ರೈಲು ಮೂಲಸೌಲಭ್ಯ ಅಭಿವೃದ್ಧಿ ಕಂಪನಿ (ಕರ್ನಾಟಕ) ನಿಯಮಿತ

रेल इन्फ्रास्ट्रक्चर डेवलपमेंट कंपनी (कर्नाटक) लिमिटेड

Rail Infrastructure Development Company (Karnataka) Limited

BID DOCUMENT

Project:

"Yesvantpur – Channasandra and Baiyyappanahalli - Hosur Doubling Projects"

Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section of Bangalore Division in South Western Railway .

Date : 17.02 .2021

RAIL INFRASTRUCTURE DEVELOPMENT COMPANY (KARNATAKA) LIMITED

#8, 1st Floor, Samparka Soudha, Dr.Rajkumar Road,
Opposite Orion Mall, Rajajinagar 1st Block,
Bengaluru – 560 010
Tel – +91 63648 90810,
+91 63648 90811,
E Mail – md@kride.in

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B I D D I N G D O C U M E N T S

For Provision of

"Yesvantpur – Channasandra and Baiyyappanahalli - Hosur Doubling Projects"

Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section of Bangalore Division In South Western Railway .

K RIDE

IFB No: K-RIDE/DL/07/2021 **Date: 17.02.2021**

K RIDE (Rail Infrastructure Development Company (Karnataka) Limited)

#8, 1st Floor, Samparka Soudha, Dr.Rajkumar Road,
Opposite Orion Mall, Rajajinagar 1st Block,
Bengaluru – 560 010
Tel – +91 63648 90810,
+91 63648 90811,
Email: md@kride.in

NOTICE

FOR

INVITATION FOR BIDS

(IFB)

K RIDE

Rail Infrastructure Development Company (Karnataka) Limited

INVITATION FOR BIDS

Bid Notice No. ***K-RIDE/DL/07/2021*** ***Date : 17.02.2021***

RAIL INFRASTRUCTURE DEVELOPMENT COMPANY (KARNATAKA) LIMITED (K RIDE), having its Corporate office having its Corporate office at **"**Samparka Soudha" , 1st Floor, B.E.P Premises (Opp. Orion Mall), Dr. Rajkumar Road, Rajajinagar 1st Block, Bangalore - 560 010, India which is a Joint Venture of Government of Karnataka and Ministry of Railways set up as a wholly owned Government Company under the provisions of Section 2(45) of Companies Act 2013, invites bids under single stage single packet system for the work of "Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section" of Bangalore Division In South Western Railway (single package)

***THE CONTRACT* PACKAGE ARE AS UNDER**

Sl. No.	Name of work	Estimated Cost of Project in Rs.	Bid Security	Period of Completion
1	"Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section" of Bangalore Division In South Western Railway (single package)	***2,52,05,663/-***	**Bid Security Declaration form should be filled by the Bidders (Section 4)**	***30 months***

K RIDE

Note : The Bid Security Declaration form should be filled only by the non MSMEs.

1. Bidders are advised to note the eligibility and minimum qualifying criteria specified in the Instruction to Bidders and Section 3 " Evaluation and Qualification Criteria" of bid document.

2. Bids must be accompanied by a bid security declaration form as mentioned above in the bidding documents

3. Bidding Documents can be downloaded free of cost from K RIDE website **www.kride.in** from 17.02.2021 and the bids can be submitted on the downloaded document.

   It will be the responsibility of the bidder who is submitting the bid on downloaded bidding documents to check and see any Addendum/Corrigendum issued in this regard from the website from time to time and ensure submission of bid along with all Addendum/Corrigendum.

   In case of any clarification the tenderer can visit the **Rail Infrastructure Development Company (Karnataka) limited Corporate Office Bangalore at "Samparka Soudha" , 1st Floor, B.E.P Premises (Opp. Orion Mall), Dr. Rajkumar Road, Rajajinagar 1st Block, Bangalore - 560 010**.

4. **Purchase Preference:** Shall not apply to Central Public Sector Enterprises, as per extant rules in force.

5. **Special Provisions for Micro, Small & Medium Enterprises (MSMEs):** MSMEs registered with District Industries Centers / Kadhi and Village Industries Commission/ Khadi and Village Industries Board/Coir Board/ National Small Industries Corporation/ Directorate of Handicraft and Handloom/ 'Udyog Aadhaar' – The Online Portal of MSMEs/ Any other body specified by Ministry of MSME are exempted from the payment of Bid document fee and proposal security for this tender.

6. The provisions of revised 'Public Procurement (Preference to Make in India) Order 2017' issued by Department of Industrial Policy and Promotion under Ministry of Commerce and Industry vide letter no. P-45021/2/2017-PP (BE-II) dated 28.05.2018 shall be applicable to the bidding process and award of the contract shall be done accordingly. In this connection, the minimum local content shall be 50% and the margin of purchase preference shall be 20%. For award of contract, para 3.c. of the revised 'Public Procurement (Preference to Make in India) Order 2017' (Annexure I of IFB) shall be applicable in addition to the other provisions in the bidding documents in this regard.

7. **Date of Receipt and opening of Bids:** The completed Bids must be dropped in the nominated tender box or delivered to the address below not later than 15.00 hrs on- **19.03.2021** and the same shall be opened at 15.30 hrs. in the same day in the presence of Bidders who choose to be present. K RIDE will not be responsible for any delays in receiving the Bidding documents by the Bidder or receipt of Bids by K RIDE.

K RIDE

8. **Address for Communication:** Interested eligible Bidders may obtain further information from the following address:

General Manager / Civil/ Project
#8, 1st Floor, Samparka Soudha, Dr.Rajkumar Road,
Opposite Orion Mall, Rajajinagar 1st Block,
Bengaluru – 560 010
Tel – +91 63648 90810,
+91 63648 90811,
E Mail – md@kride.in

K RIDE

Annexure I

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

Dated 28th May, 2018
Udyog Bhawan, New Delhi

To
All Central Ministries/Departments/CPSUs/All concerned

ORDER

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

Department of Industrial Policy and Promotion, in partial modification of Order No.P-45021/2/2017-B.E.-II dated 15.6.2017, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017'' with immediate effect:-

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

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

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

Now therefore the following Order is issued :

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

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

   'Local supplier' means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this Order or by the competent Ministries / Departments in pursuance of this order.

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

   'margin of purchase preference' means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference.

...Contd. p/2

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

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

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

3. **Requirement of Purchase Preference :** Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities in the manner specified hereunder"

a. "In procurement of goods, services or works in respect of which the Nodal Ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs. 50 lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods or services or works is more than Rs. 50 lakhs, the provisions of sub-paragraph b or c, as the case may be, shall apply".

b. "In the procurements of goods or works which are not covered by paragraph 3a and which are divisible in nature, the following procedure shall be followed";

   i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.

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

c. "In procurements of goods or works not covered by sub-paragraph 3a and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed":-

   i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.

...Contd. p/3

i. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.

ii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.

4. **Exemption of small purchases**: Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

5. **Minimum local content**: The minimum local content shall, ordinarily be 50%. The Nodal Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.

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

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

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

9. **Verification of local content**:

a. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.

b. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.

...Contd. p/4

e. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditors/ accountants certificates on random basis and in the case of complaints.

f. Nodal Ministries and procuring entities may prescribe fees for such complaints.

f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities in the manner prescribed under paragraph 9h below.

h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:

   i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner.

   ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);

   iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. **Specifications in Tenders and other procurement solicitations**

a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.

b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.

c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.

d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/ or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

....Contd. p/5

e. For the purpose of sub-paragraph 10 c above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country, or (iii) more that 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India."

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

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

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

14. **Powers to grant exemption and to reduce minimum local content:** Ministries /Departments of Government of India and the Boards of Directors of Government companies or autonomous bodies may, by written order,

    a. reduce the minimum local content below the prescribed level;

    b. reduce the margin of purchase preference below 20%;

    c. exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

    A copy of every such order shall be marked to the Member-Convenor of the Standing Committee constituted under this Order.

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

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

    Secretary, Department of Industrial Policy and Promotion—Chairman
    Secretary, Commerce—Member
    Secretary, Ministry of Electronics and Information Technology—Member
    Joint Secretary (Public Procurement), Department of Expenditure—Member
    Joint Secretary (DIPP)—Member-Convenor

....Contd. p/6

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

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

a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities

b. shall annually assess and periodically monitor compliance with this Order

c. shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content

d. may require furnishing of details or returns regarding compliance with this Order and related matters

e. may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures

f. may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization

g. may consider any other issue relating to this Order which may arise.

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

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

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

(B. S. Nayak)
Under Secretary to Government of India
Ph. 23061257

PART I	Bidding Procedure

Section 1	Instructions to Bidders (ITB)

Section 1 Instructions to Bidders (ITB)

Reasons for Rejection of Bids

ITB Clause No Section 1	Reason for Summary Rejection
4.4	Non-submission of Affidavit
4.5	Non-submission of immediate information to the Employer in case the Bidder ceases to fulfill eligibility in terms of ITB 4.3 & 4.4
14.2	Quoting more than a single percentage for any schedule
14.9	Non-submission of the Letter of Bid (LB) and/or BOQ
19.0	Bid not accompanied with bid security declaration form duly signed and sealed
	Non-submission of CVs

Note :

The Bidders are advised to note the above reasons and take care of the same to avoid rejection of their bids.

Important Note:

With regard to the procedure of sealing and submission of bids, please refer to ITB 21

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A. General

1. Scope of Bid

1.1 In connection with the Invitation for Bids indicated in the Bid Data Sheet (BDS), Rail Infrastructure Development Company (Karnataka) Limited (K RIDE), a Joint Venture of Govt. of Karnataka & Ministry of Railways, hereinafter referred to as the 'Employer', issues these Bidding Documents for the Procurement of Works as specified in Section 5: Works Requirements. The name, identification, number of contract(s) are provided in the BDS.

1.2 Throughout these Bidding Documents:

(a) the term "in writing" means communicated in written form and delivered against receipt;

(b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and

(c) "day" means calendar day.

(d) "Agent" means is a person employed to do any act for another, or to represent another in dealings with third person.

2. Source of Funds

2.1 The required funds have been sourced by K RIDE, unless otherwise specified in the BDS.

3. Corrupt Practices

3.1 The Employer requires that bidders, suppliers, and contractors observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Employer:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) "corrupt practice" means offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any party in the procurement process or the execution of a contract;

(ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

(iii) "collusive practice" means a scheme or arrangement between two or more bidders, with or without the knowledge of the Employer, designed to influence the action of any party in a procurement process or the execution of a contract;

(iv) "coercive practice" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(b) will reject a Bid for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract; and

(c) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Employer's activities, if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the employer.

4. Eligible Bidders

4.1 A Bidder means any person or firm or company, including any member of a consortium or joint venture (that is an association of several person, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders started hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process. The bidder must ensure the following:

(a) In case of Single Entity:

(i) Submit Power of Attorney authorizing the signatory of the bid to commit the bidder.

(b) In case of Joint Venture/ Consortium:

(i) The number of partners in the JV/ Consortium shall not be more than that indicated in the Bid Data Sheet (BDS);

(ii) Submit MOU, as per the form given in Section 4.

(iii) The JV/ Consortium shall nominate a Representative through Power of Attorney (Form given in Section 4) who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV/ Consortium during the bidding process and, in the event the JV/ Consortium is awarded the Contract, during contract execution.

(iv) Submit Power of Attorney by individual partners to lead partners as per the form given in Section 4.

(v) In case a Joint Venture/ Consortium is the successful bidder, the Joint Venture/ Consortium Agreement should be entered by the Joint Venture/ Consortium partners. The duly signed Joint Venture/ Consortium Agreement should be submitted along with the Performance Security to the employer after notification of the award of contract within 28 days.

(c) Only firms that are registered or incorporated in India are eligible to compete. Any bidder from a country which shares a land with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.

(d) "Bidder from a country which share a land border with India" for the purpose of this Order means:-

1. An entity incorporated, established or registered in such a country; or
2. A subsidiary of an entity incorporated, established or registered in such a country; or
3. An entity substantially controlled through entities incorporated, established or registered in such a country; or
4. An entity whose beneficial owner is situated in such a country; or
5. An Indian (or other) agent of such an entity; or

6. A natural person who is a citizen of such a country; or
7. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

(e) The beneficial owner for the purpose of above clause will be as under:

(i) In case of a company or Limited Liability Partnership, the beneficial owner is the nature person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation-

a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of share or capital or profits of the company;

b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue their shareholding or management rights or shareholders agreements or voting agreements;

(ii) In case of a partnership firm, the beneficial owner is the nature person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;

(iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profit of such association or body of individuals;

(iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

The Bidder shall submit a Certificate stating that they have read the above clause using the appropriate Performa given in Section 4 - Form C1 & C2.

4.2 Bidders having a conflict of interest shall be disqualified. The conflict of interest is detailed below

4.3 A Bidder shall not have conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of

interest with one or more parties in this bidding process, if, including but not limited to:

(a) they have controlling shareholders in common; or

(b) they receive or have received any direct or indirect subsidy from any of them; or

(c) they have the same legal representative for purposes of this bid; or

(d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or

(e) any firm, either individually or in Joint Venture (JV)/ Consortium, submits more than one offer irrespective of whether the firm is quoting against this bid. The bids submitted by two different bidders, having any common participant in JV/ Consortium formation or any common partner in partnership firms, or an individual will be treated as having conflict of interest or

(f) a Bidder participated as a consultant in the preparation of the design or specifications of the contract that is the subject of the Bid; or

(g) a Bidder was affiliated for any period(s)during last two years before the date of issue of Invitation for Bids with a firm or entity that has been hired (or is proposed to be hired) by the Employer as Engineer for the contract.

4.3.1 Conflict of Interest:

K RIDE requires that Consultants provide professional, objective and impartial advice and at all times hold the Client's interests paramount, avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work. Consultants shall not be recruited for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the Client. Without limitation on the generality of the foregoing, Consultants, and any of their associates shall be considered to have a conflict of interest and shall not be recruited under any of the circumstances set forth below:

i) If a consultant combines the function of consulting with those of contracting and/or supply of equipment and/or supply of services other than consulting; or

ii) If a consultant is associated with or affiliated to a contractor or manufacturer for this project; or

iii) If a Consultant is owned by a contractor or a manufacturing firm with departments or design offices offering services as Consultants. The Consultant should include relevant information on such relationships along with a statement in the Proposal cover letter to the effect that the Consultant will limit its role to that of a Consultant and disqualify itself and its associates from work, in any other capacity or any future project within the next five years, that may emerge from this assignment (including bidding for any part of the future project). The Consultant selected to undertake this assignment will give an appropriate undertaking to such effect, while signing the agreement; or

iv) If there is a conflict among consulting assignments, the Consultant (including its personnel and sub-consultants) and any subsidiaries or entities controlled by such consultant shall not be recruited for the relevant assignment.

A Consultant cannot be recruited to carry out an assignment that, by its nature, will result in conflict with another assignment of such Consultant. For example, a Consultant engaged to prepare engineering design for an infrastructure project shall not be recruited to prepare an independent environmental assessment or to proof check the designs for the same project. Similarly, a Consultant assisting a client in privatization of public assets shall neither purchase nor advise purchasers of such assets or a Consultant hired to prepare Terms of Reference for an assignment shall not be recruited for the assignment in question.

There are generally 3 types of consultancy services in K RIDE i.e.

(i) Pre-Investment studies (PETS & Bankability Studies),

(ii) Detailed Engineering & Design (FLS & DDE) and

(iii) Project Implementation (PMC).

If a consultancy firm has carried out pre-investment studies mentioned in (i) above, there may be advantage for appointing the same firm to carry out the consultancy mentioned in (ii) and (iii) above. Hence there is no conflict of interest involved for a firm doing the consultancy for (i) and/or (ii) and/or (iii).

4.3.2. *If a Consultant submits or participates in more than one Proposal, such a Consultant shall be disqualified.*

4.3.3 Proposal Validity

4.3.3.1 The Data Sheet indicates how long the Consultants' Proposals must remain valid after the submission date.

4.3.3.2 The Employer will make its best effort to finalise the Contract within this period. In exceptional circumstances, the Employer may request Consultants to extend the validity period of their Proposals. The request and the responses shall be made in writing. In case Consultant extends validity of their proposal, the bid security as furnished in accordance with ITB Clause 19, shall also be extended upto the date mentioned in the letter of request for extension. Consultants have the right to refuse to extend the validity period of their Proposals.

4.3.3.3 ***Participation of Government Employees:***

The Government employees are not permitted to undertake any assignment without the approval of the Government as per extant Government rules. In addition to this, no close relatives of K RIDE staff should be proposed for participation in the assignment.

4.4 **The bidder shall be disqualified if**:

(a) The bidder or any of its constituents has been blacklisted/ banned business dealings for all Government Departments or by Ministry of Railways or by K RIDE at any time till finalization of bids, except in cases where such blacklisting/ banning has been withdrawn by Competent Authority or has ceased on the deadline for submission of the bids, for which satisfactory evidence is to be produced.

(b) Any previous contract of the bidder or any of its constituents had been terminated for contractor's failure or part terminated for its failure as a JV/ Consortium partner with forfeiture of its full Performance Security, by Rail Infrastructure Development Company (Karnataka) Ltd.(K RIDE) at any time starting from 3 years before the deadline for submission of bids and upto one day before the date of opening of price bids;

Provided, however, there is no stay order or declaration by any Court against such termination of the Contract by Rail Infrastructure Development Company (Karnataka) Ltd. or such termination of the Contract has not been revoked by Rail Infrastructure Development Company (Karnataka) Ltd or competent authority of K RIDE has not passed an order of non-applicability of disqualification of the bidder or any of its constituents despite such termination.

(c) The bidder or any of its constituents has been imposed delay damages of 5% or more of contract value by K RIDE due to delay in the implementation of any previous contract within the period of last 2 years before the deadline for submission of bids (Period of 2 years shall be reckoned from the date on which the total accrued amount of Delay Damages has reached 5% or more of the contract price) or such accrued delay damages has not been fully recovered before the deadline for submission of bids on account of contractor's request for deferring recovery to maintain cash flow and K RIDE has acceded to the same in the interest of the project or the work under the previous contract in question has not been completed before the deadline for submission of bids, unless imposition of such delay damages has been set aside by the Competent Authority.

(d) The bidder or any of its constituents:

(i) has suffered bankruptcy/insolvency or

(ii) has any ongoing case of insolvency before the NCLT/any Court where interim Resolution Professional (IRP) has been appointed or is at any later stage of the insolvency process. On the deadline of submission of bids or thereafter till finalization of bids.

(e) The bidder is found ineligible by the Employer, in accordance with ITB-3.

(f) The bidder or its constituent(s) has been declared by K RIDE to be a poor performer and the period of poor performance is still in force on the deadline for submission of bids.

