor to remove the subcontractor from the work and Contractor has to comply with the above instructions with due promptness. Contractor shall intimate the actual date of discontinuation of subcontract to Engineer. No claim of Contractor whatsoever on this account shall be entertained by the Railway and this shall be deemed as 'excepted matter' (matter not arbitral).
- (k) The permitted subcontracting of work by the Contractor shall not establish any contractual relationship between the sub-contractor and the Railway and shall not relieve the Contractor of any responsibility under the Contract.

24. Before submitting the offer, please read carefully complete e-tender document including Instructions to Tenderers, General Conditions of Contract, April-2022, Special Conditions of Contract, Additional Special Conditions of Contract i.e. Technical Conditions etc. as available on the page of North Eastern Railway [NORTH EASTERN RLY /IZZATNAGAR DIVISION-S&T] on the website [www.ireps.gov.in](http://www.ireps.gov.in).

25. The e-bid submitted without requisite Earnest Money Deposit in appropriate form will be summarily rejected.

26. **Bid Security (Page 11 of GCC April 2022) :**

- (a) Subject to exemptions provided under para 5(1) (a) of Part-1 (ITT) of this document, the tender must be accompanied by a Bid Security as mentioned in tender documents, failing which the tender shall be summarily rejected.
- (b) The Tenderer(s) shall keep the offer open for a minimum period of 60 days (in case of

two packet system of tendering-90days) from the date of closing of the Tender. It is understood that the tender documents have been issued to the Tenderer(s) and the Tenderer(s), is / are permitted to tender in consideration of the stipulation on his / their part that after submitting his / their tender subject to the period being extended further, if required by mutual agreement from time to time, he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to North Eastern Railway. Should the tenderer fail to observe or comply with the foregoing stipulation, the amount deposited or Bank guarantee bond submitted as Bid Security for the due performance of the above stipulation, shall be forfeited to the Railway.

- (c) If his tender is accepted,
    - (i) The Bid Security mentioned in sub para(a) above deposited in cash through e-payment gateway will be retained as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the Standard General Conditions of Contract;
    - (ii) The Bid Security mentioned in sub para(a) above submitted as Bank guarantee bond, will be encased as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the Standard General Conditions of Contract. The Bid Security of other Tenderers shall, save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation to the Bid Security that may happen thereto while in their possession, nor be liable to pay interest thereon.
  - (d) In case Contractor submits the Term Deposit Receipt/Bank Guarantee Bond towards either the Full Security Deposit or the Part Security Deposit equal to or more than Bid Security, the Railway shall return the Bid Security so retained as per sub para(c) above, to the Contractor.
27. Time of availability of tender document on website: [www.ireps.gov.in](http://www.ireps.gov.in) is divided into two parts viz, Advertisement period and offer submission period as detailed below :-
- a) Advertisement Period: - Time during which all information pertaining to tender shall be available but offers cannot be submitted.
  - b) Offer submission period: - Fifteen days prior to closing of tender, during which tenderers can submit their offers.
- The prospective tenderers are advised to revisit the website [www.ireps.gov.in](http://www.ireps.gov.in). Within advertisement period to look for any changes/ corrigenda issued for the tender. In the offer submission period, no changes will be issued for the tender.
28. No Manual Offers sent by Post/FAX or in person shall be accepted against such e-tenders, even if these are submitted on the firm's letter head and received in time. The manual offer uploaded as attached document shall not be considered also. All such manual offers shall be considered as in-valid offers and shall be rejected summarily without any consideration.
29. E-tender is not transferable and the same is to be submitted with digital signature by the pre-authorized personnel of the tenderer, already registered with the site.
30. If the required information asked for in the tender document is not furnished, the tender will be otherwise treated in complete and hence will not be considered.
31. The on-line bidding doesn't permit submission of offer after stipulated date and time of the e-tender. Hence there is no scope for late/ delayed tenders.
32. **In case of Two Packet of bidding, after scrutinizing the Techno-Commercial offer and shortlisting the tenderers, the Financial Bid shall be opened on a subsequent date only for those tenderers who will be qualifying Techno-Commercial Offers as per eligibility/ qualifying criteria laid down. The date of opening of Financial Bid will be advised online. The Railway's decision in this regard will be final.**

#### **Multiple L-1**

In case of more than one L-1 bidders, tender may be awarded to tenderer having higher Bid Capacity. In case Bid Capacity is also the same, tenderer having done more value of similar work in last seven financial years and the current financial year upto the date of inviting of the tender, may be selected for the award. Instructions with respect to Bid Capacity will follow.

33. The tenderer/s may note that Railway reserve the right to either accept or reject any bid/s without assigning any reasons whatsoever and tenderer/s shall have no claim/s on this account.
34. Legal jurisdiction shall be Civil Court Bareilly.
35. Prospective tenderer/s may contact concerned Senior Divisional S&T Engineer, Divisional S&T Engineer/ N.E. Railway, IZZATNAGAR for obtaining further clarifications, if required.
36. No correspondence shall be entertained after opening of tender and any suo-moto letters or submission in regard to tender, except specifically mentioned to be submitted as per the terms of the tender or sought for by the Railway, shall be treated as Null and Void.
37. **False/ incomplete statement :** Any statement/declaration made by the tenderer while uploading tender or submitted later as specifically required in the tender, if proved wrong or false or incomplete or such as to withhold any information relevant to the award of the tender, at any stage of the tender or in the event of his tender having been accepted, at any stage the contract, shall render his/ their tender[s]/ contract[s] liable to be cancelled/ rescinded, in addition to the following :
  - a) If such statement is found at the tender stage, his total Earnest Money shall be forfeited.
  - b) In case such a statement is found at the contract stage, the conditions/ rights available to the Railways under Clause 62 of the G.C.C. shall be applicable.
  - c) In addition to above, action of banning of business may also be taken against such tenderers including prosecution under law.
38. **Special Conditions:**
  - a) The copies of the various letters/documentary proof/statement etc. must be uploaded with e-Tender and shall be properly indexed by indicating the Annexure Nos. like Annexure-1, Annexure-2etc. on the right hand side top corner of the same and this Annexure No. shall also be indicated in relevant column of the Annexure-A to Annexure-K supplied to the tenderer with the Technical offer and Financial bid.
  - b) In addition to the information given in the prescribed form of the Technical and Commercial Offer, the tenderer may also submit any additional relevant information connected with this tender if considered necessary, uploading copies of the documents relied upon.
  - c) Submission of Tender does not bind the Railway Authority for any claim of any nature whatsoever.
39. **The tenderer should also upload copy of the following documents along with the tender.**
  - 39.1 History Sheet of tenderer **[As per Annexure–A attached in tender document]**
  - 39.2 List of personal, organization available on hand and proposed to be engaged for the subject work. **[As per Annexure–D attached in tender document]**
  - 39.3 List of plant and Machinery available on hand (own) and proposed to be inducted (own and hired to be given separately) for the subject work. **[As per Annexure –E attached in tender document]**
  - 39.4 List of Works successfully completed in last seven years (Ending last day of month previous to the one in which tender is invited) giving Description of Work, Organization for whom executed, approximate value of contract at time of award, Date of award and Date of Completion. Date of actual Start, Actual Completion and Final value of Contract shall also be given. **[As per Annexure–F attached in tender document]**
  - 39.5 List of Works on hand if any, indicating Description of Work, Contract Value, Approximate value of balance work yet to be done and Date of award. **[As per Annexure –G attached in tender document]**
  - 39.6 Declaration regarding association of railway officer(s) with tenderer(s) **[As per Annexure –H attached in tender document]**
  - 39.7 List of court cases during previous seven years **[As per Annexure –I attached in tender document]**
  - 39.8 List of arbitration cases during previous seven years **[As per Annexure –J attached in tender document]**

**NOTE:** In case of 39.04 and 39.05 above, supportive documents/ Certificates from organizations with

- whom they worked/ are working should be uploaded. Certificates from private individuals for whom such works are executed/ being executed will not be accepted.
- 39.9 Constitution of Firm **[As per Annexure–K attached in tender document]**
40. The copy of the credential certificates as per para10.1 above to be uploaded by the tenderers which should contain the basic information such as -
- (i) Contract Agreement No.,
  - (ii) Detailed nature of work executed,
  - (iii) Date of successful completion of work,
  - (iv) Total amount received,
  - (v) Name and Style in whose favor the credential certificate is issued if in favor of JV share in JV.
  - (vi) Execution of quantities of specific items if asked for to fulfill eligibility criteria.
41. **System of Verification of Tenderer's credentials:-**
- 41.1 For the works tenders, it has been decided to adopt the certificate based system, of credential verification. The tenderer shall submit along with the tender document, documents in support of his/their claim to fulfill the eligibility criteria as mentioned in the tender document. Each page of the copy of documents/certificates in support of credentials, submitted by the tenderer, shall be self-attested/digitally signed by the tenderer or authorized representative of the tendering firm. Self-attestation shall include signature stamp and date (on each page). Only those documents which are declared explicitly by the tender as "documents supporting the claim of qualifying the laid down eligibility criteria" will be considered for evaluating his/their tender.
- 41.2 In all works tender documents, following para added in these citation describing the qualification verification and eligibility criteria.
- "The tenderers shall submit a copy of certificate stating that all their statements/documents submitted along with bid are true and factual. Standard format of certificate to be submitted by the bidder is enclosed as Annexure-1. Non submission of above certificate 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. It will not be obligatory on the part of Tender Committee to scrutinize beyond the submitted document of tenderer as far as his qualification for the tender is concerned".**
42. **Validity of the tender:** Tenderer shall keep his tender open for a period of 60 days for single packet and 90 days for two packet system from the date of opening of the tender. (Ref. : As per GCC April-2022)
43. **Price Variation Clause (PVC):-**
- Price Variation Clause (PVC) shall be applicable only for contracts value (Contract Agreement value) Rs. 5.00 Crore and more irrespective of the contract completion period) {As per Railway Boards letter No. 2017/Trans/01/Policy dated 08.02.2018}.
- The Price Variation Clause (PVC) of General Conditions of Contract (GCC) shall not apply to such a works contract which is either an Annual Maintenance Contract (AMC) or a Zonal Contract (As per Railway Boards letter No. 2013/ CE-I/ CT/O/10/PVC/ Pt. I dated 27.01.2015)
44. If the date of opening happens to be a holiday, the tenders will be opened on the next working day.
45. The works are required to be completed within a period as stipulated in the tender document from the date of issue of acceptance letter.

**STANDARD GENERAL CONDITIONS OF CONTRACT**

01. The whole of the work shall be executed in conformity with the **Indian Railways Standard General Condition of Contract-April2022 and Specification of Central Public Works Department (Vol. I & II) 2019** Edition corrected upto date read in conjunction with the special conditions annexed and in the event of any conflict or contradictions between the provisions of such conditions, special conditions annexed shall prevail and decision of the Senior Divisional S&T Engineer/Divisional S&T Engineer in this connection will be final and binding on the contractor.

**2. (1) DEFINITION OF DSTE/Sr DSTE**

The term DSTE/Sr.DSTE wherever appears will denote the Divisional Signal & Telecom Engineer/Sr Divisional Signal & Telecom Engineer in executive charge of the work or such person or persons who may be deputed by him to superintend the work

**3.1 SCOPE OF WORK:** As mentioned in name of work at NIT Header.

**3.2 ELIGIBILITY CRITERIA:** - Details of eligibility criteria is mentioned at NIT.

4. **Drawings & Specifications:** The specifications and drawings referred in the tender document but not enclosed may be obtained from the office of the Sr.DSTE/IZN on any working day on prescribed payment as per prevailing rules of Railway in-forced from time to time.
5. **Security of Materials:** Security of all material supplied by the contractor / Railway for the work shall be the contractor's responsibility and he shall arrange to guard the same from thefts by outsiders or his labor. In the event of any loss, the contractor(s) shall be responsible for the same. No compensation will be allowed to contractor for his plant, or material lost or damaged by any cause whatsoever.

