

Condition for JOINT VENTURE (JV) ENTITY IN TENDERS

**Participation of Joint Venture (JV) Entity in Tender:** This Clause shall be applicable for Stores tenders.

- (i) Separate identity/name shall be given to the Joint Venture Entity/Company.
- (ii) Number of members in a JV entity shall not be more than three.
- (iii) A member of JV Entity shall not be permitted to participate either in individual capacity or as a member of another JV entity in the same tender.
- (iv) The tender form shall be purchased and submitted only in the name of the JV entity and not in the name of any constituent member.
- (v) Normally Earnest Money Deposit (EMD) shall be submitted only in the name of the JV entity and not in the name of constituent member. However, in exceptional cases, EMD in the name of Lead Member can be accepted subject to submission of specific request letter from Lead Member stating the reasons for not submitting EMD in the name of JV entity and giving written confirmation from JV members to the effect that EMD submitted by the Lead Member may be deemed as EMD submitted by JV entity.
- (vi) One of the members of the JV entity shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV entity. The other members shall have a share of not less than 20% each in case of JV entity. In case of JV Entity with foreign member(s), the Lead Member has to be an Indian firm with a minimum share of 51%.
- (vii) A copy of Memorandum of Understanding (MoU) executed by the JV members shall be submitted by the JV Entity along with the tender. The complete details of the members of the JV Entity, their share and responsibility in the JV Entity etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU. **(The MoU format is enclosed as Annexure - II).**
- (viii) Once the tender is submitted, the MoU shall not be modified / altered / terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- (ix) Approval for change of constitution of JV entity shall be at the sole discretion of the Employer (Railways). The constitution of the JV entity shall not be allowed to be modified after submission of the tender bid by the JV entity, except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV Entity. Failure to observe this requirement would render the offer invalid.
- (x) Similarly, after the contract is awarded, the constitution of JV Entity shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the 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.
- (xi) On award of contract to a JV Entity, a single Performance Guarantee shall be submitted by the JV Entity 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 Entity and no splitting of guarantees amongst the members of the JV Entity shall be permitted.
- (xii) On issue of LOA (Letter Of Acceptance), an agreement among the members of the JV Entity (to whom the work has been awarded) shall be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908. This JV Agreement shall be submitted by the JV Entity to the Railways before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This Joint Venture Agreement shall have, inter-alia, following Clauses:
  - (a) **Joint And Several Liability** - Members of the JV Entity to which the contract is awarded, shall be jointly and severally liable to the Employer (Railways) for execution of the project in accordance with General and Special Conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the

Signature Not  
Verified

Digitally signed by  
MOHAMMAD HUSAIN  
SIF  
Date: 2024.09.22 11:55:10 IST  
Reason: IREPS-CRIS  
Location: New Delhi



- Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.
- (b) Duration of the Joint Venture Agreement - 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.
  - (c) Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
  - (xiii) Authorized Member - Joint Venture members shall authorize one of the members on behalf of the Joint Venture Entity 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 authorised member of the JV Entity.
  - (xiv) No member of the Joint Venture Entity 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 employer (Railways) in respect of the said tender/contract.
  - (xv) Documents to be enclosed by the JV Entity along with the tender:-
    - (i) In case one or more of the members of the JV Entity is/are partnership entity(s), following documents shall be submitted:
      - (a) Notary certified copy of the Partnership Deed,
      - (b) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original).
      - (c) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of the partnership entity to sign the JV Agreement on behalf of the partnership entity and create liability against the entity.
    - (ii) In case one or more members is/are Proprietary Entity or HUF, the following documents shall be enclosed:
 

Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.
    - (iii) In case one or more members is/are limited companies, the following documents shall be submitted:
      - (a) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.
      - (b) Copy of Memorandum and Articles of Association of the Company.
      - (c) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the Para (a) above.
    - (iv) All the Members of JV shall certify that they are not black listed or debarred by Railways or any other Ministry / Department / PSU (Public Sector Undertaking) of the Govt. Of India/ State Govt. from participation in tenders/contract on the date of opening of bids either in their individual capacity or as a member of the JV Entity in which they were/are members.



(On Stamp Paper of Requisite Value)

MEMORANDUM OF UNDERSTANDINGFORJOINT VENTURE AGREEMENT

This Joint Venture Agreement is made and entered at ..... on ..... Day of, 20.... to be submitted to Executive Director ( Stores), RDSO for " scope/name of work ....." against Tender Notice No ..... due on .....for Rs. ....Cr approximately.

Between

....., Having its Registered Office at .....  
Represented

by ..... (.....).

And

....., Having its Registered Office at .....  
Represented

by ..... (.....).

Whereas:

1. The parties hereby agreed to form Joint Venture, under the name of .....
2. The parties have agreed to join hands for procuring the business and executing of the work of " Scope/name of work ....." together and work together until successful completion of this business on hand.
3. The parties shall carry on the part of and responsibility and all expenses of the partners will be paid by themselves.
4. M/s..... would have overall lead management responsibility for the work and will be called Lead Partner and is authorized 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 will be sent only to this authorized member of the JV entity and will be considered as notices / correspondences to joint venture entity.
5. The percentage participation in the Joint Venture shall be as under (Clause (vi) of annexure -I) :-

(a) Lead Partner Share  
.....% Activities to be  
done

(i) .....

(ii) .....



- (b) Joint Venture Partner Share  
 .....% Activities to be done  
 (i) .....  
 (ii) .....

6. This Joint Venture agreement shall remain valid and in force for the entire period of the completion/ extended period of completion of the work including Maintenance/ Guarantee period and can be extended by mutual agreement among its members.
7. The parties shall be jointly and severally liable /responsible to the employer for the successful completion of the contract in accordance with General and Special conditions of the contract as per the terms and conditions of the contract agreement irrespective of their share and role specified in the Joint Venture. The JV' members 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.
8. It is agreed that no member of the Joint Venture entity 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 employer (Railways) in respect of the said tender/contract.
9. It is certified that none of the members of this Joint Venture has been black-listed or debarred by Railways or any other Ministry/Department of the Government of India/State Government from participation in tenders/contract in the past either in their individual company on the JV entity or partnership entity in which they were members/partners.

For and on behalf of

.....

M/s.....

Witness:

1. ....

2. ....

For and on behalf of

.....

M/s.....