OR

The bidder or its constituent(s) has been declared by K RIDE to be a poor performer at any time after the deadline for submission of bids and upto one day before the date of opening of price bids.

(g) The bidder or any of its constituents has changed its name or created a new business entity as covered by the definition of "Allied Firm" under para 1102 (iii) of Chapter XI of Vigilance Manual of Indian Railways (available on website of Indian Railways), consequent to having been banned business dealings or suspended business dealings or having been declared poor performer.

The Bidder shall submit an affidavit stating that they are not liable to be disqualified as per this sub clause using the appropriate Performa given in Section 4. Non-submission of an affidavit by the bidder shall result in summary rejection of his bid.

4.5 Bidders shall immediately inform the Employer in case they cease to fulfill eligibility in terms of ITB 4.3 & 4.4. In case the bidder fails to inform the Employer or submits a false affidavit, his bid shall be summarily rejected and bid security shall be forfeited. The bidder shall also be liable for Banning of Business dealings for a period up to five years.

5 Eligible Materials, Equipment and Services

5.1 The materials, equipment and services to be supplied under the Contract shall be from the approved sources as specified in Section 5: Works Requirements.

B. Contents of Bidding Document

6 Sections of Bidding Document

6.1 The Bidding Document consists of Parts I, II and III, which includes all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART I:Bidding Procedures

Section 1: Instructions to Bidders (ITB)

Section 2: Bid Data Sheet (BDS)

Section 3: Evaluation and Qualification Criteria (EQC)

Section 4: Bidding Forms (BDF)

PART II: Work's Requirements

Section 5: Work's Requirements (WRQ)

PART III: Conditions of Contract and Contract Forms

Section 6: General Conditions of Contract (GCC)

Section 7: Special Conditions of Contract

Part A: Particular Conditions of Contract Data (PCC)

Part B: Specific Conditions of Contract (SCC)

Section 8: Contract Forms (COF)

Section 9: Bill of Quantities (BOQ)

6.2 The Invitation for Bids (IFB) issued by the Employer is not part of the Bidding Document.

6.3 The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.

6.4The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.

7 Clarification of Bidding Document, Site Visit, Pre-Bid Meeting

7.1A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS or raise his inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than ten (10) days prior to the deadline for submission of bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 22.2.

7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the site shall be at the Bidder's own expense.

7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the BDS, either in person or through video conferencing. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

7.5 The Bidder is requested, as far as possible, to submit any questions in writing, to reach the Employer not later than one week before the meeting.

7.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting.

7.7 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

8 Amendment of Bidding Document

8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda.

8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer.

8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.2

C. Preparation of Bids

9 Cost of Bidding

9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

10 Language of Bid

10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in English. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English in which case, for purposes of interpretation of the Bid, such translation shall govern.

11 Documents Comprising the Bid

11.1 This provision shall not apply

11.2 This provision shall not apply

11.3 This provision shall not apply

11.4 The Bid shall contain the following :

(a) Letter of Bid in accordance with ITB 16;

(b) Bid Security, in accordance with ITB Clause 19;

(c) Alternative Bid, if permissible, in accordance with ITB Clause 13;

(d) Written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 20.2;

(e) Documentary evidence in accordance with ITB Clause 17 establishing the Bidder's qualifications to perform the contract; and

(f) any other document required in the BDS.

11.5 This provision shall not apply

12. Bid Letters and Price Schedules

12.1 TheBidder shall submit Technical proposal and Separate Price Proposal using the appropriate Submission Sheets furnished in Section 4: Bidding Forms. These Forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

12.2 The Bidder shall submit, as part of letter of Bid, the Schedules, including the Bill of Quantities.

13. Alternative Bids

13.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.

13.2 When alternative periods for completion are explicitly invited, a statement to that effect will be included in the BDS, as will the method of evaluating different periods for completion.

14. Bid Prices and Discounts

14.1 The prices and discounts quoted by the Bidder in the Letter of Bid (LB)and in the Bill of Quantities shall conform to the requirements specified below.

14.2 In the BOQ, quantity and unit rates and thereby the amount against each item have been indicated where rates as percentage are to be quoted. From this, price have been worked out and indicated in BOQ. The Bidder shall quote rates as single percentage above/below/at par in figures and words as per format for such schedule in the summary sheet**. If any bidder quotes more than one percentage for such schedules, its bid shall be summarily rejected.**

14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.

14.4 The Bidder shall quote any unconditional discounts and the methodology for their application (the discounts, and the methodology of their application, should be quoted on prices quoted in the bid so that the discounts can be evaluated by simple arithmetic calculation during financial evaluation of the bids, to arrive at the net total price of the bid. If the net total price cannot be calculated after application of the methodology of the discount(s) quoted, the bid shall be considered as incomplete and will be rejected) in the Letter of Price Bid, in accordance with ITB 12.1. However, any conditional discount if any offered for award of contract has to be quoted separately and to be submitted in separate envelope(s).

14.5 Unless otherwise provided in the BDS and the Contract, the rates and prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the indices and weightings for the price adjustment formulae shall be as specified in the Tables of Adjustment Data included in Contract Data.

14.6 This provision shall not apply

14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause (including standard specifications), as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder.

14.8 Bidders should note that during the progress of the works, the foreign currency requirements of the outstanding balance of the Contract Price may be adjusted by agreement between the Employer and the Contractor in order to reflect any changes in foreign currency requirements for the Contract, in accordance with

Sub-Clause 14.15 of the Conditions of Contract. Any such adjustment shall be effected by comparing the percentages quoted in the bid with the amounts already used in the Works and the Contractor's future needs for imported items.

14.9 Bidder should note that non-submission of the Letter of Bid (LPB) and/or BOQ by the bidder shall result in summary rejection of his bid.

15. Currencies of Bid and Payment

15.1 The bidder shall quote the unit rates and the prices entirely in the Indian Rupees.

16. Documents Comprising the Bid

16.1 The Bidder shall furnish a commitment in Letter of Bid (LB) for deployment of equipment and personnel as stipulated in Section 5: Work's Requirement.

16.2 The bidder shall furnish commitment in LB for submitting construction method statement for all major activities of work and get this approved from the engineer prior to the commencement of work on that activity in case of award of contract.

16.3 The Bidder shall furnish a commitment in Letter of Bid (LB) for adhering to mobilization as stipulated in Section 5: Work's Requirement.

16.4 Bidder should note that non-submission of the Letter of Bid (LB) by the bidder shall result in summary rejection of his bid.

17. Documents Establishing the Qualifications of the Bidder

17.1 To establish its qualifications to perform the Contract in accordance with Section 3: Evaluation and Qualification Criteria, the Bidder shall submit as part of its technical Bid the information requested in the corresponding information sheets included in Section 4: Bidding Forms.

17.2 Domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility.

18. Period of Validity of Bids

18.1 Bids shall remain valid for a period of 120 days after the bid submission deadline date prescribed by the employer. A bid valid for a shorter period shall be rejected by the employer as non-responsive.

18.2 In exceptional circumstances, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended upto the date mentioned in the letter of request for extension. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid.

19. Bid Security

19.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a bid security in original form and for the said amount of Indian Rupees as specified in the BDS.

19.2 The bid security shall be, at the Bidder's option, in any of the following forms:

(a) A Cashiers or Banker's certified cheque or Bank draft drawn on a Scheduled/Nationalized Bank in India in favour of "Rail Infrastructure Development Company (Karnataka) Ltd" payable at Bangalore;

or

(b) An unconditional bank guarantee using the Form given in Section 4: Bidding Forms. The bank guarantee shall be from a bank having minimum net worth of over INR 500 million from the specified banks as under:

(i) a Scheduled Bank in India, or

(ii) a Foreign Bank having their operations in India, or

(iii) a Foreign Bank which do not have operations in India is required to provide a counter-guarantee by State Bank of India,

The bid security shall be valid upto the date as mentioned in BDS, or upto the date mentioned in the letter of request for extension, if any under ITB 18.2.

19.3 Any bid not accompanied by an enforceable and compliant bid security, as required in accordance with ITB 19.1, shall be summarily rejected by the Employer as non-responsive.

19.4 The bid security of the Bidders who have been determined to be unqualified for opening of their financial bids shall be returned within 3 working days after the opening of financial bids. The Bid Security of unsuccessful bidders shall be returned within 7 working days after issue of LOA to the successful Bidder.

19.5 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security.

19.6 The bid security may be forfeited:

(a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bids, except as provided in ITB 18.2 or

(b) if a Bidder misrepresents or omits the facts in order to influence the procurement process;

(c) if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB 40;

(ii) furnish a performance security in accordance with ITB 41;

(iii) accept the correction of its Bid Price pursuant to ITB 32.2; or

(iv) furnish a domestic preference security if so required.

(d) if the undertaking of the affidavit submitted by the bidder or its constituents in pursuance to ITB clause 4.4 or any of the declarations of Letter of Bid or Letter of Price Bid submitted by the bidder has been found to be false at any stage during the process of bid evaluation.

19.7 The Security of a JV/ Consortium shall be in the name of the JV/ Consortium that submits the bid. If the JV/ Consortium has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent/ of JV/ Consortium mentioned in ITB Clause 4.1.

20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the Bid as described in ITB Clause 11 and clearly mark as "ORIGINAL". In addition, the Bidder shall submit copies of the Bid, in the number specified in the BDS and clearly mark them "COPY NO… - BID" . In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid, except for un-amended printed literature, shall be signed or initialed by the person signing the bid.

20.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

21. Sealing and Marking of Bids

21.1 The Bidder shall enclose the original Proposal and marked "ORIGINAL PROPOSAL".

21.2 This provision shall not apply

21.3 If the envelope is not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

21.4 This provision shall not apply

21.5 Alternative Bids, if permissible in accordance with ITB Clause 13, shall be prepared, sealed, marked, and delivered in accordance with the provisions of ITB Clauses 22 and 23, with the inner envelopes marked in addition "ALTERNATIVE NO…." as appropriate.

21.6 This provision shall not apply

22. Deadline for Submission of Bids

22.1 Bids must be received by the Employer at the address and not later than the date and time indicated in the BDS.

22.2 The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders subject to the previous deadline shall thereafter be subject to the deadline as extended.

23. Late Bids

23.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

24. Withdrawal, Substitution, and Modification of Bids

24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding withdrawal of substitution or modification of the bid must accompany the respective written notice. All notices must be:

(a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWL, "SUBSTITUTION", "MODIFICATION", and

(b) received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 22.

24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.

24.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Bid Opening

25.1 The Employer shall conduct the opening of Bids in the presence of Bidders' representatives who choose to attend, at the address, date and time specified in the BDS.

25.2 This provision shall not apply

25.3 First, envelopes marked "WITHDRAWAL" shall be opened, read out, and recorded, and the envelope containing the corresponding Bid shall not be opened, but returned to the Bidder. No Bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.

25.4 Next, outer envelopes marked "SUBSTITUTION" shall be opened. The inner envelopes containing the Substitution of letter of Bid shall be exchanged, which are to be returned to the Bidder unopened. Only the Substitution letter of Bid, if any, shall be opened, read out, and recorded. No envelope shall be substituted unless the corresponding Substitution Notice contains a valid authorization to request the substitution and is read out and recorded at bid opening.

25.5 Next, outer envelopes marked "MODIFICATION" shall be opened. No letter of Bid shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at the opening of the Bid. Only the Bid, both Original as well as Modification, are to be opened, read out, and recorded at the opening.

25.6 All other envelopes holding the Bids shall be opened one at a time, and the following read out and recorded :

(a) the name of the Bidder;

(b) whether there is a modification or substitution;

(c) the presence of a Bid Security declaration form, if required; and

(d) any other details as the Employer may consider appropriate.

Only Bid and alternative Bid read out and recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at the opening of Bid except for late bid, in accordance with ITB Sub-Clause 23.1.

25.7 The Employer shall prepare a record of the opening of Bids that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, modification, or alternative offer; and the presence or absence of a Bid Security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

25.8 This provision shall not apply

25.9 This provision shall not apply

25.10 This provision shall not apply

25.11 This provision shall not apply

25.12 This provision shall not apply

E. Evaluation and Comparison of Bids

26. Confidentiality

26.1 Information relating to the examination, evaluation & comparison, pre-qualification of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.

26.2 Any attempt by a Bidder to influence the Employer in the examination, evaluation & comparison and pre-qualification of the Bids or Contract award decisions may result in the rejection of its Bid.

26.3 Notwithstanding ITB Sub-Clause 26.2, from the time of opening the Bid to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it should do so in writing.

27. Clarification of Bids

27.1 To assist in the examination, evaluation & comparison and pre-qualification of the Bids, the Employer 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 Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of errors discovered by the Employer in the evaluation of the Bid, in accordance with ITB Clause 32.

27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, its bid may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of bids, the following definitions apply:

(a) "Deviation" is a departure from the requirements specified in the Bidding Document;

(b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and

(c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.

29. Determination of Responsiveness

29.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB11.

29.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

(a) if accepted, would:

(i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or

(ii) limit in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.

29.3 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 16, Bid, in particular, to confirm that all requirements of Section 5 (Works Requirements) have been met without any material deviation or reservation.

29.4 If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

30. Nonconformities, Errors, and Omissions

30.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformities in the bid that do not constitute a material deviation, reservation or omission.

30.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.

31. Pre-Qualification of the Bidder

31.1 The Employer shall determine to its satisfaction during the evaluation of Bid whether Bidders are qualified to perform the Contract satisfactorily.

31.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 17, to clarifications in accordance with ITB Clause 27 and the qualification criteria indicated in Section 3: Evaluation and Qualification Criteria. Factors not included in Section 3: Evaluation and Qualification Criteria shall not be used in the evaluation of the Bidder's qualification.

31.3 This provision shall not apply

32. Correction of Arithmetical Errors and Omissions in Bid and Evaluation of Bid Price

32.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors and omissions in the bid and then arrive at the Evaluated Bid Price on the following basis:

(a) If there is a discrepancy between the price mentioned in the BOQ and the price that is obtained by calculation i.e. by taking into account the percentage rate quoted above/below/at par for any bill/ schedule in the BOQ, then the quoted percentage rate shall prevail and the price shall be corrected accordingly;

(b) if the percentage rate has been quoted both in words and in figures and there is a discrepancy in such rates, then the rate in words shall prevail and shall be considered for evaluation of the price of the schedule/bill;

(c) If the percentage rate has been quoted either in words or in figures only, then the same shall be considered for evaluation of the price of the schedule/bill;

(d) If no percentage rate has been indicated for any particular schedule/bill in words, as well as in figures, irrespective of the fact whether the bidder has written or not written above/below/at par, in such cases, the rate shall be considered as at par and the price shall be calculated accordingly;

(e) If the bidder has indicated a percentage rate other than zero percent without mentioning whether it is above/below or has mentioned it as at par, in such cases the percentage rate shall be considered as at par and the price shall be calculated accordingly;

(f) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.

(g) The rate for each item of each schedule/bill shall first be calculated after applying percentage rate and discount(s) to the BOQ rate for that item and the net rate shall be rounded off to 2 decimal places. The net rate so calculated shall then be used for working out the amount for each item of

the schedule/bill. Thereafter, evaluated price of a schedule shall be calculated as the sum of amounts of all items of that schedule and sum of evaluated prices of all schedules/bills shall be the overall Evaluated Bid Price.

32.2 If the Bidder that has submitted the lowest evaluated bid does not accept the correction of errors and omissions as per above provisions, its bid shall be disqualified and its bid security shall be forfeited.

33. Conversion to Single Currency

33.1 For evaluation and comparison purposes the currencies of the bid shall be converted into Indian Rupees as stated in BDS.

34. Purchase Preference

34.1 Unless otherwise specified in the BDS the Purchase Preference shall not apply.
34.2 Unless otherwise specified in the BDS the Domestic Preference shall not apply.

35. Evaluation of Bids

35.1 The Employer shall evaluate the Bid for which the experience in similar works as mentioned in Section 3 have been determined to be substantially responsive. The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.

35.2 To evaluate the Bid, the Employer shall consider the following:

(a) the bid, excluding Provisional Sums and the provision, if any, for contingencies in the Bill of Quantities, but including Day Work items, where priced competitively;

(b) price adjustment for correction of arithmetic errors and omissions in the price bid in accordance with ITB 32.1;

(c) price adjustment due to discounts offered in accordance with ITB 14.4;

(d) Application of all the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria).

35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

35.4 This provision shall not apply.

35.5 If the bid, which results in the lowest Evaluated Bid Price is substantially on lower side and/or seriously unbalanced in the opinion of the Employer as per criteria defined below, the Employer may require the bidder to submit additional performance security as under:-

a) If overall price quoted by the L1 bidder is below the engineer's estimated price by more than 10% and the difference between overall price quoted by the L1 and L2 is more than 5% of the estimated price, then the bid price of L1 bidder shall be treated as substantially on lower side and such bidder shall be bound to furnish additional performance security equal to the (0.9x engineer's estimated price – L1 price) or (0.95 x L2 price – L1 price) whichever is lower, on this account. Example below demonstrates the method of calculation to arrive at additional performance security:

Suppose overall price quoted by the L1 bidder is 17% below the estimated price and the overall price quoted by L2 bidder is 8% below the estimated price. In this case the overall price quoted by the L1 bidder is lower by more than 10% of the estimated price and also the difference between overall price quoted by the L2 and L1 bidder is more than 5% of the estimated price, hence the L1 bidder shall be required to furnish additional performance security for an amount equal to {0.9 x engineer's estimated price – (1-17/100) x engineer's estimated price} = {0.07 x engineer's estimated price} = 7% of engineer's estimated price or {0.95 x (1-8/100) x engineer's estimated price – (1-17/100) x engineer's estimated price} = {0.044 x engineer's estimated price} = 4.4% of engineer's estimated price; whichever is lower.

As per the above L1 bidder shall be required to submit additional performance security of 4.4% of engineer's estimated price.

b) If for any bill/ schedule of quantities % age above or below quoted by the bidder on the estimated price is beyond 15% below the overall % age difference between the quoted contract price and the engineers estimated price, then the price for that particular schedule shall be treated as seriously unbalanced and bidder shall be bound to furnish additional performance security for such unbalanced price. Example below demonstrates the method of calculation to arrive at unbalanced price and additional performance security:

Suppose for the L1 bidder overall % age difference between quoted contract price and the engineers estimated price;

(Overall contract price – Overall estimated price) x 100 ÷ overall estimated price = + 4 %

Maximum % age below permitted over estimated price of any bill / schedule in this case = +4 – 15 = -11%

Suppose for the L1 bidder has quoted 20% below estimated price of schedule "A" then the pricing of the schedule A shall be treated as unbalanced and the bidder shall be required to furnish additional performance security for an amount equal to (20 – 11) % of the estimated price of schedule A.

36. Comparison of Bids

36.1 The Employer shall compare all substantially responsive bids to determine the lowest evaluated bid, in accordance with ITB 34 and 35.