**6. Precautions:**

- (i) The contractor(s) shall observe all the rules and regulation in relation to safety of the personnel and railway operation.
  - (ii) The contractor(s) shall do no work that may interfere with the traffic until protection has been provided by the railway.
  - (iii) When the work is required to be carried out on the track itself or as close to the track as may pose a hazard to rail traffic, the work shall be carried out under the supervision of the authorized Railway representatives at site.
  - (iv) In addition to the precaution taken by the contractor/s for the safety of the track and labor, it may be necessary to post Railway flagman in some locations as an additional safety measure for which the cost shall be recoverable from the contractor/s. The contractor(s) shall be fully responsible for any damage to or trespasser caused by him/their men to any surrounding structure. Railway bears no liability what-so-ever on this account.
7. **Communications to be in Writing:** All notices, communications, reference and complaints made by the Railway or the Engineer or the Engineer's Representative or the Contractor inter-se concerning the works shall be in writing or e-mail on registered e-mail IDs i.e. the e mail id provided for correspondence in the contract agreement, otherwise email id registered with IREPS and no notice, communication, reference or complaint not in writing or through e-mail, shall be recognized.
8. **Railway Passes:** No free railway passes shall be issued by the Railway to the Contractor or any of his employee/worker.



9. **Carriage of Materials:** No forwarding orders shall be issued by the Railway for the conveyance of Contractor's materials, tools and plant by train which may be required for use in the works and the Contractor shall pay full freight charges at public tariff rates therefor.

28.0 **10.(1) Clause 16(1) of IRSGCC -Security Deposit (Page 47 of GCC April 2022) :-**

**Security Deposit:** The Security Deposit shall be 5% of the contract value. The Bid Security submitted by the Contractor with his tender will be retained/ encased by the Railways as part of security for the due and faithful fulfillment of the contract by the Contractor. Provided further that, if Contractor submits the Cash or Term Deposit Receipt issued from a Scheduled commercial bank of India or irrevocable Bank Guarantee Bond from a Scheduled commercial bank of India, either towards the Full Security Depositor the Part Security Deposit equal to or more than Bid Security, the Railway shall return the Bid Security, to the Contractor.

Balance of Security Deposit may be deposited by the Contractor in cash or Term Deposit Receipt issued from Scheduled commercial bank of India or irrevocable Bank Guarantee bond issued from Scheduled commercial bank of India, or may be recovered at the rate of 6% of the bill amount till the full Security Deposit is recovered. Provided also that in case of defaulting Contractor, the Railway 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 15% of the total value of the contract.

The Irrevocable Bank Guarantee submitted towards Security deposit shall be initially valid up to the stipulated date of Maintenance period plus 60 days and shall be extended from time to time, depending upon extension of contract granted in terms of Clause 17A and 17B of the Standard General Conditions of Contract.

Note : Security Deposit deposited in cash by the Contractor or recovered from the running bills of a Contractor or submitted by contractor as Term Deposit Receipt(s) can be refunded/returned to the contractor, in lieu of irrevocable Bank Guarantee bond issued from scheduled commercial bank of India, to be submitted by him, for an amount equal to or more than the already available Security Deposit, provided however that, in a contract of value less than Rs. 50 Crore, such refund/ return of the already available Security Deposit is permitted up to two times and in a contract of value equal to or more than Rs. 50 Crore, such refund / return of the already available Security Deposit is permitted up to three times.

10.(2) **(i) Clause 16.(2) (i) of IRSGCC- Refund of Security Deposit (Page 48 of GCC April 2022):**

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 51.(1) **and**
- (b) Execution of Final Supplementary Agreement or Certification by Engineer that Railway has No Claim on Contractor **and**
- (c) Maintenance Certificate issued, on expiry of the maintenance period as per clause 50.(1), in case applicable.

10. (2) **(ii) Forfeiture of Security Deposit:** Whenever the contract is rescinded as a whole under clause 62 (1) of these conditions, the Security Deposit already with railways under the contract shall be forfeited. However, in case the contract is rescinded in part or parts under clause 62 (1) of these conditions, the Security Deposit shall not be forfeited.

- 10.(3) No interest shall be payable upon the Bid Security and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub-Clause 16.(4)(b) of this clause will be payable with interest accrued thereon.

10.(4) **Clause 16.(4) of IRSGCC -Performance Guarantee (Page 48 of GCC April 2022) :-**

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 22<sup>nd</sup> day after the date of issue of LOA. Further,

if the 60<sup>th</sup> day happens to be a declared holiday in the concerned office of the Railway, 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 railway shall be entitled to forfeit Bid Security and other dues payable to the contractor against that particular contract, subject to maximum of PG amount. In case a tenderer has not submitted Bid Security 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) The successful bidder shall submit the Performance Guarantee (PG) in any of the following forms, amounting to 5% of the original contract value **and additional Performance Guarantee as per GCC-2022 clause 16(4)(h) :-**

- (i) A deposit of Cash;
- (ii) Irrevocable Bank Guarantee;
- (iii) **Insurance Surety Bond as per Annexure-AVII**  
**Note – In case of extension of Date of completion, selected bidder needs to submit extended Insurance Surety Bond/ Fresh Insurance Surety Bond/ fresh Performance Security, in any form as given above, before expiry of existing Insurance Surety Bond**
- (iv) Government Securities including State Loan Bonds at 5% below the market value;
- (v) Pay Orders and Demand Drafts tendered by any Scheduled Commercial Bank of India;
- (vi) Guarantee Bonds executed or Deposits Receipts tendered by any Scheduled Commercial Bank of India;
- (vii) Deposit in the Post Office Saving Bank;
- (viii) Deposit in the National Savings Certificates;
- (ix) Twelve years National Defense Certificates;
- (x) Ten years Defense Deposits;
- (xi) National Defense Bonds and
- (xii) Unit Trust Certificates at 5% below market value or at the face value whichever is less. Also, FDR in favor of FA&CAO (free from any encumbrance) may be accepted.
- (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 is based on original contract value and shall not change due to subsequent variation(s) in the original contract value.
- (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 encased.
- (g) The Engineer shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of:
  - (i) Failure by the Contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
  - (ii) Failure by the Contractor to pay President of India 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 62 of these conditions
- (iv) Bank Guarantees (BGs) to be submitted by suppliers/contractors should be sent directly to the concerned authorities by issuing Bank under registered Post A.D.

- 11. Clause 17 of IRSGCC -Force Majeure Clause(Page 49 of GCC April 2022):** 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/pandemics, strikes, lockouts or acts 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 or 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.
- 11A. Clause 17A of IRSGCC -Extension of Time in Contracts (Page 50 of GCC April 2022):** 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.
  - (ii) **Extension for Delay not due to Railway or Contractor:** If in the opinion of the Engineer, the progress of work has any time been delayed by any act or neglect of Railway's employees or by other Contractor employed by the Railway under Sub-Clause (4) of Clause 20 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 Railway 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.
  - (iii) **Extension for Delay due to Railways:** In the event of any failure or delay by the Railway 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 Railway 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 Railway may grant such extension or extensions of the completion date as may be considered reasonable.
- The Contractor shall indicate the period for which the work is likely to be delayed and shall seek extension of time as may be considered necessary under clause 17A(i) or/and 17A(ii) or/ and 17A(iii) above, as soon as the cause thereof shall arise and, in any case, not less than 15 days before the expiry of the date fixed for completion of the works. The Engineer shall consider the same and shall grant and communicate 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.

The non-submission of request for extension or submission of request within less than 15 days before the expiry of the date fixed for completion of the works, shall make him ineligible for extension under these sub clauses, subject to final decision of Engineer.

- 11B Clause 17B of IRSGCC - Extension of Time with Liquidated Damages (LD) for delay due to Contractor (Page 51 of GCC April 2022:** 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 17 and 17A, the Railway 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 Railway 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 rate of Liquidated Damages as decided by Engineer, between 0.05% to 0.30 of contract value of the works for each week or part of the week..

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.

Provided further, that if the Railway 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 Railway 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 62 of these Conditions, whether or not actual damage is caused by such default.

NOTE: In a contract, where extension(s) of time have been allowed once under clause 8B, further request(s) for extension of time under clause 8A can also be considered under exceptional circumstances. Such extension(s) of time under clause 8A shall be without any Liquidated damages, but the Liquidated damages already recovered during extension(s) of time granted previously under clause 8B shall not be waived. However, Price variation during such extension(s) shall be dealt as applicable for extension(s) of time under clause 8B.

- 11C Clause 17B of IRSGCC - Bonus for Early Completion of Work (Page 52 of GCC April 2022:** In open tenders having advertised value more than Rs.50 crore and original period of completion 12 months or more, when there is no reduction in original scope of work by more than 10%, and no extension granted on either railway or Contractor's account, Contractor shall be entitled for a bonus of 1% for each 30 days early completion of work. The period of less than 30 days shall be ignored while working out bonus. The maximum bonus shall be limited to 5% of original contract value. The completion date shall be reckoned as the date of issuance of completion certificate by Engineer.

- 12.(1) Clause 19(1) of IRSGCC - Contractor's understanding(Page 52 of GCC April 2022:** 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) **Clause 19(2) of IRSGCC-Commencement of Works(Page 52 of GCC April 2022:** 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) **Clause 19(3) of IRSGCC - Accepted Programme of Work(Page 52 of GCC April 2022:** The Contractor who has been awarded the work shall as soon as possible but not later than 30 days after the date of receipt of the acceptance letter in respect of contracts with initial completion period of two years or less or not later than 90 days for other contracts have to submit the detailed programme of work indicating the time schedule of various items of works in the form of Bar Chart/ PERT/ CPM. He shall also submit the details of organization (in terms of labor 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 endeavor 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.
- In Contracts for works of New Line/Gauge Conversion/Doubling/Railway Electrification, finalized through Tenders having advertised value more than Rs.100 crores, the Contractor shall submit a detailed time programme to the Engineer within 30 days after issue of LOA. The program shall include the physical and Financial Progress vis-à-vis program and forecast cash flow adopting Project Management Software such as **Primavera/Sure Track/MS Project etc.** The program must identify the milestones, interface requirements and program reporting elements. The Contractor shall supply, free of cost one set of authorized software to the Engineer and the soft copy of structured program for the project. This shall be updated every month. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress. Each programme shall include:
- The order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage, Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing, each of these stages for work by each Subcontractor, if any, the sequence and timing of inspections and tests specified in the Contract, and a supporting report which includes:
- a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and details showing the Contractor's reasonable estimate for the number of each class of Contractor's Personnel & Equipment, required on the Site for each major stage. Unless the Engineer, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Engineer shall be entitled to rely upon the programme when planning their activities.
- If, at any time, the Engineer gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Engineer within 15 days in accordance with this Sub-Clause.
- 12.(4) **Clause 19(4) of IRSGCC - Setting out of Works(Page 52 of GCC April 2022:** The Contractor shall be responsible for the correct setting out of all works in relation to original points, lines and levels of reference at his cost. The Contractor shall execute the work true to alignment, grade, levels and dimensions as shown in the drawing and as directed by the Engineer's representative and check these at frequent intervals. The Contractor shall provide all facilities like labour and instruments and shall co-operate with the Engineer's representative for checking of all alignment, grades, levels and dimensions. If, at any time, during the progress of the works any error appear or arise in any part of the work, the Contractor, on being required so to do by the Engineer's

representative shall, at his own cost rectify such errors, to the satisfaction of the Engineer's representative.

Such checking shall not absolve the Contractor of his own responsibility of maintaining accuracy in the work. The Contractor shall carefully protect and preserve all bench marks, sight rails, pegs and other things used in setting out the work.

**13. Clause 21 of IRSGCC - Instruction of Engineer's Representative (Page 54 of GCC April 2022:**

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.