37. Employer's Right to Accept Any Bid, and to Reject Any or All Bids

37.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

(F) Award of Contract

38. Award Criteria

38.1 The Employer shall award the Contract to the Bidder whose bid is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily and whose offer has been determined to be the lowest evaluated subject to ITB 38.2 below. In case of more than one bids are evaluated to be lowest, Contract shall be awarded to the bidder having higher average annual construction turnover (calculated as total certified payments received for contracts in progress or completed) in equivalent INR within the last three financial years.

38.2 The Employer has the right to review at any time prior to award of contract that the qualification criteria as specified in Section 3: Evaluation and Qualification Criteria are still being met by the Bidder whose offer has been determined to be the lowest evaluated Bid. A Bid shall be rejected if the qualification criteria as specified in Section 3: Evaluation and Qualification Criteria are no longer met by the Bidder whose offer has been determined to be the lowest evaluated Bid. In this event the Employer shall proceed to the next lowest evaluated Bid to make a similar reassessment of that Bidder's capabilities to perform satisfactorily.

39. Notification of Award

39.1 Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder, in writing, that its bid has been accepted by the Competent Authority at K RIDE's Corporate Office at Bangalore. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price") and the requirement for the Contractor to remedy any defects therein as prescribed by the Contract**.**

39.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

40. Signing of Contract

40.1 Promptly after notification, the Employer shall send the successful Bidder the Contract Agreement.

40.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.

41. Performance Security

41.1 On receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security in accordance with the conditions of contract, subject to ITB 35.5, using for that purpose the Performance Security Form included in Section 8: Contract Forms, or another form acceptable to the Employer.

41.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

41.3 The above provision shall not apply to the furnishing of a Domestic Preference Security, if so required.

42. Jurisdiction of Courts

The bidding process shall be governed by and construed in accordance with the laws of India and the Courts as indicated in Bid Data Sheet shall have exclusive jurisdiction over all the disputes/issues arising under, pursuant to and/ or in connection with the bidding process.

43. Special Provisions for Micro, Small& Medium Enterprises (MSMEs): MSMEs registered with District Industries Centers/ Khadi and Village Industries Commission/ Khadi and Village Industries Board/Coir Board/ National Small Industries Corporation/ Directorate of Handicraft and Handloom/ 'Udyog Aadhaar' – The Online Portal of MSME/ Any other body specified by Ministry of MSME are exempted from the payment of RFP document fee and proposal security for this tender.

44. The provisions of revised 'Public Procurement (Preference to Make in India) Order 2017' issued by Department of Industrial Policy and Promotion under Ministry of Commerce and Industry vide letter no. P-45021/2/2017-PP (BE-II) dated 28.05.2018 shall be applicable to the bidding process and award of the contract shall be done accordingly. In this connection, the minimum local content shall be 50% and the margin of purchase preference shall be 20%. For award of contract, para 3.c. of the revised 'Public Procurement (Preference to Make in India) Order 2017' shall be applicable in addition to the other provisions in the bidding documents in this regard.

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Section 2	Bid Data Sheet (BDS)

Section 2	Bid Data Sheet (BDS)

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section I – Instructions to Bidders.

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A. Introduction

ITB 1.1	The number of the Invitation for Bids is*:* ***K-RIDE/DL/07/2021*** ***Date : 17.02.2021***
ITB 1.1	The Employer is: K RIDE (**Rail Infrastructure Development Company (Karnataka) Limited), Bangalore**
ITB 1.1	Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Hosur Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section of Bangalore Division In South Western Railway (single package)
ITB 4.1(b)(i)	Not Applicable

B. Bidding Documents

ITB 7.1	For clarification purposes only, the Employer's address is General Manager/Civil/Project K RIDE (Rail Infrastructure Development Company (Karnataka) Limited) #8, 1st Floor, Samparka Soudha, Dr. Rajkumar Road, opposite Orion Mall, Rajajinagar 1st Block, Bengaluru– 560010 Mobile No : – +91 63648 90810, +91 63648 90811. E – Mail: md@kride.in
ITB 7.4	**A Pre-Bid meeting is schedule on the following date, time and venue:** No Pre bid Meeting Proposed.

C. Preparation of Bids

ITB 10.1	The language of the bid is: **English**
ITB 11.2	Alternative technical solutions **are not** permitted.

ITB 11.4 (f)	Checklist as per Form No. 2 given in Section 4: Bidding Forms
ITB 13.1	Alternative bids **are not** permitted.
ITB 13.2	Alternative times for completion **are not** permitted.
ITB 14.5	**The prices quoted by the Bidder shall be adjustable in accordance with the provisions in Sub Clause 13.8 of GCC. In Section 7, Part B Special Conditions of Contract (SCC).**
ITB 15.1	The unit rates and the prices shall be quoted by the bidder entirely in **Indian Rupees (INR)**
ITB 18.1	The bid validity period shall be 120 (One hundred and twenty only) days.
ITB 19.1	The Bidder should submit along with the bid, a bid security declaration form as mentioned in the notice for invitation of bid
ITB 19.2 to 19.7	Not applicable
ITB 20.1	In addition to the original of the bid, the number of copies is: NIL
ITB 20.2	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: (a) In case of Companies, a POA from the Director of the Company who has been authorized by the Board of Directors through resolution to sign on behalf of the Company (b) In case of firms, Power of Attorney by the Proprietors.

D. Submission and Opening of Bids

ITB 22.1	For bid submission purposes only, the Employer's address is: General Manager (S&T)/K RIDE, K RIDE (Rail Infrastructure Development Company (Karnataka) Limited) #8, 1st Floor, Samparka Soudha, Dr. Rajkumar Road, opposite Orion Mall, Rajajinagar 1st Block, Bengaluru– 560010 Mobile No : – +91 63648 90810, +91 63648 90811. E – Mail: md@kride.in **The deadline for bid submission is:** **Date: 19.03.2021** ***Time: 15:00 hrs.***
ITB 22.2	Electronic bid submission **is not** permitted.
ITB 25.1	The bid opening shall take place at: Rail Infrastructure Development Company (Karnataka) Limited *Floor/Room No.* #8, 1st Floor, Samparka Soudha, *Street Address* Dr. Rajkumar Road, Opposite Orion Mall, Rajajinagar, *City* Bangalore *Pin Code* 560010 *Country* *Indian Republic* *Mobile No.* *6364890810 , 6364890811.* *Fax:* --- *E – Mail* md@kride.in **Bid Opening**: **Date: .19.03.2021** ***Time: 15:30 hrs.***
ITB 25.2	Electronic bid opening procedure is **Not permitted.**

E. Evaluation and Comparison of Bids

ITB 35.5 (a) & (b)	Not Applicable (as per Ministry of Finance Office Memorandum dated 12th November 2020)

ITB 42	Bangalore

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Section 3	Evaluation & Qualification Criteria (EQC)

Section 3	Evaluation & Qualification Criteria (EQC)

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1 Evaluation

In addition to the criteria listed in ITB 35.2 (a)-(d), the following criteria shall apply:

1.1. Adequacy of Bid

Evaluation of the Bidder's commitment to mobilize key personnel for the contract consistent with the requirements stipulated in Section 5: Works Requirements and Bill of Quantities (BOQ) Section 9 regarding work methods, scheduling, and material sourcing.

1.2. DELETED (Multiple contract/package)

1.3. Completion Time

Alternative Completion Time is not permitted.

1.4. Technical Alternatives

Technical alternatives are not permitted

1.5. Margin of Preference

1.5.1. Purchase Preference to Central Public Sector Enterprises (CPSEs)

Purchase Perference to CPSEs shall not apply.

1.5.2. Domestic Preference

Domestic Preference is not applicable.

2. Eligibility Criteria:

2.1Technical Eligibility Criteria:

(a) The tenderer must have successfully completed any of the following during last 07 (seven) years, ending last day of month previous to the one in which tender is invited:

- Three similar works each costing not less than the amount equal to 30% of advertised value of the tender,
  or
- Two similar works each costing not less than the amount equal to 40% of advertised value of the tender,

or

- One similar work each costing not less than the amount equal to 60% of advertised value of the tender.

- **Similar work is defined as below:**

  Quality and safety Audit Consultancy (QSAC) or Project Management Consultancy (PMC) or General Consultancy (GC) or EI (Independent Engineer) for works which include Civil work, Electrical work, Overhead Electrification, Signaling &Telecommunication work and Track linking work.

Note for b (i): Separate completed works of minimum required values for each component shall also be considered for fulfilment of eligibility criteria.

(b) (ii) In such cases, what constitutes a component in a composite work shall be clearly predefined with estimated tender cost of it, as part of the tender documents without any ambiguity.

(b) 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 or through sub-contractor approved by K RIDE or jointly i.e., partly himself and remaining through subcontractor, with prior approval of K RIDE in writing.

However, if required in tender documents by way of Special Conditions, a formal agreement duly notarised, 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.

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 prior approval of KRIDE.

Note for Item 2.1:

Work experience certificate from private individual shall not be considered. However, in addition to work experience certificates issued by any Govt. Organisation, 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 opening 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.

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.

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.

Any contract of such Quality and safety Audit Consultancy Services shall be treated as substantially completed if the consultancy fee received under the said contract is at least 80% of the contract value and the consultancy fee so received should be equal to or more than the minimum value stated above.

Note:

a) For the purposes of technical evaluation of Applicants for services rendered in India, Rs. 73 per US$ shall be considered as the applicable currency conversion rate. In case of any other currency, the same shall first be converted to US$ as on the date 28 (twenty eight) days prior to the deadline for submission of proposals and the amount so derived in US$ shall be converted into INR 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.

b) For the purposes of technical evaluation of Applicants for services rendered outside India and in case of any currency other than US $, the same shall be converted to US$ as on the date 28 (twenty eight) days prior to the deadline for submission of proposals. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

c) In case the turnover figures of applicants utilising the credentials of foreign parent/holding company are in any currency other than US$, the same shall be converted to US$ as on the date 28 (twenty eight) days prior to the deadline for submission of proposals. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

2.1.1 The bidders are required to submit Curriculum Vitae (CV) of each Engineer/Expert alonwith the bid. If any of the Engineer/Expert doesn't fulfil the minimum

qualification and professional skills as mentioned below then that offer shall be **summarily rejected.**

Professional Skills and minimum qualification :

Sl. No	Position	Academic Qualification	General Work Experience	Experience In Railway/ Transport/ Infrastructure Project	Experience in Similar Position
1	Team Leader cum Engineer Earthwork, Bridges and Structure	B.Tech/Civil. preferably M.Tech/ MBA	At least 15 years	More than 10 years	More than 5 years
2	Engineer Rail Track	B.Tech/ Civil	More than 10 years	More than 7 years	More than 5 years
3	Engineer OHE & Electrical works	B.Tech/ Electrical	More than 10 years	More than 07 years	More than 5 years
4	Engineer Railway Signalling & Telecommu nication	B.Tech/ Electronics	More than 10 years	More than 07 years	More than 5 years
5	Safety Expert	B.Tech in any discipline & specialization in the field of SHE	More than 10 years	More than 07 years	More than 5 years

K RIDE

Only proposals of those Consultants who meet the 'Eligibility and Minimum Qualification Criteria' specified under Para 2 shall be eligible for further evaluation.

2.2. Financial Eligibility Criteria:

The tenderer must have received contractual payments in the previous three financial years and the current financial year upto the date of inviting of tender, at least 150% of the advertised value of the tender. The tenderers shall submit Certificates to this effect which may be an attested Certificate from the concerned department /client or Audited Balance Sheet duly certified by the Chartered Accountant / Certificate from Chartered Accountant duly supported by Audited Balance Sheet.

Note for 2.2: Client certificate from other than Govt Organization should be duly supported by Form 16 A / 26 AS generated through TRACES of Income Tax Department of India.

2.3. Bid Capacity: The tender/technical bid will be evaluated based on bid capacity formula detailed as below:

For tenders costing more than **Rs 20 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:

Available Bid Capacity = [A x N x 2] – 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 = Value of existing commitments and balance amount of ongoing works with the tenderer to be completed in next 'N' years.

Note:

(a) The Tenderer(s) shall furnish the details of 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. In case of no works in hand, a 'NIL' statement should be furnished. This statement should be submitted duly verified by Chartered Accountant.

(b) In case of JV/Consortium, the tenderer(s) must furnish the details of existing commitments and balance amount of ongoing works with each member of JV/ Consortium 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 up to the date of inviting of tender. In case of no works in hand, a 'NIL' statement should be furnished. This statement should be submitted 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/Consortium shall be reckoned only to the extent of the

concerned member's share in that JV/Consortium 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/ Consortium'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.

(g) Special Provision ***for*** ***Micro, Small & Medium Enterprises (MSMEs):***

i) Applicants registered with the agencies (as mentioned in para iii) below) as Micro, Small & Medium Enterprises (MSMEs) are exempted from the payment of BID/bidding document fee.

ii) Applicants registered with the agencies (as mentioned in para iii) below) as Micro, Small & Medium Enterprises (MSMEs) will be exempted from deposit of Proposal/Bid Security.

iii) Applicants who are interested in availing themselves of above benefits will enclose with their proposal;

a) The proof of their being micro or small or medium enterprise (MSME) registered with any of the following agencies;

1. District Industries Centers
2. Khadi and Village Industries Commission
3. Khadi and Village Industries Board
4. Coir Board
5. National Small Industries Corporation
6. Directorate of Handicraft and Handloom
7. 'Udyog Aadhaar' – The Online Portal of MSMEs
8. Any other body specified by Ministry of MSMEs.

b) Supporting document(s) indicating the terminal validity date of registration which should be a date after the deadline for submission of proposals, failing which, their proposals shall not be liable for consideration of benefits detailed in para (i) & (ii) above.

c) In case of Joint Venture/Consortium, the aforesaid MSME benefits will not be applicable

(h) ***Preference to Make in India:***

The provisions of revised 'Public Procurement (Preference to Make in India) Order 2017' issued by Department of Industrial Policy and Promotion under Ministry of Commerce and Industry vide letter no. P-45021/2/2017-PP (BE-II) dated 28.05.2018 shall be applicable to the bidding process and award of the contract shall be done accordingly. In this connection, the minimum local content shall be 50 and the margin of purchase preference shall be 20%. For award of contract, para 3.c. of the revised 'Public Procurement (Preference to Make in India) Order 2017' shall be applicable in addition to the other provisions in the bidding documents in this regard.

2.4 No Technical and Financial credentials are required for tenders having value up to Rs 50 lakh.

2.5 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 for the relevant date. 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 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.

[Explanation for clause 2 including clause 2.1 to 2.5 - Eligibility Criteria:

1. 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 fulfilment of credentials.

2. 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 fulfilment of credentials.

3. If a part or a component of work is completed but the overall scope of contract is not completed, this work shall not be considered for fulfilment of technical credentials even if the cost of part completed work/component is more than required for fulfilment of credentials.

4. **In case a work is considered similar in nature for fulfilment of technical credentials, the overall cost of that work including PVC amount if any shall be considered and no separate evaluation for each component of that work shall be made to decide eligibility.**

5. The value of final bill including PVC amount-if paid, or otherwise in case final bill is pending the contract cost in last approved variation statement plus PVC amount paid or cumulative amount paid up to last on-account bill including PVC amount and statutory deductions whichever is less, shall be considered as the completion cost of work.

6. 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*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.

7. 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.

8. In case of existing partnership firm if any other partner(s) joins 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 6 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. In case a tenderer is LLP, the credentials of tenderer shall be worked out on above lines similar to a partnership firm.

14. In case company A is merged with company B, then company B would get the credentials of company A also.]

Table showing the eligibility criteria limits

Rs. In Crores

S.No	Description	Package
	Estimated Value of Work	2.52
	Minimum Value of qualifying criteria	
1	SW1 – 30%	0.76
	SW2 – 40%	1.01
	SW3 – 60%	1.51
2	F E. 150%	3.78
3	Bid Capacity	NA

K RIDE

Note:

1) Technical Eligibility Criteria: (Clause 2.1 of section 3)

The tenderer must have successfully completed any of the following during last 07 (seven) years, ending last day of month previous to the one in which tender is invited:

SW1 : Three similar works as defined in clause 2,

or

SW2 : Two similar works as defined in clause 2,

or

SW3 : One similar work each as defined in clause 2.

2) Similar work is defined as below:

Quality and safety Audit Consultancy (QSAC) or Project Management Consultancy (PMC) or General Consultancy (GC) or EI (Independent Engineer) for works which include Civil work, Electrical work, Overhead Electrification, Signaling &Telecommunication work and Track linking work.

3) F.E : Financial Eligibility Criteria as defined in Clause 2.2 of section 3

4) (a) **Personnel:** The firm will be required to submit an undertaking at the time of submission of the Proposal of TPSS regarding list of names of personnel.

The Firm is also required to submit an undertaking at the time of submission of Proposal of TPSS regarding deployment of personnel at the required time as requested by KRIDE.

b) For the purpose of the relevant experience of the Personnel as prescribed in respective Forms in section 4, (i) Railway line means any Railway line including Metro Rail but excluding Tramway & Mono Rail (ii) Highway means National Highway or State Highway or Expressway or similar Highway.

c) The proposed Personnel should not have any history of involvement in vigilance/CBI/SPE/Police case resulting in major penalty punishment of removal/ dismissal/compulsory retirement or conviction for being eligible to be engaged for the consultancy. The personnel who have been debarred from Project Management Consultancy by KRIDE/the Government and whose period of debarment is not over before date of proposing the name of such personnel by the Consultant, shall also not be eligible to be engaged for the consultancy.

II. **Staffing Schedule:** The firm will be required to submit an undertaking that consultant shall deploy the personnel as per KRIDE.'s advice from the Staffing schedule which will be decided by KRIDE.

III. Approach and Methodology: The firm will be required to submit an undertaking that the Approach and Methodology for the project will be decided by the consultants in consultation with contractor and Employer as per stipulations in the construction contract agreement(s) for which the consultancy services are contemplated. It will be ensured that the approach and methodology prepared is in compliance to requirements in section 5 of the Bid document.

IV. Responsiveness: Deleted

V. The Contractor shall be disqualified if:

(a) The contractor has been blacklisted/ banned for business dealings for Government Departments, or by Ministry of Railways or by KRIDE at any time till finalization of proposals, except in cases where such blacklisting/banning has been withdrawn by Competent Authority or has ceased on the deadline for submission of the proposals, for which satisfactory evidence is to be produced.

(b) Any previous contract of the contractor had been terminated for Contractor's failure by Rail infrastructure Development company (Karnataka) Limited (KRIDE)/ Railway Organization at any time starting from 2 years before the deadline for submission of proposals and upto one day before the date of opening of financial proposals;

i. Provided, however, there is no stay order or declaration by any Court against such termination of the Contract by the Rail Infrastructure Development Company (Karnataka) Ltd./ Railway Organization or such termination of the Contract has not been revoked by Rail Infrastructure Development Company (Karnataka) Ltd/ Railway Organization.

(c) The contractor or any of its constituents:

(i) has suffered bankruptcy/insolvency or

(ii) has any ongoing case of insolvency before the NCLT/any Court where Interim Resolution Professional (IRP) has been appointed or is at any later stage of the insolvency process On the deadline of submission of bids or thereafter till finalization of bids.

(d) The contractor is found ineligible by the Employee, In accordance with ITB3.

(e) The contractor has been declared by KRIDE to be a poor performer and the period of poor performance is still in force on the deadline for submission of proposals.

Or

(e) The contractor has been declared by KRIDE to be a poor performer at any time after the deadline for submission of proposals and upto one day before the date of opening of financial proposals.

(f) The contractor has changed their name or created a new business entity as covered by the definition of "Allied Firm" under para 1102 (iii) of Chapter XI of Vigilance Manual of Indian Railways (available on website of Indian Railways), consequent to having been banned business dealings or suspended business dealings or having been declared a poor performer.

1) The Contractor shall submit an affidavit stating that they are not liable to be disqualified as per this sub clause using the appropriate Performa given in

Section 4. Non-submission of an affidavit by the contractor shall result in summary rejection of his proposal.

2) **The Contractor shall submit CVs of the Engineer/Expert Personnel using the appropriate Performa given in Section 4. Non-submission of CVs by the contractor shall result in summary rejection of his proposal**

VI. Contractor shall immediately inform the Employer in case they cease to fulfill eligibility in terms of of ITB 4.4. In case the contractor fails to inform the Employer or submits a false affidavit his proposal shall be summarily rejected and proposal security shall be forfeited. The contractor shall also be liable for Banning of Business dealings for a period up to five years.

VII. The Bid Documents floated for the execution of the works of this Project, related drawings, and KRIDE Standard Specifications for Materials and Works are available in the Office of the Employer at the address specified in Data Sheet. The Contractor may examine these documents at any time during the working hours in this Office.

VIII. Examination of BID Documents: In preparing their Proposals, Contractor are expected to examine in detail the documents comprising the BID. Material deficiencies in providing the information requested in the BID documents may result in rejection of Proposal.

K RIDE

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Section 4	Bidding Forms

Section 4 Bidding Forms

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid .

S.No	Title	Form Number	Page No
1	Letter of Bid	PS 1	57-59
2	Format for Affidavit (along with Bid)	PS 2	60-62

S.No	Title	Form Number	Page No
3	Bid Security Form	BDF/1 (NA)	63-65
4	Bidder Qualification		66
5	Bidder's Information Sheet	ELI - 1	67
6	Financial Situation	FIN - 1	68-69
7	Average Annual Turnover	FIN – 2	70
8	Current Contract Commitment	FIN - 3	71
9	Specific Experience	EXP – 2(a)	72
10	Specific Experience in Key Activities	EXP – 2(b)	73
11	EQC	Form No 1	74
12	Checklist for clauses pertaining to Summary Rejection of bid	Form No 2	75
13	Details of Experience of QSAC Service/ Services of Independent Engineer	Form 3	76-77

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14	**Engineer/Expert Qualification & Experience**	**Form 4 A**	**78-87**
15	**Summary of Information of proposed Personnel**	**Form 4 B**	**88**
16	**CV format to be submitted with proposal**	**Form 4 C**	**89-91**
17	**Approach and methodology proposed for performing the assignment**	**Form 5**	**92**
18	**Format for Undertaking to be submitted by Parent/Holding Company**	**Form 6**	**93**
19	**Format for certificate to be submitted by bidder along with the bid**	**Form 7 C1**	**94**
20	**Format for certificate to be submitted by Bidder along with the bid for subcontracting**	**Form 7 C2**	**95**
21	**Bid Security Declaration Form**	**Form 8**	**96**

Note: NA stands for Not applicable

K RIDE

Form : PS 1

Letter of Bid

(To be given on the Letter head of the Firm)

Date:

Invitation for Bid No.: .....

To: .....

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB);

(b) We offer to execute the Works in conformity with the Bidding Documents ;

(c) Our bid shall be valid for a period of 120 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(d) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;

(e) If our bid is accepted, we commit to deploy key equipment and key personnel consistent with the requirements stipulated in Section 5 : Works Requirements.

(f) If our bid is accepted, we commit to submit work method statements for all major activities and get these approved from the engineer prior to commencing work on such activities. We also understand that the work shall be executed as per the approved method statements without any deviations;

(g) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3;

(h) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.3, other than alternative offers submitted in accordance with ITB 13;

(i) We declare that we are not liable to be disqualified in Accordance with ITB 4.4, and we are enclosing the affidavit for the same as per the Performa given in the bid document.

(j) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and

(k) We have not made any deviations from the requirement of the bidding document and we have also not made any tampering or changes in the bidding documents on which the bid is being submitted and if any tampering or changes are detected at any stage, we understand the bid will invite summary rejection and forfeiture of bid security/the contract will be liable to be terminated along with forfeiture of performance security, even if LOA has been issued.

(l) We understand that we will be considered to be participating for the bid for which we have submitted the bid security declaration form and we will be considered for award, subject to fulfilling the eligibility criteria as given in bidding document;

(m) If our bid is accepted, we opt to take payment into the bank account, nominated by us.

Or

If our bid is accepted, we opt to take payment through Letter of Credit(LC) arrangement as per GCC clause 14.7.1 and we hereby affirm having read over and agreed to the terms and conditions of the LC option. We also understand that the option of taking payment through LC arrangement, shall be final and no change shall be permitted, thereafter, during execution of contract.

[Delete whichever is not applicable. In case the bidder fails to delete one of the two options above, the option of payment into the bank account, nominated by the contractor shall prevail]

(n) We declare that the submission of this bid confirms that no agent, middleman or any intermediary has been, or will be engaged to provide any services or any other item of work related to the award and performance of this contract. We further confirm and declare that no agency commission or any payment which may be construed as an agency commission has been, or will be, paid and that the bid price does not include any such amount. We acknowledge the right of the Employer, if he finds to the contrary, to declare our bid to be noncompliant and if the contract has been awarded to declare the contract null and void

(o) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Name .....

In the capacity of .....

Signed .....

Duly authorized to sign the Bid for and on behalf of .....

Date .....

(SEAL AND SIGNATURE OF THE BIDDER)

NOTE:

The discounts and the methodology of their application, should be quoted on prices quoted in the bid so that the discounts can be evaluated by simple arithmetic calculation during financial evaluation of the bids, to arrive at the net total price of the bid. If the net total price cannot be calculated after application the methodology of the discount(s) quoted, the bid shall be considered as incomplete and will be rejected.

KRIDE

Form: PS 2

FORMAT FOR AFFIDAVIT TO BE SUBMITTED BY BIDDER ALONG WITH THE BID

*(To be executed in presence of Public Notary on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper has to be in the name of the bidder)***

I **…….** ***(Name and designation)*******…….** appointed as the attorney/authorized signatory of the bidder (including its constituents), M/s. _____ (hereinafter called the bidder) for the purpose of the Bid for the work of _____ as per the bid No._____ of K RIDE, do hereby solemnly affirm and state on behalf of the bidder including its constituents as under:

*1. That the bidder or any of its constituents has not been Blacklisted/ banned for business dealings for all Government Departments or by Ministry of Railways or by K RIDE at any time and/or no such blacklisting is in force as on the deadline for submission of bids.

*2. That none of the previous contracts of the bidder or any of its constituents had been terminated/rescinded for Contractor's failure or part terminated for its failure as a JV/ Consortium partner with forfeiture of its full Performance Security, by Rail Infrastructure Development Company (Karnataka) Ltd. during the period of last 3 years before the deadline for submission of bids.

(Add Proviso of Clause 4.4(b) (ITB) suitably, if any Contract was so terminated).

*3. The bidder or any of its constituents has not been imposed liquidated damages of 5% or more of contract value by any Government Department or by Ministry of Railways or by K RIDE due to delay in the implementation of any previous contract (either in the capacity of a single entity or as constituent of any other JV/ Consortium) within the period of last 2 years before the deadline for submission of bid [*2 years shall be reckoned from the date on which imposed L.D. has exceeded 5% of the contract price]* and there are no such accrued delay damages which has not been fully recovered before the deadline for submission of bids on account of contractor's request for deferring recovery to maintain cash flow and K RIDE has acceded to the same in the interest of the project and the work under the previous contract in question has been completed before the deadline for submission of bid, unless imposition of such delay damages has been set aside by the Competent Authority.

4. That the Bidder or any of its constituents is neither Bankrupt/Insolvent nor is in the process of winding-up nor such a case is pending before any Court on the deadline of submission of the bid.

*5. That the name of the Bidder or any of its constituents is not on the list of "Poor Performer" of any Government Department or by Ministry of Railways or by K RIDE as on the deadline for submission of bid.

6. We declare that the bidder or any of its constituents have not either changed their name or created a new business entity as covered by the definition of "Allied Firm" under para 1102 (iii) of chapter XI of Vigilance manual of Indian Railways with latest amendments and corrections (available on website of Indian Railways), consequent to having been banned business dealings for specified period which is not over or suspended business dealings or having been declared as poor performer.

7. We declare and certify that balance sheets for last three financial years including that for the latest concluded financial year are being submitted.

OR

We declare and certify that balance sheet for the latest concluded financial year has not been finalized till date and that is why we are furnishing financial data for last three financial years ignoring the latest concluded financial year.

*(# - Delete whichever is not applicable)***.

8. We declare and certify that we have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements.

9. We declare that the information and documents submitted along with the tender by us are correct and we are fully responsible for the correctness of the information and documents, submitted by us.

10. We understand that in case we cease to fulfil the requirements of qualifying and eligibility criteria at any time after opening of bids and till finalization of bids, it will be our bounden duty to inform the Employer of our changed status immediately and in case of our failure to do so, our bid shall be rejected and bid security declaration form shall be forfeited. In case such failure comes to the notice of Employer at any time after award of the contract, it will lead to termination of the contract and forfeiture of Bid or Performance Security. We shall also be liable for Banning of Business dealings upto a period of five years.

11. We understand that if the contents of the affidavit are found to be false at any stage during bid evaluation, it will lead to rejection of our bid and forfeiture of the bid security declaration form. Further, we ***[insert name of the bidder]*****_____ and all our constituents understand that we shall be liable for banning of business dealings upto a period of five years.

12. We also understand that if the contents of the affidavit are found to be false at any time after the award of the contract it will lead to termination of the contract, forfeiture of Bid or Performance Security and Banning of Business dealings of the Bidder and all its constituents for a period of upto five years.

(SEAL AND SIGNATURE OF THE BIDDER)

Verification:

Verified on _____ day of _____ at _____ that the contents of the above-mentioned affidavit are true and correct and nothing material has been concealed there from.

(SEAL AND SIGNATURE OF THE BIDDER)

**Modify the contents wherever necessary, in terms of sub-clause 4.4 ITB.*

*** The contents in Italics are only for guidance purpose and details as appropriate, are to be filled in suitably by Bidder.*

Attestation before Magistrate/Public Notary

(NOTE: This form need not be filled, this is only for information)

K RIDE

BDF/1

Bid Security

Bank Guarantee

(On non-judicial stamp paper of the appropriate value in accordance with Stamp Act. The stamp paper should be in the name of the Executing Bank).

From:

.....[***Insert Bank's Name, and Address of Issuing Branch or Office]***

To
The General Manager/Civil/Project
Rail Infrastructure Development Company (Karnataka) Limited,
"Samparka Soudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Rajajinagar 1st Block,
Bangalore - 560 010.

Beneficiary: Rail Infrastructure Development Company (Karnataka) Limited (hereinafter called "the Employer"**)**

Date: .....

Bid Security No.: .....

We have been informed that . . . . . ***[*Insert *name of the Bidder]***..... (hereinafter called "the Bidder") intends to submit to you its bid (hereinafter called "the Bid") for the execution of . . . . . [***name of contract***]. . . . . under Invitation for Bids No. . . . . .dated……. ("the IFB").

WHEREAS, the Bidder is required to furnish Bid Security for the sum of ***[Insert Value of Bid Security required]***, in the form of Bank Guarantee, according to your 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 Employer:

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 Employer full amount in the sum of ***[Insert Value of Bid Security required]*** as above stated.

2. The Bank undertakes to immediately pay on presentation of demand by the Employer any amount up to and including aforementioned full amount without any demur, reservation or recourse. Any such demand made by the Employer 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 Employer without any reference to the Bidder and without the Employer 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 Employer 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 Employer at any time.

6. This guarantee will remain valid and effective from…….[insert date of issue] till ……..[insert date, which should be minimum 42 days beyond the expiry of bid validity date in the IFB]. 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 Employer 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 Employer. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.

K RIDE

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

Date …… ……

Place……. Bank's Seal and authorized signature(s)

[Name in Block letters]……...

[Designation]…….……

[P/Attorney] No.

Witness:

1 Signature
Name & Address & Seal

2 Signature Bank's Seal
Name & address & 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.

Bidders Qualification

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

K RIDE

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

Form ELI - 1: Bidder's Information Sheet

Bidder's Information	
Bidder's legal name	
Bidder's country of constitution	
Bidder's year of constitution	
Bidder's legal address in country of constitution	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	

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The bidder shall attach copies of the following original documents with the form:

1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.
2. Authorization to represent the firm or JV/ Consortium named in above, in accordance with ITB 20.2.
3. In case of JV/ Consortium, MOU to form JV/ Consortium or JV/ Consortium agreement, in accordance with ITB 4.1.

SEAL AND SIGNATURE

Form FIN-1: Financial Situation

(Each Bidder or each member of a JV/Consortium must fill in this form separately)

NAME OF BIDDER/JV/CONSORTIUM PARTNER:

	Financial Data for Last 5 Years [Indian National Rupees]				
	Year 1:	Year 2:	Year 3:	Year 4:	Year 5:
1. Total Assets					
2. Current Assets					
3. Total Liabilities					
4. Current Liabilities					
5. Net Worth [= 1 – 3]					
6. Working Capital [= 2 - 4]					
7. Profit Before Tax (PBT)					

K RIDE

_____

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 CA/Auditor)

Name of CA/Auditor:_____

Registration No: _____

_____

(Seal)

1. The bidder shall attach copies of the following original documents with the form:

Copies of the audited balance sheets, including all related notes, and income statements for the last five years, as indicated above, complying with the following conditions.

- All such documents reflect the financial situation of the Bidder or partner to a JV/ Consortium, and not sister or parent companies.
- Historic financial statements must be audited by a certified accountant.
- Historic financial statements must be complete, including all notes to the financial statements.
- Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

2. Contents of this form should be certified by a Chartered Accountant/Auditor.

3. In the event that the audited accounts for the latest concluded Financial Year are not available, the Bidder shall furnish information pertaining to the last five financial years after ignoring the latest concluded financial year. In case, the bidder submits audited financial information for the last six or more years, only the figures for the latest five years shall be considered for evaluation.

KRIDE

Form FIN-2: Annual Turnover for the last 5 years

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

NAME OF BIDDER/JV/CONSORTIUM PARTNER:

Annual Turnover Data for the Last 5Years (Construction only)			
Year	**Amount Currency**	**Exchange Rate**	**Indian National Rupees Equivalent**
Average Annual Turnover for last 5 years			

K RIDE

1. The information supplied shall be substantiated by data in the audited balance sheets and profit and loss accounts for the relevant years and submitted as attachments to form Fin-1 in respect of the bidder or all partners constituting the bidder.

2. Contents of this form should be certified by a Chartered Accountant/Auditor.

3. In the event that the audited accounts for the latest Financial Year are not available, the Bidder shall furnish information pertaining to last three financial years after ignoring the latest financial year. In case the bidder submits audited financial information for the last four or more years, only the figures for the latest three years shall be considered for evaluation.

_____

SEAL AND SIGNATURE

Form FIN-3: Current Contract Commitments / Works in Progress

Bidders and each partner to a JV/Consortium should provide information on their current commitments on all contract that have been awarded, or which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Contract Commitments

SN	Des-crip-tion of work	Contrac t No. & date	Name & address of Employer, Tel./Fax/ Email	Value of Con-tract in INR	Stipulated Period of completio n	Value of Balanc e work	Anti-cipa-ted date of Com ple-tion
1							
2							
Total							

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Note: Enclose Certificate(s) from Engineer(s) Incharge (not below the rank of Executive Engineer) for Value of outstanding work. In case it is not feasible to furnish certificate from all the units the bidder should record the following certificate on Fin 3:

"Certified that current commitments on all the contracts that have been awarded or for which a letter of intent or acceptance has been received or for the works in progress or the works approaching completion, value of outstanding work has been indicated in the above table correctly. It is further certified that if later on the employer discovers that information provided in the table is incorrect then the employer will treat our bid invalid and it will be liable for rejection"

_____

SEAL AND SIGNATURE

Form EXP-2(a): Specific Experience

Fill up one form per contract

Contract of Similar Size and Nature			
Contract No.		**Contract Identification**	
Award Date		**Completion Date**	
Role in Contract	❑ **Contractor** ❑		❑ **Subcontractor**
Total Contract Amount	**INR**		
If partner in a JV/ Consortium or subcontractor, specify participation in total contract amount	**Percent of Total:**	**Amount: INR**	
Employer's Name, Current Address and Current Telephone/Fax Number, E-mail			
Description of the similarity in accordance with Section 3			

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The bidder shall attach a copy of the Certificate(s) issued by the employer in support of the information being furnished in each Exp (2a) form, failing which the claim of the bidder shall be liable to be rejected (in case of experience as a sub-contractor, the employer shall be the owner of the Project who has engaged the main Contractor).

SEAL AND SIGNATURE

Form EXP-2(b): Specific Experience

Contract of Similar Size and Nature			
Contract No.		**Contract Identification**	
Award Date		**Completion Date**	
Role in Contract	❑ **Contractor**		❑ **Subcontractor**
Total Contract Amount	**INR**		
If partner in a JV/ Consortium or subcontractor, specify participation in total contract amount	**Percent of Total:**	**Amount: INR**	
Employer's Name, Current Address and Current Telephone/Fax Number, E-mail			
Description, quantity & period of execution of the key activities in accordance with Section 3			

Fill up one form per contract

Copy of Certificate(s) issued by the employer in support of the information being furnished above, shall be attached with each respective Exp (2b) form, as per detailed requirements indicated in note 6 below clause 2.3.1 of Section 3 failing which the claim of the bidder shall be liable to be rejected (in case of experience as a sub-contractor, the employer shall be the owner of the Project who has engaged the main Contractor).