**14. Clause 26 of IRSGCC -Provision of Efficient and Competent Staff at Work Sites by the Contractor (Page 56 of GCC April 2022:**

14.1 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 & proper manner and shall employ only such supervisors, workmen & laborers in or about the execution of any of these works as are careful and skilled in the various trades.

14.2 The Contractor shall at once remove from the works any agents, permitted sub-contractor, supervisor, workman or laborer 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.

14.3 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 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 labor as 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 Railway to rescind the contract under Clause 62 of these conditions.

**14A. Clause 26A of IRSGCC -Deployment of Qualified Engineers at Work Sites by the Contractor (Page 56 of GCC April 2022:**

- (a) One Qualified Graduate Engineer where the cost of the work to be executed is Rs. 200 lakh and above.
- (b) One Qualified Diploma Holder Engineer when the cost of the work to be executed is more than Rs. 25 lakh, but less than Rs. 200 lakh.

Technical staff should be available at site whenever required by the Engineer-in-charge to take instructions. In case the contractor fails to employ the Qualified Engineer, he shall be liable to pay amount of Rs. 40,000/- (Rs. Forty thousand ) and Rs. 25000/- (Rs. Twenty five thousand) for each month or part thereof for the default period for the provisions, as contained in Para (a) and (b) above respectively.

The decision of the Engineer-in-charge as to the period for which the required technical staff was not employed by the contractor and as to the reasonableness of the amount to be deducted on this account shall be final and binding on the contractor.

**15. Clause 37 of IRSGCC - Rates for Items of Works (Page 61 of GCC April 2022:**

- (i) The rates, entered in the accepted Bill(s) of Quantities 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 42 of these conditions and without prejudice to the generality thereof and shall be deemed to include and cover superintendence and labor, supply, including full freight of materials, stores, patterns, profiles, moulds, fittings, centering's, scaffolding, shoring props, timber, machinery, barracks, tackle, roads, pegs, posts, tools and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contract to be supplied to the Contractor by the Railway, the erection, maintenance and removal of all temporary works and buildings, all watching, lighting, bailing, pumping and draining, all prevention of or compensation for trespass, all barriers and arrangements for the safety of the public or of employees during the execution of works, all sanitary and medical arrangements for labor camps as may be prescribed by the Railway, the setting of all work and of the construction, repair and upkeep of all center lines, bench marks and level pegs thereon, site clearance, all fees duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all material supplied for the work or other duties or 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 17 & 17A 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.

16. **Clause 38 of IRSGCC -Demurrage and Wharf age Dues (Page 61 of GCC April 2022):**  
Demurrage charges calculated in accordance with the scale in force for the time being on the Railway and incurred by the Contractor failing to load or unload any goods or materials within the time allowed by the Railway for loading as also wharf age charges, of materials not removed in time, as also charges due on consignments booked by or to him shall be paid by the Contractor, failing which such charges shall be debited to the Contractor's account in the hands of the Railway and shall be deducted from any sums which may become due to him in terms of the contracts.

#### **VARIATIONS IN EXTENT OF CONTRACT**

17. **Clause 41 of IRSGCC -Modification to Contract to be in Writing (Page 63 of GCC April 2022):** In the event of any of the provisions of the contract required to be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the Railway 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 Railway unless and until the same is incorporated in a formal instrument and signed by the Railway and the Contractor, and till then the Railway shall have the right to repudiate such arrangements.
- 17.(1) **Clause 42.(1) of IRSGCC -Powers of Modification to Contract(Page 64 of GCC April 2022):**  
The Engineer on behalf of the Railway 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.

**Clause of 42.(2)(i) of IRSGCC(Page 64 of GCC April 2022) :-**Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity of each individual item of the contract would be upto 25% of the quantity originally contracted, except in case of foundation work (in which no variation limit shall apply). However, the rates for the increased quantities shall be as per sub- para (iii) below.

- (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 upto 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 contract 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.
  - (iv) In case of earthwork items, the variation limit of 25% shall apply to the gross quantity of earthwork items and variation in the quantities of individual classifications of soil shall not be subject to this limit.
  - (v) As far as Standard Schedule of Rates (SSOR) items are concerned, the variation limit of 25% would apply to the value of SSOR schedule(s) as a whole and not on individual SSOR items. However, in case of Non Standard Schedule of Rates (SSOR) 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).

**Clause of 42.(3) of IRSGCC- Valuation of Variations: (Page 65 of GCC April 2022):** 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 therefor shall be calculated in accordance with the accepted Bill(s) of Quantities. Any extra item(s)/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-39 of these Conditions

**18. Handling Vitiatio during Variation in Contract Quantities :**

It will be applicable as per **para 1.0** of Railway Board's letter no. 2017/Trans/01/Policy Dated 08.02.2018.



19. CLAIMS

Clause of 43.(1) of IRSGCC- Quarterly Statement of Claims (Page 65 of GCC April 2022) :- The Contractor shall prepare and furnish to the Engineer once in every quarter commencing from the month following the month of issue of Letter of

Acceptance, an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Engineer which he has executed during the preceding ~~month~~ quarter and no claim for payment for such work will be considered which has not been included in such particulars.

Clause of 43.(2) of IRSGCC- Signing of "No Claim" Certificate (Page 65 of GCC April 2022) :- The

Contractor shall not be entitled to make any claim whatsoever against the Railway under or by virtue of or arising out of this contract, nor shall the Railway entertain or consider any such claim, if made by the Contractor, after he shall have signed a "No Claim" Certificate in favour of the Railway in such form as shall be required by the Railway 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.

20. The specifications, the schedule of quantities to the tender and contractor shall comprise the contract documents and contractor shall satisfy in every respect as to the true sense and meaning of the contract documents and to the nature extent and quantity of the work required to be undertaken as no claim what so ever arising through the misunderstanding or interruption of meaning of any terms and expressions with contract documents shall be entertained.

21. **Quantities in Bill(s) of Quantities Annexed to Contract:** The quantities set out in the accepted Bill(s) of Quantities 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 fulfillment of his obligations under the contract.

22(i). **Measurement of Works by Railway:** The Contractor shall be paid for the works at the rates in the accepted Bill(s) of Quantities and for extra works at rates determined under Clause 39 of these Conditions on the measurements taken by the Engineer or the Engineer's representative in accordance with the rules prescribed for the purpose by the Railway. The quantities for items the unit of which in the accepted Bill(s) of Quantities is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items the unit of which in the accepted Bill(s) of Quantities is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time and at such intervals as in the opinion of the Engineer shall be proper having regard to the progress of works. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Engineer or the Engineer's representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements. Failing the Contractor's attendance, the work may be measured up in his absence and such measurements shall, notwithstanding such absence, be binding upon the Contractor whether or not he shall have signed the measurement books provided always that any objection made by him to measurement shall be duly investigated and considered in the manner set out below:

- (a) It shall be open to the Contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Engineer or the Engineer's representative in the presence of the Contractor or in his absence after due notice has been given to him in consequence of objection made by the Contractor shall be final and binding on the Contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and Classification of the measurements.
- (b) If an objection raised by the Contractor is found by the Engineer to be incorrect the Contractor shall be liable to pay the actual expenses incurred in measurements.

22(ii). **Measurement of Works by Contractor's Authorized Representative (in case the contract**

**provides for the same):**

- (a) The Contractor shall be paid for the works at the rates in the accepted Bill(s) of Quantities and for extra works at rates determined under Clause 39 of these Conditions on the measurements taken by the Contractor's authorized Engineer in accordance with the rules prescribed for the purpose by the Railway. The quantities for items the unit of which in the accepted Bill(s) of Quantities is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items the unit of which in the accepted Bill(s) of Quantities is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the Engineer.

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

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

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

- (i) On first occasion of noticing exaggerated/ false measurement, Engineer shall recover liquidated damages equal to 10% of claimed gross bill value.
- (ii) On any next occasion of noticing any exaggerated/false measurement, railway shall recover liquidated damages equal to 15% of claimed gross bill value. In addition, the facility of recording of measurements by Contractor as well as release of provisional payment shall be withdrawn. Once withdrawn, measurements shall be done by railway as per clause 45(i) above.

**23.(1) "On-Account " Payments:** The Contractor shall be entitled to be paid from time to time by way of "On-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/Engineer's Representative's certificates of measurements or Engineer's certified "Contractor's authorized Engineer's 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 16 of these Conditions, a retention of six percent by way of Security Deposits, until the amount of Security Deposit by way of such retentions shall amount to 5% of the total value of the contract provided always that the Engineer may by any certificate make any correction or modification in any previous certificate which shall have been issued by him and that the Engineer may withhold any certificate, if the works or any part thereof are not being carried out to his satisfaction.

- 23.(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 ₹1 will be reckoned as ₹ 1.
- 23.(3) Manner of Payment:** Unless otherwise specified payments to the Contractor will be transferred electronically to his bank account.
- 24. Maintenance of Works:** The Contractor shall at all times during the progress and continuance of the works and also for the period of maintenance specified in the Tender Form after the date of issue of the certificate of completion by the Engineer or any other earlier date subsequent to the completion of the works that may be fixed by the Engineer, be responsible for and 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 Railway 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.
- 25.(1) Certificate of Completion of Works:** As soon as in the opinion of the Engineer, the work 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 Railways 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 Railway. 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.
- 25.(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.
- 25(3) Final Supplementary Agreement:** After the work is completed or otherwise concluded by the parties with mutual consent, and taken over by the Railway 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 Annexure XIV, the parties shall execute the Final Supplementary Agreement as per Annexure XIV.
- 26. Approval only by Maintenance Certificate:** No certificate other than Maintenance Certificate, if applicable, referred to in Clause 50 of the Conditions shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as an admission of the

due performance of the contract or any part thereof.

27. **Clause 50.(1) of IRSGCC -Maintenance Certificate (Page 83 of GCC April 2022):** The Contract shall not be considered as completed until a Maintenance Certificate, if applicable, shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The Maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as soon thereafter as any works ordered during such period pursuant to Sub Clause (2) to Clause 48 of these Conditions shall have been completed to the satisfaction of the Engineer, and full effect shall be given to this Clause notwithstanding the taking possession of or using the works or any part thereof by the Railway.

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

- Clause 50.(2) of IRSGCC - Cessation of Railway's Liability (Page 84 of GCC April 2022):** - The Railway shall not be liable to the Contractor for any matter arising out of or in connection with the contract for execution of the works unless the Contractor has made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.

- Clause 50.(3) of IRSGCC -Unfulfilled Obligations (Page 84 of GCC April 2022) :-**Notwithstanding the issue of the Maintenance Certificate the Contractor and (subject to Sub-Clause (2) of this Clause) the Railway shall remain liable for the fulfillment 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.

- Clause 51.(1) of IRSGCC - Final Payment (Page 84 of GCC April 2022) :-**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 or Engineer's certified "contractor's authorized engineer's measurements" of the total quantity of work executed by the Contractor upto the date of completion and on the rates accepted in Bill(s) of Quantities and for extra works on rates determined under Clause 39 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 signed delivered to the Engineer enclosing either a full account in detail of all claims he may have on the Railway 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 not covered under excepted matter i.e. Clauses 7(j), 8, 18, 22(5), 39.1, 39.2, 40A, 43(2), 45(i)(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) and 62(1), 63(iv) and 63.2.11 of the Standard General Conditions of Contract or in any Clause (stated as excepted matter) of the Special Conditions of the Contract, 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 Railway 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.

- Clause 51.(2) of IRSGCC- Post Payment Audit (Page 84 of GCC April 2022) :-** It is an agreed term of contract that the Railway 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 of any excess amount paid to him till the release of security deposit or settlement of claims, whichever is later, if as a result of such examination any over-payment to him is discovered to have been made in respect of any works done or alleged to have been done by him under the contract.

**Clause 51.-A of IRSGCC- Production of Vouchers etc. by the Contractor (Page 84 of GCC April 2022) :-**

- (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 Standard General Conditions of Contract), the Engineer shall have power to secure the books of such sub-contractor or any subsidiary or allied firm or company, through the Contractor, and such books shall be open to his inspection.
- (iii) The obligations imposed by Sub Clause (i) & (ii) above is without prejudice to the obligations of the Contractor under any statute rules or orders binding on the Contractor.

- 28.0 **Clause 52. of IRSGCC- Withholding and Lien in Respect of Sums Claimed (Page 85 of GCC April 2022) :-** Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the Contractor, the Railway 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 Railway 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 Railway 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 Railway 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 Railway will be kept withheld or retained as such by the Railways 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 company, the Railway 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 / company, as the case may be whether in his individual capacity or otherwise.

**Clause 52-A of IRSGCC-Lien in Respect of Claims in other Contracts (Page 85 of GCC April 2022) :-**

- (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 Railway, against any claim of this or any other Railway or any other Department of the Central Government in respect of 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 Railway in regard to terminated contracts may be made from the Final Bill, 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 encased. In addition, 10% of each subsequent 'on-account bill' may be withheld, if required, for recovery of Railway'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 Railway will be kept withheld or retained as such by the Railway 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.

**29. Clause 54. of IRSGCC- Wages to Labour (Page 86 of GCC April 2022) :-** 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 thereunder in respect of any employees directly or through petty Contractors or sub-contractors employed by him for the purpose of carrying out this contract.

If, in compliance with the terms of the contract, the Contractor supplied any labour to be used wholly or partly under the direct orders and control of the Railways whether in connection with any work being executed by the Contractor or otherwise for the purpose of the Railway 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 Railway, such money shall be deemed to be moneys payable to the Railway by the Contractor and on failure by the Contractor to repay the Railway any moneys paid by it as aforesaid within seven days after the same shall have been demanded, the Railways shall be entitled to recover the same from Contractor’s bills/Security Deposit or any other dues of Contractor with the Government of India.

**Clause 54.-A of IRSGCC- Apprentices Act (Page 87 of GCC April 2022) :-**

The Contractor shall be responsible to ensure compliance with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued thereunder 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 Railway 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.

- 30. Clause 55. of IRSGCC -Provisions of Payments of Wages Act(Page 87 of GCC April 2022) :-** The Contractor shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made thereunder in respect of all employees employed by him either directly or through petty Contractors or sub-contractors 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 nevertheless 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 Railways deduct the same from any moneys due to the Contractor in terms of the contract. The Railway shall be entitled to recover the same from Contractor’s bills/Security Deposit or any other dues of Contractor with the Government of India all moneys paid or payable by the Railway by 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.

**Clause of 55-A of IRSGCC- Provisions of Contract Labour (Regulation and Abolition) Act, 1970 (Page 87 of GCC April 2022) :-**

**Clause of 55-A.(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 Railway from

and against any claims under the aforesaid Act and the Rules.

**Clause of 55-A.(2)-** The Contractor shall obtain a valid license under the aforesaid Act as modified from time to time before the commencement of the work and continue to have a valid license until the completion of the work. Any failure to fulfill the requirement shall attract the penal provision of the Act.

**Clause of 55-A.(3)-** The Contractor shall pay to the labour employed by him directly or through sub-contractors 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 sub-contractors in connection with the said work, as if the labour had been immediately employed by him.

**Clause of 55-A.(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.

**Clause of 55-A.(5)-**In every case in which, by virtue of the provisions of the aforesaid Act or the rules, the Railway 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 Railway due to the Contractor's failure to fulfill his statutory obligations under the aforesaid Act or the rules, the Railway 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 Railway under the Section 20, Sub-Section (2) and Section 2, Sub-Section (4) of the aforesaid Act, the Railway shall be at liberty to recover such amount or part thereof from Contractor's bills/Security Deposit or any other dues of Contractor with the Government of India. The Railway 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 Railway full security for all costs for which the Railway might become liable in contesting such claim. The decision of the Chief Engineer regarding the amount actually recoverable from the Contractor as stated above shall be final and binding on the Contractor.

**Clause of 55-B of IRSGCC- Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952 (Page 88 of GCC April 2022) :-**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 Railway from and against any claims under the aforesaid Act and the Rules.

**Clause of 55-C(i) of IRSGCC(Page 88 of GCC April 2022) :-**Contractor is to abide by the provisions of various labour laws in terms of above clause 54, 55, 55-A and 55-B of the Standard General Conditions of Contract. In order to ensure the same, an application has been developed and hosted on website 'www.shramikkalyan.indianrailways.gov.in'. Contractor shall register his firm/company etc. and upload requisite details of labor and their payment in this portal. These details shall be available in public domain. The registration/ updation in Portal shall be done as under:

- (a) Contractor shall apply for onetime registration of his company/firm etc. in the Shramikkalyan portal with requisite details subsequent to issue of Letter of Acceptance. Engineer shall approve the contractor's registration in the portal within 7 days of receipt of such request.
- (b) Contractor once approved by any Engineer, can create password with login ID (PAN No.) for subsequent use of portal for all Letter of Acceptances (LoAs) issued in his favor.
- (c) The contractor once registered on the portal, shall provide details of his Letter of Acceptances (LoAs) / Contract Agreements on shramikkalyan portal within 15 days of issue of any LoA for

- approval of concerned Engineer. Engineer shall update (if required) and approve the details of LoA filled by contractor within 7 days of receipt of such request.
- (d) After approval of LoA by Engineer, contractor shall fill the salient details of contract labors engaged in the contract and ensure updating of each wage payment to them on shramikkalyan portal on monthly basis.
  - (e) It shall be mandatory upon the contractor to ensure correct and prompt uploading of all salient details of engaged contractual labor & payments made thereof after each wage period.
- (ii) While processing payment of any 'On Account Bill' or 'Final Bill' or release of 'Advances' or 'Performance Guarantee / Security Deposit', contractor shall submit a certificate to the Engineer or Engineer's representatives that "I have uploaded the correct details of contract labors engaged in connection with this contract and payments made to them during the wage period in Railway's Shramikkalyan portal at 'www.shramikkalyan.indianrailways.gov.in' till \_\_\_\_Month, \_\_\_\_Year."

**Clause of 55-D of IRSGCC- 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" (Page 89 of GCC April 2022) :-**

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 by Registering Officer of the concerned State Govt. (Labour Dept.). The Cess shall be deducted from contractor's bills as per provisions of the Act.

- 31. **Clause of 56 of IRSGCC-Reporting of Accidents:** 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 make every arrangement to render all possible assistance.
- 32. **Clause of 57 of IRSGCC-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, Railway is obliged to pay compensation to a workman directly or through petty Contractor or sub-contractor employed by the Contractor in executing the work, Railway will recover from the Contractor the amount of the compensation so paid, and, without prejudice to the rights of Railway under Section 12 Sub-section (2) of the said Act, Railway shall be at liberty to recover such amount or any part thereof from Contractor's bills/Security Deposit or any other dues of Contractor with the Government of India. Railway 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 Railway full security for all costs for which Railway might become liable in consequence of contesting such claim.



**33.0 Clause of 61.(1) of IRSGCC- Right of Railway to Determine the Contract (Page 92 of GCC April 2022)** :-The Railway shall be entitled to determine and terminate the contract at any time should, in the Railway'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 Railway of such determination and the reasons therefor shall be conclusive evidence thereof.

**Clause of 61.(2) of IRSGCC- Payment on Determination of Contract (Page 92 of GCC April 2022)** :-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 Railways shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The Railway's decision on the necessity and propriety of such expenditure shall be final and conclusive.

**Clause of 61.(3) of IRSGCC- (Page 92 of GCC April 2022)** :-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.

**34.0 Clause of 62.(1) of IRSGCC- Determination of Contract owing to Default of Contractor (Page 92 of GCC April 2022)** :-

If the Contractor should:

- (i) Becomes bankrupt or insolvent, or
- (ii) Make an arrangement for assignment in favor 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
- (v) 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 Para 8 of the Instructions to Tenderers.
- (x) Fail to submit the documents pertaining to identity of JV and PAN in terms of Para 17.11 of Tender Form (Second Sheet) of Annexure I available in the Instructions to Tenderers.
- (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 25 and 27 of these Conditions, or
- (xii) Fail to take steps to employ competent or additional staff and labour as required under Clause 26 of these Conditions, or
- (xiii) Fail to afford the Engineer or Engineer's representative proper facilities for inspecting the works or any part thereof as required under Clause 28 of these 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 Railway or to any person on his or on their behalf in relation to the execution of this or any other contract with this Railway.
- (xv) Fail to adhere to the provisions of Para 16 of Tender Form (Second Sheet) of Annexure I of the Instructions to Tenderers, or provision Clause 59(9) of these Conditions.
- (xvi) 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 Railway may serve the Contractor with a notice (Proforma at Annexure-IX) 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 Railway shall be entitled after giving 48 hours' notice (Proforma at Annexure-X or XII, as the case may be) 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 Annexure-XI or XIII, as the case may be) should be issued.

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

**Clause of 62.(2) of IRSGCC- Right of Railway after Rescission of Contract owing to Default of Contractor (Page 94 of GCC April 2022) :-**In the event of any or several of the courses, referred to in Sub-Clause (1) of this 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 railways under the contract shall be encased/ forfeited and the Performance Guarantee already submitted for the contract shall be encased. 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 available 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 these Conditions.
  - (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) 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 plant 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.

**35.0 SETTLEMENT OF DISPUTES – INDIAN RAILWAY ARBITRATION AND CONCILIATION RULES-Clause of 63. of IRSGCC- Conciliation of Disputes (Page 95 of GCC April 2022) :-**

- (i) This clause is applicable in the tender having advertised value less than or equal to Rs 50 Crore.
- (ii) All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the Contractor to the "Chief Engineer" or "Divisional Railway Manager" through "Notice of Dispute" provided that no such notice shall be served later than 30 days after the date of issue of Completion Certificate by the Engineer. Chief Engineer or Divisional Railway Manager shall, within 30 days after receipt of the Contractor's "Notice of Dispute", notify the name of conciliator(s) to the Contractor.
- (iii) The Conciliator(s) shall assist the parties to reach an amicable settlement in an independent and impartial manner within the terms of contract.
- (iv) 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.
- (v) 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.
- (vi) The conciliation proceedings shall be terminated as per Section 76 of 'The Arbitration and Conciliation Act, 1996.

**Clause of 63.1 of IRSGCC-** Matters Finally Determined by the Railway (Page 95 of GCC April 2022) :- 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 GM and the GM 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 matters for which provision has been made in Clauses 7(j), 8, 18, 22(5), 39.1, 39.2, 40A, 43(2), 45(i)(a), 55, 55-A(5), 57, 57A, 61(1), 61(2), 62(1), 63(iv) and 63.2.11 of the Standard General Conditions of Contract or in any Clause (stated as excepted matter) of the Special Conditions of the Contract, shall be deemed as 'excepted matters' (matters not arbitral) and decisions of the Railway authority, thereon shall be final and binding on the Contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the Dispute Adjudication Board (DAB) and Arbitration.

**Clause of 63.2 of IRSGCC-** Dispute Adjudication Board (DAB) (Page 96 of GCC April 2022) :- This clause is applicable in the tender having advertised value more than Rs 50 Crore.