SEAL AND SIGNATURE

EQC FORM NO.1

Important Note for special attention of Bidders:

Clause No & Clause heading of Section 3	Details of value of work/quantity of activity and References (Folio No) of Documents through which criteria against each item is being met.
2 Qualification	
2.1.1 Conflict of Interest mentioned in ITB 4.3	
2.1.2 Share of partners	
2.1.3 Disqualification of Bidder	
2.2 Financial Status	
2.2.1 Historical Financial Performance	
2.2.2 **Average** Annual Turnover	
2.2.3 Net Worth	
2.2.4 Bid Capacity	
2.3 Experience	
2.3.1 Specific PMC/GC/QSAC/EI Experience (a) Contracts of Similar Size and Nature (I) Single Contract (II) Two Contracts (III) Three Contracts	
2.4 Personnel: Undertaking submitted	
2.5 Equipment: **Undertaking submitted**	Not applicable.
2.6 Specialist sub-contractor undertaking: submitted 1) Foundation - if applicable	Not Applicable

K RIDE

FORM NO. 2

CHECKLIST FOR CLAUSES PERTAINING TO SUMMARY REJECTION OF BID

We, the undersigned, declare that we have read and understood the content of ITB clauses mentioned below. We also understand that our bid shall be summarily rejected in case we fail to comply the requirements of undermentioned clauses:

ITB Clause No Section 1	**Reason for Summary Rejection**
4.4	Non-submission of Affidavit
4.5	Non-submission of immediate information to the Employer in case Bidder ceases to fulfill eligibility in terms of ITB 4.3 & 4.4
14.2	Quoting more than one percentage for any schedule
14.9	Non-submission of BOQ
16.4	Non-submission of the Letter of Bid (LB)
19.0	Bid not accompanied with bid security declaration form duly sealed and signed
Clause 2.1.1 of Section 3	Non-submission of CVs

K RIDE

SEAL AND SIGNATURE OF THE BIDDER

Form 3

Details of Experience of QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC)/ Services of Independent Engineer

Fill up one former contract of QSAC /Service of Independent Engineer where Consultant has rendered services.

Contract No.		Contract Name	
Award Date		Actual Completion Date	
Category of work (tick √ as applicable)	Railway work/ Highways		
Total Contract Value of Consultancy			
Total Consultancy Contract Amount received in INR (for services rendered in India) and in US$ (for services rendered outside India)			
% age of Consultancy Contract Amount received with respect to total contract value			
If partner in a JV specify participation in total Consultancy contract amount in INR (for services rendered in India) and in US$ (for services rendered outside India)	Percent share of Total:	Share Amount:	

K RIDE

Employer's Name, Current Address and Current Telephone/Fax Number, E-mail	
Detailed Narrative Description of services rendered. (Give Details of Work that defines the scope relevant to the requirement)	

The Consultant shall attach copies of Certificate of Completion/Substantial Completion issued by the Employer with the form, failing which the claim of the Consultant shall be liable to be rejected.

Firm's Name & Signature of authorized signatory (Seal)

K RIDE

Form 4A (1/5)

Qualification and Experience

Team Leader cum Engineer Earthwork, Bridges and Structure

Name: _____

Date of Birth: _____

S. No.	Qualification Parameters	Team Leader cum Engineer, Earthwork , Bridges and Structure	
		Requirements as per BID	**Details**
1.	Professional Qualification	**(a) Essential:** Graduate Degree in Civil Engineering from a recognized institution. **(b) Preferred:** B.Tech/Civil preferably M.Tech in structure (If the proposed personnel is not having essential qualifications (duly considering notes below the form), then the personnel shall be disqualified and his CV shall be assigned Zero marks).	
2.	Length of Experience	**(a)Total Professional Experience:** More than 10 years. **(b) Experience in Railway/ Transport / Infrastructure Project**: (i)more than 07 years **(c) Experience in Similar position** (i) more than 5 years. (If the proposed personnel is not having the minimum stipulated relevant experience, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	
3.	Does the personnel have any history of involvement in vigilance/CBI/ SPE/Police	No (If the answer is Yes, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	

K RIDE

	case resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction		
4.	In case any mis-representation is detected by the Bid Evaluation Committee during the examination of CV of the personnel, clarification may be obtained from the personnel through the Consultant. On receiving the clarification if any, submitted by the Consultant during the specified period, the same shall be examined by BEC. In case BEC is of the opinion that the personnel has willfully misrepresented the facts, the CV of the personnel shall be assigned zero mark. In such cases, K RIDE would be at liberty to take any appropriate action against the personnel including debarment for up to Three Years for deployment in K RIDE projects.		

Note :

1. The proposed person should not be older than 65 years as on deadline for submission of proposals.

K RIDE

Form 4A (2/5)

Qualification and Experience .

Engineer Rail Track / Civil

Name_____

Date of Birth:_____

S. N.	Qualification Parameters	Engineer Rail Track / Civil	
		Requirements as per BID	**Details**
1.	Professional Qualification	**(a) Essential:** Graduate Degree in Civil Engineering from a recognized institution. **(b) Preferred:** B.Tech/Civil (If the proposed personnel is not having essential qualifications (duly considering notes below the form), then the personnel shall be disqualified and his CV shall be assigned Zero marks).	
2.	Length of Experience	**(a)Total Professional Experience:** More than 10 years. **(b) Experience in Railway/ Transport / Infrastructure Project**: (i)more than 07 years **(c) Experience in Similar position** (i) more than 5 years. (If the proposed personnel is not having the minimum stipulated relevant experience, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	

3.	Does the personnel have any history of involvement in vigilance/CBI/SPE/Police case resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction	No (If the answer is Yes, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	
4.	In case any mis-representation is detected by the Bid Evaluation Committee during the examination of CV of the personnel, clarification may be obtained from the personnel through the Consultant. On receiving the clarification if any, submitted by the Consultant during the specified period, the same shall be examined by BEC. In case BEC is of the opinion that the personnel has willfully misrepresented the facts, the CV of the personnel shall be assigned zero mark. In such cases, K RIDE would be at liberty to take any appropriate action against the personnel including debarment for up to Three Years for deployment in K RIDE projects.		

Note:

1. The proposed person should not be older than 65 years as on deadline for submission of proposals.

K RIDE

Form 4A (3/5)

Key Personnel Qualification and Experience

Engineer OHE & Electrical works

Name_____

Date of Birth:_____

SN	Qualification Parameters	Engineer OHE & Electrical works	
		Requirements as per BID	**Details**
1.	Professional Qualification	**(a) Essential:** Graduate Degree in Electrical Engineering from a recognized institution. **(b) Preferred:** B.Tech/Electrical (If the proposed personnel is not having essential qualifications (duly considering notes below the form), then the personnel shall be disqualified and his CV shall be assigned Zero marks).	
2.	Length of Experience	**(a)Total Professional Experience:** More than 10 years. **(b) Experience in Railway/ Transport / Infrastructure Project**: (i)more than 07 years **(c) Experience in Similar position** (i) more than 5 years. (If the proposed personnel is not having the minimum stipulated relevant experience, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	
3.	Does the personnel have any history of involvement in vigilance/CBI/SPE/Police	No (If the answer is Yes, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	

	case resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction		
4.	In case any mis-representation is detected by the Bid Evaluation Committee during the examination of CV of the personnel, clarification may be obtained from the personnel through the Consultant. On receiving the clarification if any, submitted by the Consultant during the specified period, the same shall be examined by BEC. In case BEC is of the opinion that the personnel has willfully misrepresented the facts, the CV of the personnel shall be assigned zero mark. In such cases, K RIDE would be at liberty to take any appropriate action against the personnel including debarment for up to Three Years for deployment in K RIDE projects.		

Note:

1. The proposed person should not be older than 65 years as on deadline for submission of proposals.

K RIDE

Form 4A (4/5)

Key Personnel Qualification and Experience

Engineer Railway Signalling & Telecommunication

Name: _____

Date of Birth:_____

S. N.	Qualification Parameters	Engineer Railway S&T	
		Requirements as per BID	**Details**
1.	Professional Qualification	**(a) Essential:** Graduate Degree in Electronics Engineering from a recognized institution. **(b) Preferred:** B.Tech/Electronics (If the proposed personnel is not having essential qualifications (duly considering notes below the form), then the personnel shall be disqualified and his CV shall be assigned Zero marks).	
2.	Length of Experience	**(a)Total Professional Experience:** More than 10 years. **(b) Experience in Railway/ Transport / Infrastructure Project**: (i)more than 07 years **(c) Experience in Similar position** (i) more than 5 years. (If the proposed personnel is not having the minimum stipulated relevant experience, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	

K RIDE

3.	Does the personnel have any history of involvement in vigilance/CBI/SPE/Police case resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction	No (If the answer is Yes, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	
4.	In case any mis-representation is detected by the Bid Evaluation Committee during the examination of CV of the personnel, clarification may be obtained from the personnel through the Consultant. On receiving the clarification if any, submitted by the Consultant during the specified period, the same shall be examined by BEC. In case BEC is of the opinion that the personnel has willfully misrepresented the facts, the CV of the personnel shall be assigned zero mark. In such cases, K RIDE would be at liberty to take any appropriate action against the personnel including debarment for up to Three Years for deployment in K RIDE projects.		

Note:-

1. The proposed person should not be older than 65 years as on deadline for submission of proposals.

K RIDE

Form 4A (5/5)

Key Personnel Qualification and Experience

Safety Expert

Name: _____

Date of Birth:_____

S. N.	Qualification Parameters	Safety Expert	
		Requirements as per BID	**Details**
1.	Professional Qualification	**(a) Essential:** Graduate Degree in Civil Engineering from a recognized institution. **(b) Preferred:** B.Tech in any discipline & specialization in the field of SHE (If the proposed personnel is not having essential qualifications (duly considering notes below the form), then the personnel shall be disqualified and his CV shall be assigned Zero marks).	
2.	Length of Experience	**(a)Total Professional Experience:** More than 10 years. **(b) Experience in Railway/ Transport / Infrastructure Project**: (i)more than 07 years **(c) Experience in Similar position** (i) more than 5 years. (If the proposed personnel is not having the minimum stipulated relevant experience, then the personnel shall be disqualified and his CV shall be	

K RIDE

		assigned Zero marks)	
3.	Does the personnel have any history of involvement in vigilance/CBI/SPE/Police case resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction	No (If the answer is Yes, then the personnel shall be disqualified and his CV shall be assigned Zero marks)	
4.	In case any mis-representation is detected by the Bid Evaluation Committee during the examination of CV of the personnel, clarification may be obtained from the personnel through the Consultant. On receiving the clarification if any, submitted by the Consultant during the specified period, the same shall be examined by BEC. In case BEC is of the opinion that the personnel has willfully misrepresented the facts, the CV of the personnel shall be assigned zero mark. In such cases, K RIDE would be at liberty to take any appropriate action against the personnel including debarment for up to Three Years for deployment in K RIDE projects.		

Note:-

1. The proposed person should not be older than 70 years as on deadline for submission of proposals.

K RIDE

FORM 4B

Name of Project : "**QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC)** for .....

SUMMARY OF INFORMATION OF PROPOSED PERSONNEL:

S. N	Family Name, First Name	Proposed position for the project	Nationality	Name of the Firm	Length of service with the Firm	Education/ Degree (Year/ Institution)	No. of years of relevant project experience	Total Experience since Completion of Education in no. of years	CV Signature (by Personnel and by authorised Signatory of consultant)

K RIDE

Signature of Consultant(Authorized signatory)

Seal
Full Name……
Title……
Address ……...

FORM 4C (1/3)

Name of Project: "**QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for .....**

CURRICULUM VITAE (CV) FORMAT TO BE SUBMITTED WITH PROPOSAL FOR THE PROJECT MANAGER(S) AND RESIDENT ENGINEER(S). FOR OTHER PERSONNEL TO BE SUBMITTED LATER AS PER BID.

1.	PROPOSED POSITION	:
2.	NAME	:
3.	DATE OF BIRTH	:
4.	NATIONALITY	:
5.	PERSONAL ADDRESS	:
	TELEPHONE NO.	:
	MOBILE NO.	:
	FAX NO.	
	E-MAIL ADDRESS	:
6.	EDUCATION *(The years in which various Qualifications were obtained must be stated)*	:
7.	OTHER TRAINING	:
8.	LANGUAGE & DEGREE OF PROFICIENCY	:
9.	MEMBERSHIP IN PROFESSIONAL SOCIETIES	:
10.	COUNTRIES OF WORK EXPERIENCE	:
11.	EMPLOYMENT RECORD	: Starting with present position, list in reverse order every employment held and state the start and end dates of each employment)

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FORM 4C (Contd……2/3)

From	To	Name of Employer	Name of the Project, Specific section of Project, location & length	Position Held	Mention whether worked as In-charge or one level below the In-charge of the Project/ section of the project or any other capacity	Description of Duties discharged including Works Undertaken	Any other relevant facts

Notes:

1. Under column 'Position held', mention the designation held i.e. Team Leader, Sr. Engineer etc. and clearly state if you were an employee of any Firm along with your designation or have worked as a consultant or an adviser.
2. In case person has held more than one position in the same project, separate entry for each such position should be made in the above table.
3. Under the column 'Description of Duties discharged including Works Undertaken', clearly mention the type of work undertaken/supervised such as steel/PSC bridge construction, signalling work, OHE construction or maintenance work etc as applicable.
4. In case, only month & year are mentioned instead of exact dates for any employment in 'From' and 'To' columns above, then for calculation purposes, total period for that employment will include intervening months plus one month for that employment.

12. CERTIFICATION (Please follow exactly the following format. Omission will be seen as noncompliance)

(i) I, the undersigned Certify that, to the best of my knowledge and belief, this bio-data correctly describes my qualifications, my experience and myself. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged. In case K RIDE at any stage detects that misstatement have been made by me, it would be at liberty to take any appropriate action against me including debarment for up to Three Years.

(ii) I have not been removed by Competent Authority of K RIDE from any of the K RIDE works without completing my assignment and shall be available to work with the consultants. In case I leave the assignment without approval of K

RIDE or I am removed by K RIDE on account of some default, K RIDE would be at liberty to take any appropriate action against me including debarment for up to Three Years.

FORM 4C (Contd……3/3)

(iii) I hereby undertake that I will not leave K RIDE assignment without giving a minimum notice of 30 days and handing over of all records. I understand that in case I do so then K RIDE would be at liberty to take any appropriate action against me including debarment for up to Three Years.

(iv) I am willing to undertake the assignment and ensure my availability for the duration of the assignment.

(a) I have no history of involvement in Vigilance/CBI/Police Case, resulting in major penalty punishment of removal/dismissal/compulsory retirement or conviction.

(b) I have never been debarred from Project Management Consultancy by K RIDE.

Or

(c) I was debarred from Project Management Consultancy by K RIDE for .... years from ../../.. to ../../.. and period of debarment is now over.

Note: Score out Item which is not applicable to you in (b) or (c) above. Fill up blanks with requisite details in case (c) is applicable.

SIGNATURE OF PROPOSED PERSONNEL

……..

DATE OF SIGNING:……..Day……Month ……Year……..

Certified that information stated above has been verified by me."

FORM 5

APPROACH & METHODOLOGY PROPOSED FOR PERFORMING THE ASSIGNMENT

Name of Project: "QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC)" for.....

The approach and methodology will be detailed precisely under the following topics:

1. Understanding of the assignment
2. Work Breakdown structure.
3. Composition of the Team
4. Designated Experts and responsibilities- Link item 3
5. Duties and responsibilities of Team Leader and other key personnel.
6. Organizational set up and methodology for supervision and monitoring of the work of contractor
7. QA System
8. Documentation and procedures to be prepared, adopted and furnished to Rail Infrastructure Development Company (Karnataka) Limited.
9. Reporting Procedure

****

Notes:

(i) The approach and methodology should be precise and relevant to the assignment and should not exceed five pages excluding Bar charts if any.

The approach and methodology should be submitted by the successful Consultant within 28 days of the notification of award.

FORM 6

FORMAT FOR UNDERTAKING TO BE SUBMITTED BY PARENT/HOLDING COMPANY OF THE CONSULTANT *(To be submitted in case the Consultant is utilizing credentials of Parent/Holding Company)*

*((To be executed on the letter head of the parent/holding company)***

I …….. *(Name and designation)*** …… appointed as the attorney/authorized signatory# of …… *(Name of Parent/Holding Company)*** being Parent/Holding Company (hereinafter called the Parent Company) of the Consultant, M/s. _____ (hereinafter called the consultant) for the purpose of the Proposal for the Project Management Consultancy of _____ as per the BID document No._____ of K RIDE, do hereby solemnly affirm and state on behalf of the Parent Company that we will be providing the financial and technical back up to the Consultant for the satisfactory completion of the Consultancy mentioned above and in case of failure of the Consultant, we will be wholly responsible for the services proposed to be rendered by the Consultant.

SIGNATURE OF THE AUTHORISED SIGNATORY

SEAL OF THE PARENT COMPANY

K RIDE

*** The contents in Italics are only for guidance purpose and details as appropriate, are to be filled in suitably.*

 # The documentary proof for authorizing the signatory on behalf of the parent company in the form of Resolution of the company, power of attorney etc as applicable.

Form 7: C 1

FORMAT FOR CERTIFICATE TO BE SUBMITTED BY BIDDER ALONGWITH THE BID

(On the letter head of the Firm)

We/I,_____, having registered office at _____ do hereby certify that "I "I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered. (Where applicable, evidence of valid registration by the competent Authority shall be attached.)"

Dated this _____ day of _____, 2020

For- _____
Authorized Signatory Signature _____
Full Name: _____
Place: _____

K RIDE

(SEAL AND SIGNATURE OF THE BIDDER)

Form 7: C 2

FORMAT FOR CERTIFICATE TO BE SUBMITTED BY BIDDER ALONGWITH THE BID FOR SUB CONTRACTING

(On the letter head of the Firm)

We/I,_____, having registered office at _____ do hereby certify that ""I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder is not from such a country or, if from such a country, has been registered with the competent Authority and will not sub-contractor any work to a contractor from such countries unless such contractor is registered with the competent Authority. I hereby certify that his bidder fulfils all requirements in this regard and is eligible to be considered. (Where applicable, evidence of valid registration the Competent Authority shall be attached.)"

Dated this _____ day of _____, 2020

For- _____
Authorized Signatory Signature _____
Full Name: _____
Place: _____

K RIDE

(SEAL AND SIGNATURE OF THE BIDDER)

Form 8

Bid Security Declaration Form

Tender No. _____ Date:_____

To,
The General Manager, Civil,
Rail Infrastructure Development Company (Karnataka) Limited,
#8, 1st Floor, Samparka Soudha, Dr.Rajkumar Road,
Opposite Orion Mall Rajajinagar 1st Block, Bengaluru-560052

I/We, (Name of bidder) am/are aware that I/We have been exempted from submission of Bid Security/Earnest Money Deposit in lieu of this Bid Security Declaration. According to your conditions, bid must be supported by a Bid Security Declaration.