- 63.2.1** Any dispute/s if not settled with the Engineer, shall be referred to DAB. The DAB shall consist of a panel of three Retired Railway Officers, retired not below senior administrative grade (SAG). The DAB shall be formed within 90 days of signing of Contract Agreement. For this purpose, a panel of DAB members shall be maintained in the General Manager's office. The complete panel, which shall not be less than five members, shall be sent by Chief Engineer to the Contractor to nominate one member of the DAB from the panel as Contractor's nominee

- within two weeks of receipt of the panel. On receipt of Contractor's nominee, the Chief Engineer shall nominate one member from the same panel as Railway nominee for the DAB. Both above nominees shall jointly select presiding member of the DAB from the same panel.
- 63.2.2** The appointment of DAB shall be effectuated by way of a tri-partite agreement among the Railway, Contractor and the respective DAB members. The terms of the remuneration of each member shall be as fixed by Ministry of Railways from time to time. Each party shall be responsible for paying one-half of this remuneration.
- 63.2.3** If one or more of the members appointed refuses to act as DAB member, or is unable or unwilling to perform his functions as DAB member for any reason whatsoever or dies or in the opinion of the Chief Engineer fails to act without undue delay, the parties shall terminate the mandate of such DAB member and thereupon new DAB member shall be appointed in the same manner, as the outgoing DAB member had been appointed.
- 63.2.4** The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Railway or the Contractor acting alone. Unless otherwise agreed by both the Parties, the appointment of the DAB (including each member) shall expire upon expiry of this Contract Agreement.
- 63.2.5** Before start of DAB proceedings, each DAB member shall give the following certificate to the Railway and the Contractor: "I have no any past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind. Further, I have no any past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality."
- 63.2.6** DAB proceedings shall be conducted as decided by the DAB. The DAB shall give its decision within 90 days of a Dispute referred to it by any of the Parties, duly recording the reasons before arriving at the decision. The DAB shall decide the issue within terms and conditions of the contract. This time limit shall be extendable subject to the Parties mutual agreement.
- 63.2.7** The DAB decision shall not be binding on both the Parties. In case any party is not satisfied by the decision of DAB, then the aggrieved party may approach Arbitral Tribunal for arbitration proceedings.
- 63.2.8** No dispute shall be referred to Arbitral Tribunal unless the same has been referred to DAB for adjudication. However, in case DAB is not formed due to any reason, the disputes can be directly referred to Arbitral Tribunal to adjudicate the dispute.
- 63.2.9** In the specific cases of any misconduct by any of the members of the DAB, the parties shall have the right to specifically bring it to the notice of the DAB such conduct, through a statement filed with necessary documents in proof of such misconduct and the DAB, after taking NOTICE of such conduct initiate the replacement of the member concerned, in the same manner the member to be replaced was appointed.
- 63.2.10** Once the decision is given by DAB, DAB cannot review the decision at its own or on the request of one party, unless both parties agree for review of decision by DAB.
- 63.2.11** In case DAB decision is not challenged by either party within 180 days of receipt of decision of DAB, the decision shall be considered as final and parties would be barred for referring the same to Arbitral Tribunal for adjudication.
- 63.2.12** The obligation of the Railway and the Contractor shall not be altered by reasons of issue being or under reference to DAB.
- 63.2.13** The DAB shall conduct the proceedings at any convenient venue which shall be decided by DAB in consultations with parties.
- 63.2.14** It is a term of this contract that the Parties shall not approach any Court of Law for settlement of such disputes or differences unless an attempt has first been made by the parties to settle such disputes or differences through DAB and Arbitral Tribunal.

**Clause of 64.(1) of IRSGCC- Demand for Arbitration (Page 97 of GCC April 2022) :-**

- 64.(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 Railway of any

certificate to which the Contractor may claim to be entitled to, or if the Railway 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 63.1 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.

- 64.(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 Railway, shall be referred to arbitration and other matters shall not be included in the reference.
- 64.(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, in the format given under Annexure XV of these conditions.
- 64.(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 Railway.
- 64.(1)(iii)(b):** The claimant shall submit his claims 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.
- 64.(1)(iii)(c):** The Railway shall submit its defense statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal, unless otherwise extension has been granted by Tribunal.
- 64.(1)(iii)(d):** Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties.
- 64.(1)(iv):** No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defense thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
- 64.(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 Railways that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

**Clause of 64.(2) of IRSGCC- Obligation During Pendency of Arbitration (Page 98 of GCC April 2022) :-** Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the Railway 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.

**Clause of 64.(3) of IRSGCC- Appointment of Arbitrator (Page 98 of GCC April 2022) :-**

- 64.(3)(a) :** Appointment of Arbitrator where applicability of section 12 (5) of Arbitration and Conciliation Act has been waived off:
- 64.(3)(a)(i):** In cases where the total value of all claims in question added together does not exceed ₹ 1,00,00,000/- (Rupees One Crore), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of Railway not below Junior Administrative Grade, nominated by the General Manager. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by General Manager.
- 64.(3)(a)(ii):** In cases not covered by the Clause 64(3)(a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Railway Officers not below Junior Administrative Grade or 2 Railway Gazetted Officers not below Junior Administrative Grade and a retired Railway Officer, retired not below the rank of Senior Administrative Grade Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of Gazetted Railway Officers of one or more departments of the Railway which may also include the name(s) of retired Railway Officer(s) empaneled to work as Railway Arbitrator to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by the General Manager. Contractor will be asked to suggest to General Manager 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 Railway. The General Manager shall appoint at least one out of them as the Contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. General Manager shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them is from the Accounts Department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in Senior Administrative Grade of other departments of the Railway for the purpose of appointment of arbitrator.

**64.3.(a).iii:** The serving railway officer working in arbitral tribunal in the ongoing arbitration cases as per clause 64.(3)(a)(i) and clause 64.(3)(a)(ii) above, can continue as arbitrator in the tribunal even after his retirement.

**64.(3)(b):** Appointment of Arbitrator where applicability of Section 12 (5) of Arbitration and Conciliation Act has not been waived off:

(i) In cases where the total value of all claims in question added together does not exceed ₹ 50,00,000/- (Rupees Fifty Lakh), the Arbitral Tribunal shall consist of a Retired Railway Officer, retired not below the rank of Senior Administrative Grade Officer, as the arbitrator. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officer(s) empanelled to work as Railway Arbitrator duly indicating their retirement dates to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by the General Manager.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as arbitrator within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the arbitrator within 30 days from the receipt of the names of Contractor's nominees.

(ii) In cases where the total value of all claims in question added together exceed ₹ 50,00,000/- (Rupees Fifty Lakh), the Arbitral Tribunal shall consist of a Panel of three (3) retired Railway Officer, retired not below the rank of Senior Administrative Grade Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officer(s) empaneled to work as Railway Arbitrator duly indicating their retirement date to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by the General Manager.

Contractor will be asked to suggest to General Manager 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 Railway. The General Manager shall appoint at least one out of them as the Contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed. General Manager shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them has served in the Accounts Department.

**64.(3)(c)(i):** 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 General Manager fails to act without undue delay, the General Manager 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).

**64.(3) (c) (ii):** (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.

**64.3(c)(iii):** (i) Qualification of Arbitrator (s):

- (a) Serving Gazetted Railway Officers of not below JA Grade level.
  - (b) Retired Railway Officers not below SA Grade level, one year after his date of retirement.
  - (c) Age of arbitrator at the time of appointment shall be below 70 years.
  - (ii) An arbitrator may be appointed notwithstanding the total number of arbitration cases in which he has been appointed in the past.
  - (iii) While appointing arbitrator(s) under Sub-Clause 64.(3)(a)(i), 64.(3)(a)(ii), 64.(3)(b)(i) & 64.(3)(b)(ii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. A certification to this effect as per annexure- XVI shall be taken from Arbitrators also. The proceedings of the Arbitral tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.
- 64.(3)(d)(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.
- 64.(3)(d)(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.
- 64.(3)(d)(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.
- 64.(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.
- 64.(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.
- 64. (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 Railway Board from time to time and the fee shall be borne equally by both the parties, provided parties sign an agreement in the format given at Annexure XV to these conditions after/ while referring these disputes to Arbitration. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.
- 64.(7)** Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules thereunder and relevant para of the Standard General Conditions of Contract and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this Clause.
- 64.(8)** In case arbitration award is challenged by a party in the Court of Law, 75% of award amount, pending adjudication by Court of Law, shall be made by party to other party. In case payment is to be made by Railway to Contractor, the terms & conditions as incorporated in the Ministry of Railways letter No. 2016/CE(I)/CT/ARB/3(NITI Aayog)/Pt. dated 08th Mar,2017 as amended from time to time, shall be followed. In case Contractor has to pay to the Railway, then 75% of the award amount shall be deducted by the Railway from the Contractor's bills, Performance Guarantee/ Security Deposit or any other dues of Contractor with the Government of India.

**SPECIAL CONDITIONS FOR**  
**Letter of Credit as Mode of Payment in works tenders**  
**(Applicable for Advertise Value Rs. 10 Lakh or above)**  
**(As per Railway Board's letter no. 2018/CE-I/CT/9 DATED 04.06.2018)**

- (i) For all the tenders having advertised cost of Rs10 lakh or above, the contractor shall have the option to take payment from Railways through a letter of credit (LC) arrangement.
- (ii) This option of taking payment through LC arrangement has to be exercised in IREPS (Indian Railway Electronic Procurement System the e-application on which tenders are called by Railways) by the tenderer at the time of bidding itself, and the tenderer shall affirm having read over and agreed to the terms and conditions of the LC option.
- (iii) The option so exercised, shall be an integral part of the bidder's offer.
- (iv) The above option of taking payment through LC arrangement, once exercised by tenderer at the time of bidding, shall be final and no change shall be permitted, thereafter, during execution of contract.
- (v) In case tenderer opts for payment through LC, following shall be the procedure to deal release of payment through LC:
  - (a) The LC shall be a sight LC
  - (b) The contractor shall select his Advising/Negotiating bank for LC. The incidental cost towards issue of LC and its operation thereof shall be borne by the contractor.
  - (c) SBI, New Delhi, Main Branch will be the nodal branch for issue of LCs based on online requests received from Railway Accounts Units for tenders opened in financial year 2022-2023. SBI branches where the respective Railway Accounts Office has its Account (local SBI branch) will be the issuance/reimbursing branch for LC issued under this arrangement. The Bank shall remain same for this tender till completion of contract. The incidental cost @0.15% per annum of LC value, towards issue of LC and operation thereof shall be borne by the contractor and shall be recovered from his bills.
  - (d) The LC shall be opened initially for duration of 180 to 365 days in consultation with contractor. The LC shall be extended time to time as per the progress of the contract, on the request of the contractor. The value of LC to be opened initially as well as extended thereafter shall be finalized by the engineer in consultation with the contractor on the basis of expected progress of work.
  - (e) The LC terms and conditions shall inter-alia indemnify and save harmless the Railway from and against all losses, claims and demands of every nature and description brought or recovered Against the Railways by reason of any act or omission of the contractor, his , agents or employees, in relation to the Letter of Credit (LC). All sums payable/borne by Railways on this account shall be considered as reasonable compensation and paid by contractor.
  - (f) The LC terms and conditions shall inter-alia provide that Railways will issue a Document of Authorization (format enclosed as Annexure 4) after passing the bill for completed work, to enable contractor to claim the authorized amount from their bank.
  - (g) The acceptable, agreed upon document for payments to be released under the LC shall be the Document of Authorization.
  - (h) The Document of Authorization shall be issued by Railway Accounts Office against each bill passed by Railways.
  - (i) On issuance of Document of Authorization, a copy of Document of Authorization shall be posted on IREPS for download by the contractor. A digitally signed copy of Document of Authorization shall also be sent by Railway Accounts Office to Railway's bank (Local SBI Branch).
  - (j) The contractor shall take print out of the Document of Authorization available on IREPS and present his claim to his bank (advising Bank) for necessary payments as per LC terms and conditions. The claim shall comprise of copy of Document of Authorization, bill of exchange and Bill.
  - (k) The payment against LC shall be subject to verification from Railway's Bank (Local SBI Branch).
  - (l) The contractor's bank (advising bank) shall submit the documents to the Railway's Bank (Local SBI Branch).
  - (m) The railway's bank (issuing bank) shall, after verifying the claim so received w.r.t. the digitally signed Document of Authorization received from Railway Accounts Office, release the payment to contractor's bank (advising bank) for crediting the same to contractor's account.
  - (n) Any number of bills can be dealt within one LC, provided the sum total of payments to contractor is within the amount for which LC has been opened.
  - (o) The LC shall be closed after the release of final payment including PVC amount, if any, to the contractor.
  - (p) The release of performance guarantee or security deposit shall be dealt directly by railway with the contractor i.e., not through LC.