I/We accept that I/We may be disqualified from bidding for any contract of works/service with K RIDE/Government of India and its PSUs/ Government of Karnataka and its PSUs for **a period of one year** from the date of notification if I am /We are in a breach of any obligation under the bid conditions, because I/We

a) have withdrawn/modified/amended, impaired or derogated from the tender, Bid during the period of bid validity specified in the form of Bid; or

b) if awarded the tender and on being called upon to submit the Performance Guarantee/Performance Security fail to submit the same within the stipulated time period mentioned in tender documents or on being called upon to sign the contract agreement fail to sign the same within stipulated period mentioned in tender documents, in accordance with the Instructions to Bidders.

I/We understand this Bid Security Declaration shall cease to be valid if I am/we are not the successful Bidder, upon the earlier of (i) the receipt of your notification of the name of the successful Bidder; or (ii) thirty days after the expiration of the validity of my/our Bid.

(Signature)

(Name of Signatory)…….

(Capacity of Signatory)……

Seal

Duly authorized to sign the bid for an on behalf of (insert complete name of Bidder)

Dated on _____ day of _____ (insert date of signing)

Corporate Seal (where appropriate)
(Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid).

--00--00--00--

PART II	Work's Requirements

Section 5	Works/Employer's Requirements

Section 5	**Works / Employers Requirements**

This Section contains the scope of work, specifications, the safety precautions and supplementary information that describe the work to be executed.

I N D E X

Sl No	Description	Pages
1	Introduction & Background	98-99
2	Project Details	99-101
3	Objective of Consulting Services	101-102
4	Scope of Services	102-103
5	Detailed Terms of Reference (ToR)	103-108
6	Consultant's Team	109-110
7	Key deliverables	111

TERMS OF REFERENCE
QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) SERVICES
FOR
Yeshvantpur -Channasandra and Baiyyappanahalli – Hosur Doubling Projects

Introduction & Background

K RIDE (RAIL INFRASTRUCTURE DEVELOPMENT COMPANY (KARNATAKA) LIMITED), having its Corporate office at #8, 1st Floor, Samparka Soudha, Dr.Rajkumar Road, Opposite Orion Mall, Rajajinagar 1st Block, Bengaluru – 560010 , India is a **Joint Venture of Govt. of Karnataka & Ministry of Railways,** set up as a wholly owned Government Company under the provisions of Section 2(45) of Companies Act 2013 invites most competitive offer for **QUALITY AND SAFETY AUDIT CONSULTING (QSAC) SERVICES** for the work of Baiyyappanahalli - Hosur and Yeshwanthpur – Channasandra Doubling Projects located in Bangalore Division of South Western Railway for all components of work – Civil, Electrical, OHE, S&T, P Way, Miscellaneous works, N.I. Woks, etc. including commencement of the section. The period for completion of the project is 3 years plus 6 months Defect Liability period for the work.

1.0 The K-RIDE doubling Project Yeshvantpur - Channasandra and Baiyyappanahalli - Hosur broadly includes the following discrete elements under different contract packages:

A. Civil, Structure and Track Works Contract

i) Earth work in formation/cutting, Minor Bridges for 25 tonne axle load;
ii) Major Bridges for 25 tonne axle load;
iii) Associated bridges and road crossings (RUB);
iv) Track work for 25 tonne Axle load;
v) Associated service buildings and structures, such as maintenance facilities; stations
and equipment structures for rail systems and Staff quarters etc.

B. Signal and Telecommunication works Contract

i) Signalling (Automatic, Electronic Interlocking);
ii) Telecommunications;
iii) Associated service buildings and structures, such as maintenance facilities; stations and equipment structures for Signal and Telecommunication systems.

C Electrical works Contract

i) Traction Power (25 KVA)
ii) Power supply
iii) Overhead Catenary System;

2.0 Project Details.

2.1 Project 1 : Baiyyappanahalli- Hosur section : Doubling of track:

Extent : Km 205/300 to Km. 158/700

1. All Civil works including bridges, earthwork, track, yards etc., General Electrical, Telecom work.

2. All Signaling, OHE works

3. All other miscellaneous works.

All works related to commissioning of the Project.

The salient features of the above Project are as under: -

Route length	**48 Km**
Ruling gradient	1 in 100 (Compensated)
No. of curves	18
Sharpest degree of Curvature	5.95 degree
Standard of Construction	25 T of 2008
Major Bridges	07
Minor Bridges	124
No. of stations	7
Level crossings	14 nos. (Manned ;)
Residential Quarters	Type – I = 0 Nos Type – II = 15 Nos Type – III = 15 Nos
Formation	
Minimum top width for Embankment	6.85m, 7.15m (on curves) with 2 (H) : 1(V) side slopes.
Minimum formation width in cutting	6.25m, 6.55m (on curves) excluding side drain
Slope of cutting	H : V (i) Hard rock ¼ : 1 (ii) Soft rock ¼ : 1 (iii) Moorum 1 : 1 /Hard soil/Ordinary soil

Permanent Way	60 Kg, 90 UTS Rails, 60 Kg PSC Wide based sleepers.
Sleeper Density	1660 Nos of Sleeper per Km on Main Line & 1540 Nos. of Sleepers per Km on Loop line
Ballast Cushion	Main Line = 350 mm Loop Line = 250 mm
Signaling	Std III MACLS, OFC communication 6 quad underground train control block proving, level crossing gates interlocked and data loggers.
OHE	25 KV

2.2 Project - 2 : Yeshvanthpur- Channasandra Doubling

Extent : Km 205/300 to 224/700.

1. All Civil works including bridges, earthwork, track, yards etc., General Electrical, Telecom work.

2. All Signaling, OHE works

3. All other miscellaneous works.

4. All works related to commissioning have to be supervised through this contract .

The salient features of the above work are as under: -

Route length	**21.7 Km**
Ruling gradient	1 in 100 (Compensated)
No. of curves	18
Sharpest degree of Curvature	7.5 degree
Standard of Construction	25 T of 2008
Major Bridges	02
Minor Bridges	60
No. of stations	4
Level crossings	10 nos. (Manned ;)
Residential Quarters	Type – II = 04 Nos Type – III = 02 Nos Type – IV = 02 Nos Type – V = 02 Nos
Formation	
Minimum top width for Embankment	6.85m, 7.15m (on curves) with 2 (H) : 1(V) side slopes.

Minimum formation width in cutting	6.25m, 6.55m (on curves) excluding side drain
Slope of cutting	H : V (ii) Hard rock ¼ : 1 (ii) Soft rock ¼ : 1 (iii) Moorum 1 : 1 /Hard soil/Ordinary soil
Permanent Way	60 Kg/ 90 UTS Rails, 60 Kg PSC Wide based sleepers.
Sleeper Density	1660 Nos of Sleeper per Km on Main Line & 1540 Nos. of Sleepers per Km on Loop line
Ballast Cushion	Main Line = 350 mm Loop Line = 250 mm
Signaling	Std III MACLS, OFC communication 6 quad underground train control block proving, level crossing gates interlocked and data loggers.
OHE	25 V

2.3 Project management arrangements:

K-RIDE will have Project Management Consultant (PMC) to work as "Engineer" for the supervision of the works. In addition, GM/Civil/Project/K-RIDE supported by their staff will be Employer's representative.

The Project Management Consultancy services includes without limitation review of design prepared by the contractor including drawing and specifications, superintendence of the contractors performance under the contract, progress monitoring, technical and quality control, evaluation of construction, certification for completion of works by the various contractors and duties related to taking over and during defects liability period.

3.0 Objective of the Consultancy Services –

(i) The objective of this consultancy contract is to engage a Quality and Safety Audit Consultant (QSAC) to achieve independent auditing and reporting of the quality of the works and installations constructed under the project and implementation of the safety arrangements/Plans during construction.

(ii) QSAC shall satisfy itself, on the basis of evidence gathered, that all Testing, System Integration and Commissioning work are carried out as per

Employer's Requirements. All major issues identified during the above process have been resolved and the Railway is suitable for revenue service.

(iii) QSAC is expected to be an effective interface between the field level Project Team and the top management. The consultant will help in bringing out constraints and inefficacy of the system in achieving the expected outcomes and contract implementation. Besides monitoring the schedule, quality and safety of construction, it will warn the Management of possible pitfalls and also with possible solutions. It will flag such issues if the solutions are beyond the capacity of the consultant.

4.0 Scope of Services : –

(i) The consultant shall carry out third party independent auditing of the project for quality and safety and will oversight, monitor compliance, review and report regularly on the technical quality of work carried out, schedule implementation and implementation of safety requirements.

(ii) The QSAC would provide third party independent review and monitor compliances, to reasonably ensure that quality and safety standards and guidelines as stated in various contract agreements are being followed and resources are available as required to achieve implementation schedule.

(iii) The scope of services would include witness/ examination of the quality of works, material incorporated in the permanent work, conformance with quality norms, and conformance with performance criteria as described in the Specifications of Contracts, conformance of all safety requirements and resource availability as per the implementation schedule.

(iv) The QSCA will review the quality control documentation for goods purchased and works constructed on a sampling basis sufficient to achieve a reasonable confidence in the adequacy and quality of such documentation and controls.

(iv) The QSAC will review the quality control documentation for goods purchased and works constructed on a sampling basis sufficient to achieve a

reasonable confidence in the adequacy and quality of such documentation and controls.

(v) The QSAC will witness randomly some of the tests that are conducted by the contractors and technical supervisors (Engineer) of the project.

(vi) In exceptional circumstances, the consultant may recommend to the Client additional tests.

(vii) The QSAC will audit the safety arrangements during construction and review implementation schedule and randomly check the resource mobilization to match with the implementation schedule.

(viii) The QSAC. will also witness commissioning and acceptance tests along with the representatives of the Engineer, QSAC shall satisfy itself that based on the evidences gathered that all the testing, system integration and commissioning work

a) had been successfully completed

b) all major issues identified during the testing and commissioning process had been resolved or means were in place to mitigate the risk

c) The railway was properly prepared for commencement of revenue service

d) Track and system infrastructure will be able to provide required service life and performance as provided in contract.

(x) All requests for inspections and tests, from the contractor to the Engineer would be copied to the QSAC, to afford the QSAC the opportunity to witness the tests conducted by the contractor/Engineer. A complete record of such tests witnessed shall be maintained by the QSAC.

(NOTE : The QSAC consultant will have no role in contract management of the works contracts, PMC contract or any other contract awarded by the K-RIDE. The consultant shall have no role in approval of payments to the contractors.)

5.0 Detailed Terms of Reference (ToR):

5.1 To achieve above, the Consultant will carry out the following tasks but not limited to :

(a) Review of Works under Execution:

i) Provide a simplified and quantified description of the infrastructure that was monitored for technical quality.

ii) Assess the quality of the works, the conformance with the work plan and Project objectives, and whether the Contract terms are respected by parties. The works quality should be determined through visual examination, review of test results/quality control documentation and witnessing of important tests including those for acceptance/pre-commissioning of systems. Test for ensuring overall quality of the structures, equipments and system are referred as important tests.

iii) Verify record keeping related to engineering quality by Engineer and Contractors, for example: work site notebooks, work site reports, work orders, as well as minutes of preliminary and final works acceptance, etc.

iv) Verify that necessary expertise have been sought by the Engineer and/or Contractor and utilized in good time to carry out quality control and resolve technical problems or issues.

v) Verify that progress of works execution in relation to the Contract schedule is being maintained. Verify whether resource mobilization is as per the schedule. Raise concern where the slippage is significant, identify their causes, and offer suggestions to catch up with agreed time schedules.

vi) Verify that required safety procedures and arrangements are being followed at work site and workers are having/being provided with the required safety related trainings and gadgets. Regarding safety, special emphasis is to be given for construction parallel to existing Indian Railway track and work requiring modification in Indian Railway yard, bridges, Rail flyovers, level crossings etc. which may affect train movement in Indian Railway system.

(b) Review of Goods and Materials Procurement:

Verify by random sampling check that the goods and materials required for the project were procured in conformance with the technical specification and requirements specified in the Contracts. Verify the quality control documentation where applicable.

(c) Review of Testing and Commissioning

Verify, based on the evidences gathered that all the testing, system integration and commissioning work

(i) had been successfully completed

(ii) all major issues identified during the testing and commissioning process had been resolved or means were in place to mitigate the risk

(iii) The Railway was properly prepared for commencement of revenue Service. The consultant will not only observe the existence or non-existence of a problem, but also will make recommendations to the client, which will permit improvement in procedures and achieve its desired performance.

(d) Duration of Consultancy Services:

The QSAC would be required to perform its assigned functions for a period of about **thirty months** from the issue of Letter of Acceptance and continue till the commissioning of the project including track and other systems electrification, Signaling and communications.

(e) Reporting Arrangements:

The QSAC will be directly reporting to the **Director/PP or officer nominated by Director/PP/K-RIDE**.

(f) **Staffing requirements:**

QSAC will maintain an adequate full time staffed field presence throughout the duration of the consultancy contract. The field-based team will be headed by a Team leader supported by other staff as per the requirements. The composition team will be decided depending upon nature of work in progress at site.

(g) Client's Input:

The Client will make available to the Consultant all necessary documents and will assist the Consultant in making appropriate appointments with all relevant government offices, institutions, Contractors or service providers concerned with the technical audit.

(h) Reports and Timeline:

QSAC would produce brief progress reports every month which would be submitted to the client. The Consultant will submit its reports in English in electronic format and three hard copies as described below.

(i) Reports and Feedbacks Submission:

Every month, a Preliminary Report will be submitted by 5th day of each month. The same should also be presented in the form of power point presentation with adequate photographs. Prior to submission, the principle conclusions of these reports will be presented to the Client

The comments of the Client will be transmitted to the Consultant no later than 5 days after the date of submission of the Preliminary Report.

The Consultant will transmit the Final Report to the client within 5 days after receiving the comments.

(j) Reports Content:

The Reports should include, but not be limited to:

i) Summary of principal results/findings of the technical review in respect of quality and compliance with technical and operational requirements stated in contract.

ii) Principal weaknesses and improvements observed during the month, their root cause and the proposed measures to rectify weaknesses. A plan of action for remedial measures.

iii) Any exogenous factors that impinge whatsoever on the implementation of the project

iv) A report certifying that all testing, system integration and commissioning work had been carried out satisfactorily and that the railway was properly prepared for commencement of revenue service.

v) Any other issue judged pertinent by the consultant.

vi) In case the consultant observe something which require urgent action on the part of K-RIDE or others, it should be brought to the notice of K-RIDE immediately without waiting for the Preliminary report submission. However such event should be brought out in the report.

5.2 List of indicative items to be reviewed by Quality and Safety Audit Consultant

Engineering	Electrical	Signal & Telecommunication
Tests for Blanketing material, Earth fill for formation	Check for Foundation for OHE Mast & Portals	Quality of design and documentation for signal & telecom.
Tests for Earthwork, Sub-grade & Blanketing should include 'In situ Field Density Checks'.	Type & quality of Mast and Portals including cantilever etc.,	Quality of Signaling equipment supplied viz. EI, MSDAC, Signals, Locs, T&P etc.,
Quality of Cement, Course aggregate, Fine aggregate & Reinforcement .	Quality of insulator	Quality of Signaling material supplied viz., cables, pipes, racks, wiring material, fuse/ terminals etc.,
Concrete Mix design and quality of concrete	Quality & Location of PITE Neutral section	Quality of supply of Telecom equipment viz., SDH, PDH, GSM-R, VHF, Clocks
Quality of Rails, Sleepers Fastenings	Quality of contract, catenary and feeder wire etc.,	Quality of supply of Telecom material viz. OFC/quad cables, jointing/splicing material.
Quality of Ballast and requisite tests	Checking of all type of Bonding & Earthing System	Quality of supply of Pre-fabricated structures.
Test on In Situ welding (AT or equivalent) including material test	Protection system and traction installation	Foundation of GSM-R towers, signals, locs, Pre-fabs etc.,
SEJ and Glued Joints	Quality of Transformer & Auto transformer	Cable laying – Signalling and Telecom
Quality of Points & Crossings	Quality of Power supply equipment	Cable Meggering, OFC link loss tests
Curve & Track Alignment	Fixing of OHE mast on Bridges	Quality and safety in Installation of Signalling equipment
Gradients	Quality of earth resistance at switching posts and other locations	Quality of installation of Telecom equipment.

Test on Bridges, RUB's	Quality of contact wire Profile under over line structures.	OFC splicing
Provision of all reference boards, safety boards on Curves, High Banks, Cuttings, Gradients, Bridges, LCs, LWRs & Points & Crossings etc.,	Check for Lightning Protection System at SWS/TSS	Quality of Earthing and surge protection system
Safety arrangements on Level Crossings, Bridges, High Banks, Cuttings etc.,	Quality for construction of OHE works	Cable Table test.
Safety while construction of Bridges, RUB's	Quality for construction of Traction Supply arrangements	Su system installation tests
Safety arrangements in Yards and in entire length of Track where necessary	Quality for Testing and commissioning of electrification works	System acceptance test
Depot and Field Welding of rails by Flash Butt Welding Plants.	Quality of General Supply works (E&M)	Audit of design documents, installation method statements, as built documents.
Storage of Cements (if applicable), Rails and Sleepers in Depot.	Safety during execution of all electrical works	Safety during execution of all signalling and telecommunication works
Adherence to all Design specifications approved by employer	Check for Foundation for OHE Mast & Portals	
Check on Execution & documentation	Type & quality of Mast and Portals including cantilever etc.,	
Quality of all building construction.	Quality of insulator	
Other track laying standard		
Quality of bearings		
Safety during execution of other Civil engineering works.		

6.0 Consultant's Team :

The Team would consist of a Team Leader and Expert/ Engineer headed by Team Leader. The team will be mobilized at field level.

6.1 Professional Skills and minimum qualification :

Sl. No	Position	Academic Qualification	General Work Experience	Experience In Railway/ Transport/ Infrastructure Project	Experience in Similar Position
1	Team Leader cum Engineer Earthwork, Bridges and Structure	B.Tech/Civil preferably M Tech/ MBA	At least 15 years	More than 10 years	More than 5 years
2	Engineer Rail Track	B.Tech/ Civil	More than 10 years	More than 7 years	More than 5 years
3	Engineer OHE & Electrical works	B.Tech/ Electrical	More than 10 years	More than 07 years	More than 5 years
4	Engineer Railway Signalling & Telecommu nication	B.Tech/ Electronics	More than 10 years	More than 07 years	More than 5 years
5	Safety Expert	B.Tech in any discipline & specialization in the field of SHE	More than 10 years	More than 07 years	More than 5 years

6.1.1 : The qualification of personnel required are indicated in various Forms in Section 2 of respective positions.

6.2 Working hours:

QSAC team will work from Project site office and will normally follow working hours being followed by PMC/ Other Contractors i.e. (eight) **8** hours shift in a day and total (forty eight) 48 hours in a week. This team will be permanent and experts/Engineers will be deployed depending upon the nature of work in progress at site to review quality and safety.

6.3 Total man month :

Position	**No of Experts/ Engineers**	**Total Man month**
Team Leader cum Engineer Earthwork, Bridges and Structures	1	30
Engineer Rail Track	1	24
Engineer OHE & Electrical works	1	24
Engineer Railway Signalling & Telecommunication	1	24
Safety expert	1	30
Total man months for Team		**132**

6.4 Facilities for the QSAC Personnel :

(a) The Office accommodation & Computer/Printers for the work of QSAC personal will be provided by the Construction contractors.

(b) The QSAC Consultant shall provide mobile phones for communications, safety equipment like safety shoes, jacket, helmets etc to all its personnel at its own cost. In case of failure of the Consultant to do so, the Employer may purchase and provide the same and recover double the cost incurred from the bills of Consultant.

7.0 Key deliverables for QSAC service :

(a) Inception report
(b) Monthly report for quality and safety along with presentation.
(c) Final report.

PART III	Conditions of Contract and Contract Forms

Section 6	General Conditions of Contract (GCC)

Section 6	General Conditions of Contract (GCC)

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General Conditions

1.	General Provisions

1.1 Definitions

In the Conditions of Contract ("these Conditions"), which include Special Conditions of Contract, Parts A and B, and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

1.1.1 The Contract

1.1.1.1 "**Contract**" means the Contract Agreement, the Letter of Acceptance, the Letter of Bid, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

1.1.1.2 "**Contract Agreement"** means the contract agreement (*if any*) **referred** to in Sub-Clause 1.6 [Contract Agreement].

1.1.1.3 **"Letter of Acceptance**" means the letter of formal acceptance, signed by the Employer, of the Letter of Bid, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such letter of acceptance, the expression "Letter of Acceptance" means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.

1.1.1.4 **"Letter of Bid"** means the document entitled letter of bid, which was completed by the Contractor and includes the signed offer to the Employer for the Works.

1.1.1.5 **"Specification**" means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

1.1.1.6 **"Drawings"** means the drawings of the Works, as included in the **Contract**, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.

1.1.1.7 **"Schedules"** means the document(s) entitled schedules, completed by the Contractor and submitted with the Letter of Bid, as included in the Contract. Such document may include the Bill of Quantities, data, lists, and schedules of rates and/or prices.

1.1.1.8 **"Bid/Tender"** means the Letter of Technical Bid **and** Letter of Price Bid and all other documents which the Contractor submitted with the Letter of Technical Bid and Letter of Price Bid , as included in the Contract.

1.1.1.9 **"Bill of Quantities"** and **"Daywork Schedule**" and "Schedule of Payment Currencies" mean the documents so named (if any) which are comprised in the Schedules.

1.1.1.10 **"Contract Data"** means the pages completed by the Employer entitled contract data which constitute Part A of the Special Conditions of Contract.

1.1.1.11 **"Employer's Requirements"** means the document entitled 'Employer's Requirements' as part of Works Requirements and as included in the Contract, and any additions and modifications to such document in accordance with the Contract. Such document specifies the purpose, scope, and/or design and/or other technical criteria, for the works.

1.1.2 Parties and Persons

1.1.2.1 **"Party"** means the Employer or the Contractor, as the context requires.

1.1.2.2 **"Employer"** means the person named as employer in the Contract Data and the legal successors in title to this person.

1.1.2.3 **"Contractor"** means the person(s) named as contractor in the Letter of Bid accepted by the Employer and the legal successors in title to this person(s).

1.1.2.4 **"Engineer"** means the person nominated by the Employer to act as the Engineer for the purposes of the Contract and named in the Contract Data, or other person appointed from time to time by the Employer and notified to the Contractor under Sub-Clause 3.4 [Replacement of the Engineer]. The person nominated to act as an engineer may be an employee of Rail Infrastructure Development Company (Karnataka) Ltd (K RIDE) or an employee of a Project Management Consultancy firm engaged by K RIDE for project management as per the discretion of the Employer.

1.1.2.5 "Contractor's **Representative"** means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub-Clause 4.3 [Contractor's Representative], who acts on behalf of the Contractor.

1.1.2.6 "Employer's **Representative"** means the person named by the Employer in the Contract or appointed from time to time by the Employer who acts on behalf of the Employer.

1.1.2.7 **"Employer's Personnel"** means the Engineer, the assistants referred to in Sub-Clause 3.2 [Delegation by the Engineer] and all other staff, labour and other employees of the Engineer and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Engineer, as Employer's Personnel.

1.1.2.8 **"Contractor's Personnel"** means the Contractor's Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.

1.1.2.9 "Subcontractor**"** means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works; and the legal successors in title to each of these persons.

1.1.3 Dates, Tests, Periods and Completion

1.1.3.1 **"Base Date"** means the date 28 days prior to the deadline for submission of bids.

1.1.3.2 **"**Commencement **Date**" means the date notified under Sub-Clause 8.1 [Commencement of Works].

1.1.3.3 **"Time for Completion"** means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], as stated
in the Contract Data (with any extension under Sub-Clause 8.4 [Extension of Time for Completion]), calculated from the Commencement Date.

1.1.3.4 **"Tests on Completion"** means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.5 **"Taking-Over Certificate"** means a certificate issued under Clause 10 [Employer's Taking Over].

1.1.3.6 **"Tests after Completion"** means the tests (if any) which are specified in the Contract and which are carried out in accordance with the Specification after the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.7 **"Defects Notification Period"** means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], as stated in the Contract Data (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period]), calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over of the Works and Sections].

1.1.3.8 **"Performance Certificate"** means the certificate issued under Sub-Clause 11.9 [Performance Certificate].

1.1.3.9 "**Day"** means any (working or non-working) calendar day from 00:00 hrs. to 24:00 hrs.

1.1.3.10 **"Months"** means any calendar month of the Gregorian calendar year.

1.1.3.11 **"Year"** means 365 days

1.1.3.12 "**Time** Periods" Any reference to time period commencing "from" the specified day or date "till" or "until" a specified day shall include both such days.

1.1.3.13 Any reference to **"Time"** shall be according to Indian Standard Time (IST).

1.1.4 Money and Payments

1.1.4.1 "Accepted Contract Amount" means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects. In the Letter of Acceptance, the Accepted Contract Amount shall have two components i.e. (i) the base amount excluding GST (ii) GST component (calculated at the rate for works contract service as per GST Laws).

1.1.4.2 **"Contract Price"** means the price defined in Sub-Clause 14.1 [The Contract Price], and includes adjustments in accordance with the Contract.

1.1.4.3 **"Cost"** means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.

1.1.4.4 **"Final** Payment **Certificate"** means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].

1.1.4.5 **"Final Statement"** means the statement defined in Sub-Clause 14.11 [Application for Final Payment Certificate].

1.1.4.6 **"Foreign Currency"** means a currency in which part (or all) of the Contract Price is payable, but not the Local Currency.

1.1.4.7 **"Interim Payment Certificate**" means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.

1.1.4.8 **"Local Currency"** means the currency in Indian Rupees.

1.1.4.9 **"Payment Certificate"** means a payment certificate issued under Clause 14 [Contract Price and Payment].

1.1.4.10 **"Provisional Sum"** means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].

1.1.4.11 **"Retention Money"** means the accumulated retention moneys which the Employer retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].

1.1.4.12 **"Statement"** means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.

1.1.5 Works and Goods

1.1.5.1 **"Contractor's Equipment**" means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Employer's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

1.1.5.2 **"Goods"** means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

1.1.5.3 **"Materials"** means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

1.1.5.4 **"Permanent Works"** means the permanent works to be executed by the Contractor under the Contract.

1.1.5.5 **"Plant"** means the apparatus, machinery and vehicles intended to form or forming part of the Permanent Works.

1.1.5.6 **"Section**" means a part of the Works specified in the Contract Data as a Section (if any).

1.1.5.7 **"Temporary Works"** means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

1.1.5.8 **"Works"** mean the Permanent Works and the Temporary Works, or either of them as appropriate.

1.1.6 Other Definitions

1.1.6.1 **"Contractor's** Documents" means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

1.1.6.2 **"Country**" means India, the country in which the Site (or most of it) is located, where the Permanent Works are to be executed.

1.1.6.3 **"Employer's Equipment**" means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over by the Employer.

1.1.6.4 **"Force Majeure**" is defined in Clause 19 [Force Majeure].

1.1.6.5 **"Laws"** means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

1.1.6.6 **"Performance Security**" means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

1.1.6.7 **"Site"** means the places where the Permanent Works are to be executed and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

1.1.6.8 **"Unforeseeable**" means not reasonably foreseeable and against which adequate preventive precautions could not reasonably be taken by an experienced contractor by the date for submission of the Bid.

1.1.6.9 **"Variation**" means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

1.1.6.10 **"Railway"** means a railway, or any portion of a railway for public carriage of passengers and goods as defined in the Railways ACT 1989. Any reference to railway means the Indian Railways and the respective Zonal Railway

1.2 Interpretation

In the Contract, except where the context requires otherwise:

(a) words indicating one gender include all genders;

(b) words indicating the singular also include the plural and words indicating the plural also include the singular;

(c) provisions including the word "agree," "agreed" or "agreement" require the agreement to be recorded in writing;

(d) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and

(e) the word "tender" is synonymous with "bid", and "tenderer" with "bidder" and the words "tender documents" with "bidding documents"

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

In these Conditions, provisions including the expression "Cost plus profit" require this profit to be one twentieth (5%) of this Cost unless otherwise indicated in the Contract Data.

1.3 Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

(a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Contract Data; and

(b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Contract Data. However:

  (i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and

  (ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Engineer or the other Party, as the case may be.

1.4 Law and Language

The Contract shall be governed by the law of the country or other jurisdiction stated in the Contract Data.

The ruling language of the Contract shall be that stated in the Contract Data.

The language for communications shall be that stated in the Contract Data. If no language is stated there, the language for communications shall be the ruling language of the Contract.

1.5 Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

(a) the Contract Agreement (if any),

(b) the Letter of Acceptance,

(c) the Letter of bid,

(d) the Schedules (including Priced Bill of Quantities),

(e) Special Conditions of Contract:

(i) Part A – Contract Data

(ii) Part B - Specific Provisions

(f) the General Conditions of Contract

(g) Works/Employer's Requirements,

(h) the Drawings,

(i) any other documents forming part of the Contract.

If an ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction.

1.6 Contract Agreement

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless they agree otherwise. The Contract Agreement shall be based upon the form annexed to the Special Conditions of Contract. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Employer.

1.7 Assignment

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

(a) may assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and

(b) may, as security in favour of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

1.8 Care and Supply of Documents

The Specification and Drawings shall be in the custody and care of the Employer. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawing shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor.

Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Engineer six copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9 Delayed Drawings or Instructions

The Contractor shall give notice to the Engineer whenever the Works are likely to be delayed or disrupted if any necessary drawing or instruction is not issued to the Contractor within a particular time, which shall be reasonable. The notice shall include details of the necessary drawing or instruction, details of why and by when it should be issued, and details of the nature and amount of the delay or disruption likely to be suffered if it is late. If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Engineer to issue the notified drawing or instruction within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost , which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Engineer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit

1.10 Employer's Use of Contractor's Documents

As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

(a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,

(b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and

(c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

1.11 Contractor's Use of Employer's Documents

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.12 Confidential Details

The Contractor shall disclose all such confidential and other information as the Engineer may reasonably require in order to verify the Contractor's compliance with the Contract.

The Contractor shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out the Contractor's obligations under the Contract or to comply with applicable Laws. The Contractor shall not publish or disclose any particulars of the Works without the previous agreement of the Employer. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.

1.13 Compliance with Laws

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Special Conditions of Contract:

(a) the Employer shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent Works, and any other permissions described in the Specification as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and

(b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals, as required by the Laws in relation to the execution

and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.

1.14 Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a joint venture of two or more persons/firms:

(a) these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;

(b) these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and

(c) the Contractor shall not alter its composition or legal status without the prior consent of the Employer.

(d) In the event of default by any partner of joint venture, on or after achieving 25% of the financial progress (excluding advance if any) the lead partner or remaining partner(s), in case the defaulting partner is the lead partner, shall notify the Employer within twenty eight (28) days of the occurrence and within Fifty six (56) days of the said notification, the lead partner or remaining partner(s), who are not the defaulting partner, shall assign the works of the defaulting partner, to equally competent party with prior consent of the Employer. For this purpose the term “equally competent party” shall mean as under:

“The new JV partner replacing the defaulting partner should meet the EQC requirement of package/combination of packages which was met by the defaulting partner on the basis of which the original tender was awarded.”

The replacement of any defaulting partner, with the new partner shall be subject to the condition that the new partner has to submit additional performance security equal to 10% of balance cost of work of the JV partner being replaced. The performance security submitted by the defaulting partner shall also continue with K RIDE till satisfactory completion of the work.

e) Notwithstanding the consent of the Employer for change in composition or legal status of the joint venture the partners shall continue to be jointly and severally liable to the Employer.

f) The joint venture shall enter into a joint venture agreement incorporating the provisions of sub-paras (a) to (e) based upon the form annexed to the Conditions of Contract. The JV agreement shall indicate precisely the specific role of all members of the JV in respect of planning, design, construction equipment, key personnel, work execution, and financing of the project. The authority to sign the agreement shall be evidenced by approved legal instruments.

Notwithstanding the contents of the sub-clauses above, if the performance of any JV partner is not found satisfactory by the Employer, in respect of the responsibilities assigned to him as per JV agreement which is a part of this agreement, the Employer may issue notice of such default to the said JV partner or the JV (depending upon reasons of default) and declare the said JV partner or the JV as Poor Performer. The

issue of such notice shall automatically debar the JV partner or JV as the case may be from participating in any K RIDE tender from the date of issue of notice of default.

1.15 Inspections by the Employer

The Contractor shall permit the Employer and/or persons appointed by the Employer to inspect the Site and/or the Contractor's records relating to the performance of the Contract.

1.16 Bidder's Credentials:

The bidder shall submit an affidavit on a stamp paper to the effect that all the documents submitted by her along with her bid are true. This shall be mandatory all bids. The bid shall be summarily rejected if the bidder fails to submit this undertaking along with the bid. After opening the financial bid, the tender committee shall verify the credentials of the bidder who is declared as the lowest bidder(L1)for their authenticity. In case the credentials of L1 are not found to be in order, her bid shall be treated as technically unresponsive and thus invalid. The process shall be repeated for the next higher bidder till the valid L1 is established. If any document (or copy thereof) submitted by a bidder is found to be false/forged:

(a) The bidder/each partner/member of the bidding firm shall be liable to legal actions apart from punitive actions, as decided by competent authority of K-RIDE. In such an eventuality. The bid shall also be summarily rejected.

(b) If the contract has already been awarded, or Letter of Acceptance (LoA) has been issued and in the event of any failure to comply with the above, the contract shall be terminated, irrespective of the stage of progress in execution of the work. In such an eventuality, Security Deposit (SD), performance Guarantee (PG) and partial/full payments otherwise due to the contractor, in respect of the partial/full work executed by the contractor, shall be forfeited by the K-RIDE.

(c) Other punitive actions, like banning the bidder and partners/members of the biding firm for future dealings with K-RIDE/Government of India/ Government of Karnataka may also be taken.

2	The Employer

2.1 Right of Access to the Site

The Employer shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the Contract Data. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Specification. However, the Employer may withhold any such right or possession until the Performance Security has been received.

If no such time is stated in the Contract Data, the Employer shall give the Contractor right of access to, and possession of, the Site within such times as may be required to enable the Contractor to proceed in accordance with the programme submitted under Sub-Clause 8.3 [Programme].

If the Contractor suffers delay as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Engineer and shall be entitled to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) new rates in terms of clause 12.3.1 (c) .

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time or new rates.

2.2 Permits, Licenses or Approvals

The Employer shall (where he is in a position to do so) provide reasonable assistanceto the Contractor at the request of the Contractor:

(a) by obtaining copies of the Laws of the Country which are relevant to the Contract but are not readily available, and

(b) for the Contractor's applications for any permits, licences or approvals required by the Laws of the Country:

  (i) which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],

  (ii) for the delivery of Goods, including clearance through customs, and

  (iii) for the export of Contractor's Equipment when it is removed from the Site.

2.3 Employer's Personnel

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

(a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation], and

(b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment].

2.4 Employer's Financial Arrangements

The Employer has sourced the funds to finance the project

2.5 Employer's Claims

If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the

Defects Notification Period, the Employer or the Engineer shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Employer's Equipment and Free-Issue Material], or for other services requested by the Contractor.

The notice shall be given as soon as practicable after the Employer became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Engineer shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].

This amount may be included as a deduction in the Contract Price and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.

3	The Engineer

3.1 Engineer's Duties and Authority

The Employer shall appoint the Engineer who shall carry out the duties assigned to him in the Contract. The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties.

The Engineer shall have no authority to amend the Contract.

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract.

However, the Engineer shall obtain the specific approval of the Employer before taking action under the-following Sub-Clauses of these Conditions:

(a) Sub-Clause 4.12-Unforeseeable Physical Conditions: Agreeing or determining an extension of time and/or additional cost.

(b) Sub-Clause 8.4-Extension of Time for Completion: Agreeing or determining extension of time.

(c) Sub-Clause 11.9-Performance Certificate: Issue of Performance Certificate.

(d) Sub-Clause 13.1-Instructing a Variation: Except,

i) in an emergency situation as determined by the Engineer and as amplified in sub-paras (h) and (i) below, or

ii) for other situations, if the variation in quantity of any item does not exceed 25% of the stipulated quantity in the agreement, the variation in quantity in such item does not result in increase in excess of 0.1% of contract price and

variation in quantity in such item does not result in cumulative variation in contract price in excess of 2%.

(e) Sub-Clause 13.3-Variation Procedure: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.

(f) Sub-Clause 13.4-Payment in applicable Currencies: Specifying the amount payable in each of the applicable currencies for a Variation.

(g) Clause 20.1: Contractor Claims for extension of time and/or additional payment.

(h) Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.

(i) In case the emergency mentioned in above Sub-paras occurs on account of failure of Contractor, by way of not adhering to the approved scheme of work or not taking adequate safety precautions or by any other reason attributable to the contractor, then no additional amounts shall be paid to the Contractor for attending to such emergencies and the Contractor shall be liable for Employer's claims.

(j) Sub-clause 4.4 regarding deployment of Sub-Contractors.

3.2 Delegation by the Engineer

The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties.

However, unless otherwise agreed by both Parties, the Engineer shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language].

Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorised to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

(a) any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials;

(b) if the Contractor questions any determination or instruction of an assistant, the

Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

3.3 Instructions of the Engineer

The Engineer may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Engineer or a delegated assistant,

(a) gives an oral instruction and

(b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and

(c) does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,

(d) then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).