**GUIDELINES FOR PARTICIPATION OF JOINT VENTURE FIRMS IN WORKS TENDER**

**Participation of Joint Venture (JV) in Works Tender:** This para shall be applicable for works tenders wherein tender documents provide for the same.

**(Clause 17.0 Page 20 of GCC- April 2022)**

**(JV is applicable in the tenders valuing Rs.10 Crore& more)**

1. Separate identity/name shall be given to the Joint Venture.
2. Number of members in a JV shall not be more than three, if the work involves only one department (say Civil or S&T or Electrical or Mechanical) and shall not be more than five, if the work involves more than one Department. One of the members of the JV shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV. The other members shall have a share of not less than 20% each in case of JV with upto three members and not less than 10% each in case of JV with more than three members. In case of JV with foreign member(s), the Lead Member has to be an Indian firm/company with a minimum share of 51%.
3. A member of JV shall not be permitted to participate either in individual capacity or as a member of another JV in the same tender.
4. The tender form shall be purchased and submitted only in the name of the JV and not in the name of any constituent member. The tender form can however be submitted by JV or any of its constituent member or any person authorized by JV through Power of Attorney to submit tender.
5. Bid Security shall be submitted by JV or authorized person of JV either as :
  - (i) Cash through e-payment gateway or as mentioned in tender document, or
  - (ii) Bank Guarantee bond either in the name of JV, or in the name of all members of JV as per MOU irrespective of their share in the JV if the JV has not been constituted legally till the date of submission of tender.
6. A copy of Memorandum of Understanding (MoU) duly executed by the JV members on a stamp paper, shall be submitted by the JV along with the tender. The complete details of the members of the JV, their share and responsibility in the JV etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU. (The MoU format for this purpose shall be finalized by the Railway in consultation with their Law Branch and shall be enclosed along with the tender).JV-1
7. Once the tender is submitted, the MoU shall not normally be modified / altered / terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Bid Security shall be liable to be forfeited.
8. Approval for change of constitution of JV shall be at the sole discretion of the Railway. The constitution of the JV shall not normally be allowed to be modified after submission of the tender bid by the JV, except when modification becomes inevitable due to succession laws etc., provided further that there is no change in qualification of minimum eligibility criteria by JV after change of composition. However, the Lead Member shall continue to be the Lead Member of the JV. Failure to observe this requirement would render the offer invalid.
9. Similarly, after the contract is awarded, the constitution of JV shall not be normally 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.
10. 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.
11. On issue of LOA (Letter of Acceptance), the JV entity to whom the work has been awarded, with the same shareholding pattern as was declared in the MOU/JV Agreement submitted alongwith the tender, shall be got registered before the Registrar of the Companies under 'The Companies Act -2013' (in case JV entity is to be registered as Company) or before the Registrar/Sub-Registrar under the 'The Indian Partnership Act, 1932' (in case JV entity is to be registered as Partnership Firm) or under 'The LLP Act 2008' (in case JV entity is to be registered as LLP). A separate PAN shall be obtained for this entity. The documents pertaining to this entity including its PAN shall be furnished to the Railways before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation within 60 days of issue of LOA, contract is liable to be terminated. In case contract is terminated railway shall be entitled to forfeit the full amount of the Bid Security and other dues payable to the Contractor under this contract. The entity so registered, in the registered documents, shall have, inter-alia, following Clauses:
  - 11.1 Joint And Several Liability - Members of the entity to which the contract is awarded, shall be jointly and severally liable to the Railway for execution of the project in accordance with General and Special Conditions of Contract. The members of the entity shall also be liable jointly and severally for the loss, damages caused

to the Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.

**11.2** Duration of the Registered Entity- It shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period after the work is completed.

**11.3** Governing Laws - The Registered Entity shall in all respect be governed by and interpreted in accordance with Indian Laws.

**12.** Authorized Member - Joint Venture members in the JV MoU shall authorize Lead member on behalf of the Joint Venture to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV.

**13** 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 Railway in respect of the said tender/contract.

**14.** Documents to be enclosed by the JV along with the tender:

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

- (i) A notarized copy of the Partnership Deed or a copy of the Partnership deed registered with the Registrar.
- (ii) A copy of consent of all the partners or individual authorized by partnership firm, to enter into the Joint Venture Agreement on a stamp paper,
- (iii) A notarized or registered copy of Power of Attorney in favor of the individual to sign the MOU/JV Agreement on behalf of the partnership firm and create liability against the firm.
- (iv) An undertaking by all partners of the partnership firm that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP in which they were / are partners/members. Any Concealment / wrong information in regard to above shall make the bid ineligible or the contract shall be determined under Clause 62 of the Standard General Conditions of Contract.

**14.2** In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:

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

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

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

**14.4** In case one or more members of the JV is/are LLP firm/s, the following documents shall be submitted:

- (i) A copy of LLP Agreement
- (ii) A copy of Certificate of Incorporation of LLP
- (iii) A copy of resolution passed by partners of LLP firm, permitting the Firm to enter into a JV agreement
- (iv) A copy of Authorization /copy of Power of Attorney issued by the LLP firm (backed by resolution passed by the Partners) in favor of the individual, to sign the tender and/or sign the MOU/JV agreement on behalf of the LLP and create liability against the LLP.
- (v) An undertaking by all partners of the LLP that they are not blacklisted or debarred by Railways or any other Ministry / Department of the Govt. of India from participation in tenders / contracts as on the date of submission of bids, either in their individual capacity or in any firm/LLP or JV in which

they were / are partners/members. Any Concealment / wrong information in regard to above shall make the contract liable for determination under Clause 62 of the Standard General Conditions of Contract.

**14.5** In case one or more members of the JV is/are Society/s or Trust/s, the following documents shall be submitted:

- (i) A copy of Certificate of Registration
- (ii) A copy of Memorandum of Association of Society/Trust Deed
- (iii) A copy of Rules & Regulations of the Society
- (iv) A copy of Power of Attorney, in favor of the individual to sign the tender documents and create liability against the Society/Trust.

**14.6 All other documents in terms of Para 10 of the Tender Form (Second Sheet) above.**

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

**15.1** Technical Eligibility Criteria ('a' or 'b' mentioned hereunder):

- (a) For works without composite components

The technical eligibility for the work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'Lead member of the JV'.

Each other (non-lead) member(s) of JV, who is/ are not satisfying the technical eligibility for the work as per para 10.1 above, shall have technical capacity of minimum 25% of the cost of work i.e., each non-lead member of JV member must have satisfactorily completed or substantially completed during the last 07 (seven) years, ending last day of month previous to the one in which tender is invited, one similar single work for a minimum of 25% of advertised value of the tender.

- (b) For works with composite components

The technical eligibility for major component of work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'Lead member of the JV' and technical eligibility for other component(s) of work as per para 10.1 above, shall be satisfied by either the 'JV in its own name & style' or 'any member of the JV'.

Each other (non-lead)member(s) of JV, who is/ are not satisfying the technical eligibility for any component of the work as per para 10.1 above, shall have technical capacity of minimum 25% of the cost of any component of work mentioned in technical eligibility criteria. i.e., each other (non-lead) member of must have satisfactorily completed or substantially completed during the last 07 (seven) years, ending last day of month previous to the one in which tender is invited, one similar single work for a minimum of 25% of cost of any component of work mentioned in technical eligibility criteria.

Note for Clause 15.1:

- (a) The Major component of the work for this purpose shall be the component of work having highest value. In cases where value of two or more component of work is same, any one work can be classified as Major component of work.

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

### **15.2 Financial Eligibility Criteria**

The JV shall satisfy the requirement of "Financial Eligibility" mentioned at para 10.2 above. The "financial capacity" of the lead partner of JV shall not be less than 51% of the financial eligibility criteria mentioned at para 10.2 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.

### **15.3 Bid Capacity**

The JV shall satisfy the requirement of "Bid Capacity" requirement mentioned at para 10.3 above (Instructions to Tenderer). The arithmetic sum of individual "Bid capacity" of all the members shall be taken as JV's "Bid capacity" to satisfy this requirement.

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**Annexure-1****FORMAT FOR CERTIFICATE TO BE SUBMITTED / UPLOADED BY TENDERER  
ALONGWITH THE TENDER DOCUMENTS**

I.....(Name and designation)\*\*appointed as the attorney/authorized signatory of the tenderer, M/s \_\_\_\_\_ (hereinafter called the tenderer) for the purpose of the Tender documents for the work of \_\_\_\_\_ as per the tender No. \_\_\_\_\_ of \_\_\_\_\_ (Railway)\*\*, 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 documents from Indian Railway website [www.ireps.gov.in](http://www.ireps.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. evaluation of tenders, execution of work or final payment of the contract, the master copy available with the railway Administration shall be final and binding upon 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 documents/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 of the information and documents, submitted by us.**
7. I/we certify that I/we the tenderer(s) is/are not blacklisted or debarred by Railways or any other Ministry / Department of Govt. of India from participation in tender on the date of submission of bids, either in individual capacity or as a HUF/ member of the partnership firm/ LLP/ JV/ Society/Trust.
8. I/we understand that if the contents of the certificate submitted by us are found to be forged/false at any time during process for evaluation of tenders, it shall lead to forfeiture of the Bid Security and may also lead to any other action provided in the contract including banning of business for a period of upto two year. Further, I/we (insert name of the tenderer) \*\* \_\_\_\_\_ and all my/our constituents understand that my/our offer shall be summarily rejected.
9. I/we also understand that if the contents of the certificate submitted by us are found to be false/forged at any time after the award of the contract, it will lead to termination of the contract, along with forfeiture of Bid Security/Security Deposit and Performance guarantee and may also lead to any other action provided in the contract including banning of business for a period of upto two year.
10. I/We have read the clause regarding restriction on procurement from a bidder of a country which shares a land border with India and certify that I am/We are not from such a country or, if from such a country, have been registered with the competent Authority. I/We hereby certify that I/we fulfill all the requirements in this regard and am/are eligible to be considered (evidence of valid registration by the competent authority is enclosed)

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.**

**ANNEXURE-1(A)**

**(This certificate is to be given by attorney/authorized signatory/each member of Partnership. Firm/Joint Venture (JV)/Hindu Undivided Family (HUF)/Limited Liability Partnership (LLP) etc)**

I/We .....(Name), attorney/authorized signatory of the.....(constituent firm/constituent partner) and member/partner of the (tenderizing firm) hereby solemnly affirm and state as under:

1. I/we certify that ..... (Constituent firm/constituent partner) is/are not blacklisted or debarred by Railways or any other Ministry/ Department of Govt. of India from participation in tender on the date of submission of bids, either in individual capacity or as a HUF/ member of the partnership firm/LLP/JV/Society/Trust.

2.

3. I/We have read the clause regarding restriction on procurement from a bidder of a country which shares a land border with India and certify that I am/We are not from such a country or, if from such a country, have been registered with the competent Authority. I/We hereby certify that I/we fulfil all the requirements in this regard and am/are eligible to be considered (evidence of valid registration by the competent authority is enclosed),

SEAL AND SIGNATURE OF THE  
CONSTITUENT FIRM/CONSTITUENT  
PARTNER

Place:

Dated

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**Annexure-2**

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**  
**(Bid Security)**

**Bank Guarantee Bond from any scheduled commercial bank of India**

(On non-judicial stamp paper, which should be in the name of the Executing Bank).

**Name of the Bank:** -----

President of India,

Acting through .....,

..... Railway,

Beneficiary: ..... Railway

Date:.....

**Bank Guarantee Bond No.:**

**Date:-----**

In consideration of the President of India acting through---- (**Designation & address of Contract Signing Authority**), .....Railway, ....., .... (hereinafter called "The Railway") having invited the bid for ..... through Notice inviting tender (NIT) No.. .., We have been informed that . . . . [Insert name of the Bidder]..... (**Hereinafter called "the Bidder"**) intends to submit its bid (hereinafter called "the Bid") .

WHEREAS, the Bidder is required to furnish Bid Security for the sum of [Insert required Value of Bid Security], in the form of Bank Guarantee, according to conditions of Bid.

**AND**

WHEREAS, .....[Insert Name of the Bank], with its Branch .....[Insert Address] having its Headquarters office at..... [Insert Address], hereinafter called the **Bank**, acting through .....[Insert Name and Designation of the authorised persons of the Bank], have, at the request of the Bidder, agreed to give guarantee for Bid Security as hereinafter contained, in favour of the Railway:

1. KNOW ALL MEN that by these present that I/We the undersigned [Insert name(s) of authorized representatives of the Bank], being fully authorized to sign and incur obligations for and on behalf of the Bank, confirm that the Bank, hereby, unconditionally and irrevocably guarantee to pay to the Railway full amount in the sum of [Insert required Value of Bid Security] as above stated.

2. The Bank undertakes to immediately pay on presentation of demand by the Railway any amount up to and including aforementioned full amount without any demur, reservation or recourse. Any such demand made by the Railway on the Bank shall be final, conclusive and binding, absolute and unequivocal on the Bank notwithstanding any disputes raised/ pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Bidder or Bank.

3. The Bank shall pay the amount as demanded immediately on presentation of the demand by Railway without any reference to the Bidder and without the Railway being required to show grounds or give reasons for its demand of the amount so demanded.

4. The guarantee hereinbefore shall not be affected by any change in the constitution of the Bank or in the constitution of the Bidder.

5. The Bank agrees that no change, addition, modifications to the terms of the Bid document or to any documents, which have been or may be made between the Railway and the Bidder, will in any way absolve the Bank from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification made by Railway at any time.

6. This guarantee will remain valid and effective from.....[insert date of issue]till .....[insert date, which should be minimum 90 days beyond the expiry of validity of Bid]. Any demand in respect of this Guarantee should reach the Bank within the validity period of Bid Security.

7. The Bank Guarantee is unconditional and irrevocable.
8. The expressions Bank and Railway herein before used shall include their respective successors and assigns.
9. The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the Railway. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.
10. The Bank hereby confirms that it is on the SFMS (Structured Financial Messaging System) and shall invariably send the advice of this Bank Guarantee to the following bank details –

IFSC CODE	SBIN000RAIL
IFSC TYPE	BRANCH
BANK NAME	STATE BANK OF INDIA
BRANCH NAME	RAIL
CITY NAME	NAVI MUMBAI
ADDRESS	SECTOR-11, CBD BELAPUR, NAVI MUMBAI
DISTRICT	NAVI MUMBAI
STATE	MAHARASHTRA
BG ENABLED	YES

11. The Guarantee shall be valid in addition to and without prejudice to any other security Guarantee(s) of Bidder in favor of the Railway. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the Railway.

Date .....

Place.....

Bank's Seal and authorized signature(s)

[Name in Block letters] .....

[Designation with Code No.].....

[P/Attorney] No.

Witness:

1 Signature, Name & Address & Seal

2 Signature, Name& address & Seal

Bank's Seal

[P/Attorney] No.

**Note:** All italicized text is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.

Annexure-4

**Request letter from Executive branch to Accountants Office for opening of LC**

No. \_\_\_\_\_ Office of ....  
..... Railway  
Dated \_\_\_\_\_

The PFA/Sr. DFM/Dy. FA  
HQ/Division/Workshop/Cost

Sub : Opening of LC

Ref : Supply Order/Contract Agreement No.

\*\*\*\*\*

It is requested to open a sight LC against the above refereed Order/Agreement in favour of  
\_\_\_\_\_. The details of beneficiary are as under:

- (i) Name of Contractor/Supplier
- (ii) Vendor Code
- (iii) Address
- (iv) Tender No.
- (v) Contract Agreement No.
- (vi) Description of Goods/Service
- (vii) Value of Contract
- (viii) Stages of payment
- (ix) Expected payment within 6 months (LC Amount)
- (x) Beneficiary bank details
  - a) Bank Name
  - b) Address
  - c) Account No
  - d) IFSC Code

It is certified that the supplier/contractor has exercised the option of taking payment due against the tender, through LC arrangement in IREPS portal at the time of bidding itself and the option has been flagged in the IREPS. This has the approval of \_\_\_\_\_.

(xi) Validity/Period for which LC is to be opened.

(Signature)  
Name:  
Designation:  
(Official Seal)

LCDA No. (18 DIGIT IPAS GENERATED NO.)

Dated: \_\_\_\_\_



**DOCUMENT OF AUTHORIZATION**

**Reference: (i) Works Contract/ Supply Contract No \_\_\_\_\_ Dated \_\_\_\_\_**  
**(ii) Inland Letter of Credit No. \_\_\_\_\_ Dated \_\_\_\_\_**

This document is issued against contract No \_\_\_\_\_ (FROM IREPS)----- dated----  
 -----for supply/work of:-----DESCRIPTION OF GOODS /WORK FROM IREPS)-----  
 -

The beneficiary of the aforementioned Letter of Credit M/s .....NAME AND VENDOR CODE)  
 ... (Vendor Code as per IRPES ) is entitled to receive payment. Aggregating INR ....\$\$\$..... (FROM  
 ABSTRACT OF BIIL PASSED ) .... out of a total LC amount of INR ... (FROM MASTER TABLE OF  
 LC OPENED ..... against the first/second" commercial Invoice No.( FROM IPAS)  
 ..... Dated \_\_\_\_FROM IPAS \_\_\_\_\_ for INR (FROM IPAS)\_\_\_\_\_ raised against the  
 above contract from State Bank of India \_\_\_\_\_ (branch – FROM LC MASTER TABLE)  
 \_\_\_\_\_ on the strength of this Certificate .

The details or payments already made to the beneficiary under this Letter or Credit are as follows: :

S.NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT (INR)	LCDA NO	LCDA DATE	AMOUNT PAID (INR)
Total Paid						

THIS PAYMENT: \_\_\_\_\_  
 LC BALANCE AFTER THIS PAYMENT: \_\_\_\_\_

(Signature of authorized Railway authority)

Name

Designation

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Annexure-5

**TENDERER'S CREDENTIALS (BID CAPACITY)****RAILWAY**

For tenders having advertised value more than Rs 10 crore wherein eligibility criteria includes bid capacity also, the tenderer will be qualified only if its available bid capacity is equal to or more than the total bid value of the present tender. The available bid capacity shall be calculated as under:

$$\text{Available Bid Capacity} = [A \times N \times 2] - 0.33 \times N \times B$$

Where,

A = Maximum value of construction works executed and payment received in any one of the previous three financial years or the current financial year (up to date of inviting tender), taking into account the completed as well as works in progress.

N= Number of years prescribed for completion of work for which bids has been invited.

B = Existing commitments and balance amount of ongoing works with tenderer as per the prescribed proforma of Railway for statement of all works in progress and also the works which are awarded to tenderer but yet not started upto the date of inviting of tender.

Note:

(a) The Tenderer(s) shall furnish the details of -

(i) Maximum value of construction works executed and payment received in any one of the previous three financial years or the current financial year (up to date of inviting tender) for calculating A, and

(ii) Existing commitments and balance amount of ongoing works with tenderer as per the prescribed proforma of Railway for statement of all works in progress and also the works which are awarded to tenderer but yet not started upto the date of inviting of tender for calculating B. In case of no works in hand, a 'NIL' statement should be furnished.

The submitted details for (i) and (ii) above should be duly verified by Chartered Accountant.

(b) In case if a bidder is JV, the tenderer(s) must furnish the details of

(i) Maximum value of construction works executed and payment received in any one of the previous three financial years or the current financial year (up to date of inviting tender) by each member of JV for calculating A, and

(ii) Existing commitments and balance amount of ongoing works with each member of JV either in individual capacity or as a member of other JV as per the prescribed proforma of Railway for statement of all works in progress and also the works which are awarded to each member of JV either in individual capacity or as a member of other JV but yet not started upto the date of inviting of tender for calculating B. In case of no works in hand, a 'NIL' statement should be furnished.

The submitted details for (i) and (ii) above should be duly verified by Chartered Accountant.

(c) Value of a completed work/work in progress/work awarded but yet not started for a Member in an earlier JV shall be reckoned only to the extent of the concerned member's share in that JV for the purpose of satisfying his/her compliance to the above mentioned bid capacity in the tender under consideration.

(d) The arithmetic sum of individual "bid capacity" of all the members shall be taken as JV's "bid capacity".

(e) In case, the tenderer/s failed to submit the above statement along with offer, their/his offer shall be considered as incomplete and will be rejected **summarily**.

(f) The available bid capacity of tenderer shall be assessed based on the details submitted by the tenderer. In case, the available bid capacity is lesser than estimated cost of work put to tender, his offer shall not be considered even if he has been found eligible in other eligibility criteria/tender requirement.

**ANNEXURE-6**

Reference Para 64.3 &amp; 64.6

**Agreement towards Waiver under Section 12(5) and Section 31A (5) of Arbitration and Conciliation (Amendment) Act**

I/we..... (Name of agency/Contractor) with reference to agreement no..... raise disputes as to the construction and operation of this contract, or the respective rights and liabilities, withholding of certificate and demand arbitration in respect of following claims :

Brief of claim:

(i) Claim 1- Detailed at Annexure-

(ii) Claim 2 –

(iii) Claim 3 –

I/we..... (post of Engineer) with reference to agreement no..... hereby raise disputes as to the construction and operation of this contract, or the respective rights and liabilities, withholding of certificate and demand arbitration in respect of following claims:

I/we.....do/do not agree to waive off applicability of section 12(5) of Arbitration and Conciliation (Amendment) Act.

Signature of Claimant\_\_\_\_\_ Signature of Respondent

\_\_\_\_\_

**Agreement under Section 31(5)**

I/we..... (Name of claimant) with reference to agreement no..... hereby waive off the applicability of sub section 31-A (2) to 31-A (4) of the Arbitration and Conciliation (Amendment) Act. We further agree that the cost of arbitration will be shared by the parties as per Clause 64(6) of the Standard General Conditions of Contract.

Signature of Claimant\_\_\_\_\_

Signature of

Respondent\_\_\_\_\_

\*Strike out whichever not applicable.

**ANNEXURE-7**

Reference Para 64.(3)

**Certification by Arbitrators appointed under Clause 63 & 64 of Indian Railways  
General Conditions of Contract**

1. Name:
2. Contact Details:
3. Prior experience (Including Experience with Arbitrations):
4. **I do not have more than ten on-going Arbitration cases with me.**
5. I hereby certify that I have retired from Railways w.e.f. \_\_\_\_\_ and empaneled as Railway Arbitrator as per 'The Arbitration and Conciliation Act- 1996'.
6. I have no any past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind.  
Or  
I have past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind. The list of such interests is as under:
7. I have no any past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996.  
Or  
I have past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996. The details of such relationship or interests are as under:
8. There are no concurrent Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months.  
Or  
There are Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months. The list of such circumstances is as under:

## ANNEXURE-8

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**  
**SPECIMEN FORMAT OF BANK GUARANTEE BOND**  
**PROFORMA FOR BANK GUARANTEE**  
**(Executed on non-judicial stamp paper)**

**Name of the Bank**-----

**Bank Guarantee Bond No. and date** -----, **Valid up to**-----

**Amount of Bank Guarantee Bond**-----,

**PERFORMANCE GUARANTEE BOND**

In consideration of the President of India acting through \_\_\_\_\_  
 \_\_\_\_\_ (hereinafter  
 called "The Government") having agreed under the terms and conditions of contract under  
 Acceptance Letter No.-----dated ----- made between

and agency M/s/Shri \_\_\_\_\_ (herein after called "the said  
 contractor(s)" for the work  
 "\_\_\_\_\_

\_\_\_\_\_") (here  
 in after called "the said contract") having agreed for submission of a irrevocable Bank Guarantee  
 Bond equivalent to 5% of the contract value **and additional Performance Guarantee** as  
 indicated in the aforesaid contract for Rs.\_\_\_\_\_ (Rupees  
 \_\_\_\_\_ only) as a performance security Guarantee Bond from  
 the contractor (s) for compliance of his obligations in accordance with the terms & conditions in  
 the aforesaid contract.

1. We, ----- (indicate the name of the Bank) hereinafter referred to  
 as the Bank, under - take to pay to the Government an amount not exceeding Rs.-----  
 (Rupees ----- only) on demand by the  
 Government.
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 Government through the **F.A. & C.A.O/N.E. Railway, Gorakhpur**, stating  
 that the amount claimed is due by way of loss or damage caused to or would be caused or suffered  
 by the Government by reason of any breach by the said contractor of any of the terms of  
 conditions contained in the said contract/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.----- (Rupees-----  
 -----Only).
3. (a) We,----- (indicate the name of Bank) further undertake to pay to the  
 Government any money so demanded notwithstanding any dispute or dispute raised by the  
 contractor(s) in any suite 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 a valid discharge of our liability for  
 payment there under and the contractor(s) shall have no claim against us for making such  
 payment.
4. We,----- (indicate the name of bank) to further agree that the guarantee  
 herein contained shall remain in full force and effect during the period that would be taken for

the performance of the said agreement and that it shall continue to be enforceable till all the dues of the Government under or by virtue of the said agreement have been fully paid and its claims satisfied or discharged by ----- (contracting authority) on behalf of the Government, certify that the terms and conditions of the said agreement have been fully and properly carried out by the said contractor(s) and accordingly discharge this guarantee.

- 5 (a) Notwithstanding anything to the contrary contained herein the liability of the bank under this guarantee will remain in force and effect until such time as this guarantee is discharged in writing by the Government 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 Government within validity/extended period of validity of guarantee from the aforesaid date.
- (b) Provided always that We----- (indicate the name of the Bank) unconditionally undertakes to renew this guarantee or 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 Government. If the guarantee is not renewed or the period extended on demand, we ----- (indicate the name of the Bank) shall pay the Government the full amount of guarantee on demand and without demur.
6. We, ----- (indicate the name of Bank ) further agree with the Government that the Government 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 Government 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 forbearance act or omission on the part of the Government or any indulgence by the Government to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties for the said provision 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 Government in writing.
- 9. This guarantee shall be valid up to ----- (Date of Completion plus 60 days). Unless extended on demand by Government. Notwithstanding anything to the contrary contained hereinbefore, our liability under this guarantee is restricted to Rs. .... (Rupees.....) 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 \_\_\_\_\_.

(Indicate the day)      (Indicate the month and year)  
Signature and seal of authorized official of Bank  
Designation

(Name of bank)  
Full Address

## NORTH EASTERN RAILWAY

[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]

ANNEXURE – ‘A’

### HISTORY SHEET OF THE TENDERER

i]	Name of the Company :	
ii]	Address of Registered Office	
	<b>Phone:</b> <b>Fax:</b> <b>e-mail ID:</b>	
iii]	Constitution of the Company/Firm :	
a]	Ownership particulars whether Private Ltd., Public Ltd., or Partnership firm or Proprietorship Firm or any other type duly supported by the documents such as Partnership Deed and Articles of constitution etc. as applicable. :	
b]	Name and address of collaborator[s] :	
c]	Nature of participation by collaborator[s] in share holding of the Company :	
d]	Extent and nature of proposed participation by collaborator[s] in execution of this work :	
iv]	Number of years the firm has been in operation in India under its present :	
v]	Any other information	

Signature of tenderer  
Along with Seal

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘B’**

**Compliance of Eligibility criteria by the tenderer regarding execution of similar works** must have successfully completed or substantially completed during last 07 (seven) years, ending last day of month previous to the one in which tender is invited. (As per technical eligibility criteria mentioned in para 10.1 (Instructions to Tenderer)) **(Advt. Value Above Rs. 50.00 Lacs).**

1. Name and style of the contractor with address [Present tenderer]
2. Name and scope of the work executed
3. Authority who have awarded the contract.
4. Full address of the authority under whom the contract was executed.
5. Whether it is a Govt/Railway/Semi Govt organization.
6. Contract Agreement No. and date.
7. Value of the contract.
  - [a] Original value of the contract.
  - [b] Value of works executed and payment received Rs. ....
  - [c] Last sanctioned agreeemental value in Rs.....
8.
  - [a] Date of award of contract.
  - [b] Date of actual completion of work.
9. Details of copy of documents attached in support of completion of above similar works.
  - [a] Certificate No. and date.
  - [b] Authority issued.

9. Declaration by the tenderer :

I hereby declare that the information given above are true and the copy of the certificate enclosed is genuine. If any of the information given above is found to be wrong at any time, my tender will liable to be rejected and such liability will be compensated by me.

Name and signature of tenderer.  
along with Seal.



**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘C’**

(As per financial eligibility criteria mentioned in para 10.2 (Instructions to Tenderer)) **(Advt. Value above Rs. 50.00 Lacs).**

**Each Bidder or each member of a JV must fill in this form separately:**

**NAME OF BIDDER/JV PARTNER:**

<b>Annual Contractual Turnover Data for the Previous 3/4 Years (Contractual Payment only)</b>			
<b>Year</b>	<b>Amount Currency</b>	<b>Exchange Rate</b>	<b>Indian National Rupees Equivalent</b>
<b>Average Annual Contractual Turnover for last 3 years</b>			

1. The average annual contractual turnover shall be calculated as an average of “total contractual payments” in the previous three financial years. However, in case balance sheet of the previous year is yet to be prepared/ audited, the audited balance sheet of the fourth previous year shall be considered for calculating average annual contractual turnover.
2. The information supplied shall be substantiated by data in the audited balance sheets and profit and loss accounts for the relevant years in respect of the bidder or all members constituting the bidder.
3. Contents of this form should be certified by a Chartered Accountant duly supported by Audited Balance Sheet duly certified by the Chartered Accountant.

**SEAL AND SIGNATURE OF THE BIDDER**

Certified that all figures and facts submitted in this form have been furnished after full consideration of all observations/notes in Auditor’s reports. \_\_\_\_\_

**(Signature of Chartered Accountant)**

**Name of CA:** \_\_\_\_\_

**Registration No:** \_\_\_\_\_

**(Seal)**





**NORTH EASTERN RAILWAY**  
[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]

## ANNEXURE – ‘F’

**DETAILS OF WORKS COMPLETED DURING PREVIOUS SEVEN YEARS (Ending last day of month previous to the one in which tender is invited) BY THE TENDERER[s].**

[illegible]

Signature of Tenderer  
Along with Seal

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘G’**

**DETAILS OF WORKS ON HAND OF THE TENDERER[s]**

Sl	Name of work	Total cost of contract value in Rs/-	Month and year of commencement	Date of award and Completion period	Present progress		Full address of the authority under whom the work is being executed	Documentary proof [enclose copies of acceptance letter and proof regarding present progress etc. and indicate Annexure No. in this column]
					Financial	Physical		
1	2	3	4	5	6	7	8	9

Signature of tenderer  
Along with seal

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘H’**

**DECLARATION REGARDING ASSOCIATION OF RAILWAY OFFICER[S] WITH  
TENDERER[S]**

Sl	N a m e	Status with the tenderer	If working in Railway on the date of tendering, designation and place of posting	If retired on the date of tendering		
				Date of retirement	Status at retirement	Particulars of permission taken for associating with the tenderer
1	2	3	4	5	6	7

Signature of Tenderer  
Along with Seal.

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘I’**

**LIST OF COURT CASES DURING PREVIOUS SEVEN YEARS**

Sl	Name of work	Value of Work	Name of Client Deptt.	Name of the Court	Date of institution of case	Relief sought from Court	Brief reason of dispute	Final/Present position of the case
1	2	3	4	5	6	7	8	9

Signature of tenderer  
Along with Seal

**NORTH EASTERN RAILWAY**  
**[SIGNAL & TELECOM DEPARTMENT-OPEN LINE]**

**ANNEXURE – ‘J’**

**LIST OF ARBITRATION CASES DURING PREVIOUS SEVEN YEARS.**

Sl	Name of Work	Value of work	Name of Client Deptt.	Amount and date of claim preferred	Claim of Deptt. if any	Brief reasons of disputes	Final/Present position of the case
1	2	3	4	5	6	7	8

Signature of Tenderer  
Along with Seal



**Annexure-K**

**Constitution of Firm**

1. Full name of contractor/s construction firm and year of establishment.
2. Registered Head Office Address.
3. Branch Office in India.
- 4 Address on which correspondence regarding This tender should be done.
5. Constitution of firm, give full details including Name of partners/executives/power of attorney /holders etc.

## Annexure “L”

**Undertaking regarding not blacklisted or debarred**

[In case of Partnership firm/ In case one or more of the members of the JV is/are partnership firm(s)]

We ..... [Name of the All the Partners (Partnership Firm)] are partners of M/s ..... (hereinafter called the tenderer/herein after member of JV) certify that we are not blacklisted or debarred by Railways or any other Ministry/ Department of Govt. of India from participation in tenders/ contracts as on the date of submission of bids, either in individual capacity or in any firm/LLP in which we were /are partners/members. We understand that, any Concealment/wrong information in regard to above shall make the bid ineligible or the contract shall be determined under Clause 62 of the Standard General Conditions of Contract.

(Signature of All Partners & seal of the firm)

Place:

Date :

**Undertaking regarding not blacklisted or debarred**

[In case of LLP Firm/In case one or more members of the JV is /are LLP firm(s)]

We ..... [Name of the All the Partners (LLP Firm)] are partners of M/s ..... (Hereinafter called the tenderer herein after member of the JV)) Certify that we are not blacklisted or debarred by Railways or any other Ministry/ Department of Govt. of India from participation in tender/contracts as on the date of submission of bid either in individual capacity or in any firm/LLP or JV in which we were/are partners/members. We understand that, Concealment / wrong information in regard to above shall make the contract liable for determination under Clause 62 of the Standard General Conditions of Contract.

(Signature of All Partners & seal of the firm)

Place:

Date:

Annexure “M”

**Certificate**

[In case of Partnership/LLP firm or In case one or more of the members of the JV is/are partnership/LLP firm(s)]

It is to certify that Partnership Deed/LLP Agreement Dated..... is our latest Partnership Deed/LLP Agreement & No other changes has been made after this Partnership deed/LLP Agreement.

(Sign by all partners/Power of attorney holder)

## Annexure “N”

**BANK MANDATE FORM**

SN.	Party & Bank Detail :-	
1	Party Name	
2	Address	
3	GSTIN	
4	City	
5	State	
6	PIN	
7	Telephone No.	
8	FAX No.	
9	Mobile No.	
10	PAN	
11	E-Mail	
12	IFSC Code of Bank	
13	MICR Code of Bank	
14	Bank Account No.	
15	Account type	
16	Bank Name	
17	Bank Address	

I hereby declare that the particulars given above are correct & complete.

Signature of Contractor

END OF TENDER DOCUMENT