3.4 Replacement of the Engineer

Notwithstanding Sub-Clause 3.1, if the Employer intends to replace the Engineer, the Employer shall, not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the replacement Engineer.

3.5 Determinations

Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Engineer shall consult with each Party in an endeavour to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

The Engineer shall give notice to both Parties of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

4 The Contractor

4.1 Contractor's General Obligations

The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Engineer's instructions, and shall remedy any defects in the Works.

The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

All equipment, and material, to be incorporated in or required for the Works shall be procured from approved sources as stipulated in the Contract.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor (i) shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall not otherwise be responsible for the design or specification of the Permanent Works.

The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.

On completion of the works, the contractor shall arrange to furnish to the Employer two (2) bound sets of all "As Built" drawings for every component of the Works at his own cost, all such copies being on Polyester film of quality to be approved by the Engineer or his Representative. The Taking – over Certificate of the Works, as per the provisions of Clause 10.1 herein, shall not be issued by the Engineer in the event of the Contractor's failure to furnish the aforesaid "As Built" drawings for the entire works.

If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless otherwise stated in the Special Conditions of Contract:

(a) the Contractor shall submit to the Engineer the Contractor's Documents for this part in accordance with the procedures specified in the Contract;

(b) these Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language], and shall include additional information required by the Engineer to add to the Drawings for co-ordination of each Party's designs;

(c) the Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as are specified in the Contract; and

(d) prior to the commencement of the Tests on Completion, the Contractor shall submit to the Engineer the "as-built" documents and operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Engineer.

4.2 Performance Security

The Contractor shall obtain (at his cost) a Performance Security and an additional Performance Security, if any in terms of ITB 35.5, for proper performance of the contract, for the amount, currencies and validity period for Performance Security stated in the Contract Data. If an amount is not stated in the Contract Data, this Sub-Clause shall not apply.

The Contractor shall deliver the Performance Security and additional Performance Security, if any, to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Engineer. The Performance Security/additional Performance Security shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form as given in Section 8 (Contract Forms) or in another form specifically approved by the Employer.

The Performance Security/additional Performance Security shall be, at the Contractor's option, in any of the following forms:

(i) An unconditional Bank guarantee in the prescribed format

(ii) A Pay Order / Demand Draft drawn on a Scheduled / Nationalized Bank in India in favour of "Rail Infrastructure Development Company (Karnataka) Ltd" payable at Bangalore

(iii) FDR in favour of "Rail Infrastructure Development Company (Karnataka) Ltd." (free from any encumbrance).

(iv) A deposit of cash or online bank transfer to K RIDE account

The bank guarantee shall be from a bank having minimum net-worth of over INR 500 million from the specified banks as under:

(i) a Schedule Bank in India, or

(ii) a Foreign Bank having their operations in India, or

(iii) a Foreign Bank which does not have operations in India is required to provide a counter-guarantee by State Bank of India,

In case the contractor is a JV;"the Performance Security/additional Performance Security, if any in terms of ITB 35.5, shall be submitted by each JV Partner separately on behalf of the JV in favour of K RIDE in proportion of their respective percentage share specified in the JV Agreement. The additional Performance Security shall be submitted by the partner(s) responsible for execution of schedule(s) (as per JV agreement) against which additional Performance Security is required to be submitted in terms of ITB 35.5. However,

Submission of Performance Guarantee Security by individual partners on behalf of the JV shall in no way dilute their Joint & Several responsibility. The Employer shall be entitled to

recover the amount of Bank Guarantees individually and all the Partners jointly at its discretion."

The Contractor shall ensure that the Performance Security/additional Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied defects, if any. If the contractor does not complete the work for any reasons whatsoever, the terms of the Performance Security/ additional Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall be bound to extend the validity of the Performance Security/additional Performance Security until the Works have been completed and any defects have been remedied.

The Guarantees shall be unconditional and irrevocable. The Employer shall return the Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate or passing of the Final Payment Certificate whichever is later. However, on completion of specified section(s) and successful passage of defect liability period for such section(s) along with execution of any leftover works at the time of completion of such section(s), the contractor shall be entitled for release of 90% of the proportionate Performance Security calculated as specified in Contract Data subject to the condition that Engineer certifies that no recoveries are pending in the contract. In case Engineer points out amount to be recovered then the contractor shall be entitled for release of 90% of the proportionate Performance Security calculated as specified in Contract Data minus the amount to be recovered.

The Employer shall return additional Performance Security submitted in terms of ITB 35.5 as per the following;

(a) If the contractor submits an application stating that all the works against the particular schedule(s)/bill(s) for which additional Performance Security was submitted in terms of ITB 35.5 have been completed in all respect, then the Employer, on being satisfied with the claim of the contractor, shall return the full additional Performance Security against the particular schedule(s). Decision of the Employer regarding completion of works against a particular schedule/bill shall be final and binding on the contractor.

(b) If the contractor submits an application stating that majority of the works (physical progress being not less than 90%) against the particular schedule(s)/bill(s) for which additional Performance Security was submitted in terms of ITB 35.5 have been completed and execution of balance works is held up for reasons not attributable to the Contractor, then the Employer, on being satisfied with the claim of the contractor, shall return 75% of the amount of additional Performance Security against the particular schedule(s). The balance amount of additional Performance Security shall however be returned only after completion of the works against the particular schedule(s)/bill(s) for which additional Performance Security was submitted in terms of ITB 35.5, in all respects to the satisfaction of the Employer. Decision of the Employer regarding completion of works against a particular schedule/bill shall be final and binding on the contractor.

Without limitation to the provisions of the rest of this Sub-Clause, whenever the Engineer determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation or as a result of a Variation amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Engineer's request promptly submit Performance Guarantee @ 10% of the increased amount over the original contract price in a specific currency. On the other hand if the value of contract price decreases by more than 25% of the original contract price payable in a specific currency, Performance Guarantee @ 10% of the decrease in contract price from the original contract price in a specific currency shall be returned to the contractor, on his request.

Wherever the contract is terminated under Clause 15.2, the Performance Guarantee shall be encashed by the Employer:

i) in full including additional performance guarantee amount, if any, taken in terms of sub clause 35.5 of ITB and not due for release on the date of issue of termination letter in terms of this clause, in case of termination of the contract as a whole; Or

ii) at the discretion of the Employer it may be encashed in part/parts proportionate to the Contract price of the bill/schedule to which the terminated part of work belongs i.e P=(A x B)÷C where

P=Proportionate Bank Guarantee Amount.

A=Contract price of the particular bill/schedule to which the terminated part of work belongs.

B=Performance Guarantee amount in terms of GCC sub clause 4.2.

C=Total Contract price.

Plus additional performance Guarantee amount, if any, taken in terms of sub clause 35.5 of ITB and not due for release on the date of issue of termination letter in terms of this clause against this particular bill/schedule to which the terminated part of the work belongs, in case of termination in part/parts.

The balance work should be got done separately, and independently by K RIDE without risk and cost of the original contractor. The original 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 would be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/partnership firm.

In case the contractor fails to perform the contract or any JV partner fails to perform its obligations under the JV agreement, which is a part of this agreement, the Employer may issue notice of such default to the said JV partner or the JV (depending upon reasons of default) and declare the said JV partner or the JV as Poor Performer. The issue of such notice shall automatically debar the JV partner or JV, as the case may be, from participating in any K RIDE tender from the date of issue of notice of default. The relevant performance security including additional performance security, if any, in terms of sub clauses 35.5 of ITB submitted by the Contractor or submitted on behalf of JV partner to the extent not due for release at the time of contemplation of such action shall be encashed and forfeited either fully or in proportion of the percentage share of that partner in the JV agreement, as the case may be.

4.3 Contractor's Representative

The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary, including financial powers, to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.

The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Engineer].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language]. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

The Contractor shall depute his Representative to attend all the review meetings notified by the Engineer.

4.4 Sub-contractors

The Contractor shall not subcontract the whole of the Works. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor.

Unless otherwise stated in the Special Conditions of Contract:

(a) the Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract or as specifically provided in the Contract data or value of any sub-contract for Works, or the aggregate value of such sub-contracts with any Subcontractor, does not exceed 5% (five per cent) of the Contract Price provided that such works are not for the key activities in terms of clause 2.6 of section 3 (Evaluation and Qualification Criteria) which are to be executed by specialist

subcontractor(s);

(b) the prior consent of the Engineer shall be obtained to other proposed Subcontractors and/or suppliers. While submitting his proposal in this regard, the Contractor shall ensure that;

(i) total value of Works requiring such consent for subcontracting shall not be more than 70% (seventy per cent) of the Contract Price;

(ii) the proposed subcontractor must have executed woks of 40% of value of the proposed subcontract through a single contract during last seven years; and

(iii) No banning/blacklisting/declaration as poor performer by K RIDE is in force on the proposed subcontractor (on the date of grant of consent by the Engineer);

(iv) No contract of the proposed subcontractor has been terminated by K RIDE during the last two years (to be reckoned from the date of grant of consent by the Engineer);

(v) the Contractor shall submit the proposal for subcontracting with the name, particulars and the relevant experience of the proposed subcontractor;

(c) the Contractor shall give the Engineer not less than 28 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site;

(d) each subcontract shall include provisions which would entitle the Employer to require the subcontract to be assigned to the Employer under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (if or when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Employer]; and

(e) On getting consent from the Engineer, the Contractor shall provide to the Engineer copy of the agreement entered with such subcontractor.

The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.

The Contractor shall endeavour to resolve all matters and payments amicably and speedily with the sub-contractors.

The Contractor shall indemnify and hold the Employer harmless against and from any claim of subcontractors or suppliers of the materials.

The Contractor shall release payment to the Sub-contractors/Suppliers promptly and shall endeavour to resolve all issues amicably and speedily with the Sub-contractors/Suppliers, so that the execution of work is not affected in any manner whatsoever.

In case a Sub-contractor/Supplier represents to the Engineer in writing with supporting documents, stating that he has not received payment due as per the agreement/work or purchase order for the works executed by such Sub-contractor or supplies made by such Supplier, which have been covered in previous Payment Certificates and the Engineer finds such representation having merit, the Engineer, before issuing next Payment Certificate, may forward a copy of the representation to the Contractor requesting the Contractor to supply reasonable evidence that the amount stated to be outstanding by the Sub-contractor/Supplier for the works executed or supplies made, which have been

covered in previous Payment Certificates has been paid and if not, why the same is not payable. The Engineer may recommend to make payment to the Sub-contractor/Supplier unless the Contractor submits reasonable evidence to the Engineer:

(i) that the amount claimed has been paid, or

(ii) satisfying the Engineer in writing that the Contractor is entitled to withhold or that the amount is not payable.

On the recommendation of the Engineer, the Employer may (at his sole discretion) directly pay to the Sub-contractor/Supplier the amount due for and on behalf of the Contractor, part or all of such amounts previously certified (less applicable deductions) as are found due to the Sub-contractor/Supplier by the Engineer. The Employer shall adjust the amount paid directly to the Sub-contractor/Supplier from any amount due by it to the Contractor. The Contractor shall repay the amount, in case no amount is found due by the Employer to the Contractor.

That the payment by Employer, on behalf of the Contractor to its Sub-contractor/Supplier, shall not alter any terms of agreement between the Employer and the Contractor and nor the same shall result in any privity of contract between the Employer and the Sub-contractor/Supplier.

4.5 Assignment of Benefit of Subcontract

If a Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Engineer, prior to this date, instructs the Contractor to assign the benefit of such obligations to the Employer, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Employer for the work carried out by the Subcontractor after the assignment takes effect.

4.6 Co-operation

The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:

(a) the Employer's Personnel,

(b) any other contractors employed by the Employer, and

(c) the personnel of any legally constituted public authorities,

who may be employed in the execution on or near the Site of any work not included in the Contract.

Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

If, under the Contract, the Employer is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Engineer in the time and manner stated in the Specification.

4.7 Setting Out

The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract or notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the works, notifying the Engineer within 28 days of the date of commencement

In the event of such discrepancy arising during the course of the work, for which Employer's documents are handed over after the date of commencement, the contractor shall seek clarifications within 14 days of receipt of such documents

The Employer shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.

Contractor shall promptly notify the Employer and the Engineer of any error, omission, fault, or any other defect in the design, drawing or specifications for the works, which he discovers when reviewing the Contract Documents, and in the process of execution of the Works. The contractor shall be responsible to ensure correlation in various drawings and bill of quantities, before commencement and execution of work. In case of any discrepancy the contractor shall bring it to notice of the Engineer for clarification within 28 days of the issue of Letter of Acceptance. In the event of such discrepancy arising during the course of the work, for which drawings are given after the date of issue of Letter of Acceptance, the contractor shall seek clarifications within 14 days of receipt of such drawings.

4.8 Safety Procedures

The Contractor shall follow the provisions laid down in (Special Conditions of Contract), Chapter 1. (Safety and Security) of Section 5 (Works/Employers Requirements) and shall:

(a) comply with all applicable safety regulations,

(b) take care for the safety of all persons entitled to be on the Site,

(c) use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,

(d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Employer's Taking Over], and

(e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

Additional Safety Precautions

(1) The Contractor shall comply with all the precautions as required for the safety of the workmen by the I.L.O Convention No.62 as far as they are applicable to the Contract. The Contractor shall provide all necessary safety appliances; such as safety goggles, helmets, masks, etc to the workmen and the staff.

(2) Suitable scaffolds shall be provided for workmen for all work that cannot safely be done from the ground, or from solid construction except for such short period work

as can be done safely from ladders. When a ladder is used, an extra labourer shall be engaged for holding the ladder and if the ladder is used for carrying materials as well, suitable foot-holds and hand-holds shall be provided on the ladder, which shall be given an inclination not steeper than 1/4 to 1 (1/4 horizontal in 1 vertical)

(3) Scaffolding or staging more than 3.25 metres above the ground or floor, swung or suspended from an overhead support or erected with stationary support, shall have a guard rail properly attached, bolted, braced and otherwise secured at least 1 metre high above the floor or platform of such scaffolding or staging and extending along the entire length of the outside and ends thereof with only such openings as maybe necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying in from the support or structure.

(4) Working platforms, gangways and stairways shall be so constructed that they do not sag unduly or unequally, and if the height of any platform or gangway or stairway is more than 3.25 metres above ground level or floor level, it shall have closely spaced boards, have adequate width and be suitably provided with guard rails as described in (3) above.

(5) Every opening in the floor of a structure or in a working platform shall be provided with suitable means to prevent fall of persons or materials by providing suitable fencing or railing with a minimum height of one metre.

(6) Safe means of access and egress shall be provided to all working platforms and other working places. Every ladder shall be securely fixed. No portable single ladder shall be over 9 metres in length. The width between side rails in a rung ladder shall in no case be less than 30 cm for ladders up to and including 3 metres in length. For longer ladders the width shall be increased at least 6 mm for each additional 30 cm of length. Spacing of steps shall be uniform and shall not exceed 30 cm.

(7) Adequate precautions shall be taken to prevent danger from electrical equipment. Adequate safety measures shall be taken when any work is undertaken near any live highly charged electric wire. Necessary shutdown may be arranged, where and whenever essential. All rules in force in this connection shall be fully complied with. The Contractor shall ensure all precautions to prevent any accidents due to electrocution or otherwise.

(8) No materials on any of the sites shall be so stacked or placed as to cause danger or inconvenience to any person or the public. The Contractor shall provide all necessary fencing and lights to protect the public from accidents and shall be bound to bear the expenses of defending every suit, action or other proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and costs which may be awarded in any such suit, action or proceedings to any such person or which may with the consent of the Contractor be paid to compromise any claim by any such person.

(9) Excavation and Trenching : All trenches, 1.5 metres or more in depth, shall at all times be supplied with at least one ladder for each 20 metres in length or fraction thereof, Ladders shall be extended from the bottom of the trench to at least 1

metre above the surface of the ground. The sides of a trench, which is 1.5 metres or more in depth shall be stepped back to provide a suitable slope, or be securely held by timber bracing so as to avoid the danger of side collapse. Excavated material shall not be placed within 1.5 metres of the edge of any trench or half the depth of the trench, whichever is more. Excavation shall be made from the top to the bottom. Under no circumstances shall undermining or undercutting be done.

(10) Demolition : Before any demolition work is commenced and also during the process of the work :

(a) All roads and open areas adjacent to the work site shall either be closed or suitably protected.

(b) No electric cable or apparatus, which is liable to be a source of danger other than a cable or apparatus used by operators, shall remain electrically charged:

(c) All practical steps shall be taken to prevent danger to persons employed by the Employer, from risk of fire or explosion, or flooding. No floor, roof or other part of a building shall be so overloaded with debris or materials as to render it unsafe.

(11) All necessary personal safety equipment as considered adequate by the Engineer shall be available for use of persons employed on the site and maintained in a condition suitable for immediate use; and the Contractor shall take adequate steps to ensure proper use of such equipment by those concerned.

(a) Workers employed on mixing asphaltic materials, cement, lime mortars, concrete etc. shall be provided with protective footwear and protective goggles.

(b) Those engaged in handling any material, which is injurious to the eyes, shall be provided with protective goggles.

(c) Those engaged in welding works shall be provided with welder's protective eye-shield.

(d) Stone breakers shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.

(e) When workers are employed in sewers and manhole, which are in use, the contractor shall ensure that manhole covers are open and manholes are ventilated at least for an hour before workers are allowed to go into them. Manholes so open shall be cordoned off with suitable railing and provide warning signals or boards to prevent accidents to the public.

(12) The Contractor shall not employ men below the age of 18 years and women, on the work of painting with products containing lead in any form. Whenever men above the age of 18 years are employed on the work of lead painting, the following precautions shall be taken:

(a) No paint containing lead or lead products shall be used except in the form of paste or ready made paint.

(b) Suitable face masks shall be supplied for use by workers when paint is applied in the form of spray or a surface having lead paint dry rubbed and scrapped.

(c) Overalls shall be supplied by the Contractor to workmen and adequate facilities shall be provided to enable workers to wash during and at the close of any day's work.

13) When work is performed near any place where there is risk of drowning all necessary equipment shall be provided and kept ready for use and all necessary steps taken for prompt first aid treatment of all injuries likely to be sustained during the course of the work.

(14) Use of hoisting machines and tackle including their attachments, anchorage and supports shall conform to the following:

(a) (i) These shall be of good mechanical construction, sound material and adequate strength and free from patent defects and shall be kept in good working order, be regularly inspected and properly maintained.

(ii) Every rope used in hoisting or lowering materials or as a means of suspension shall be of durable quality and adequate strength, and free from defects

(b) Every crane driver or hoisting appliance operator shall be properly qualified and no person under the age of 21 shall be in charge of any hoisting machine including scaffold equipment. Only trained men over the age of 21 shall be permitted to give signals to such plant and appliance operators.

(c) For every hoisting machine and every chain hook, shackle, swivel and pulley block used in hoisting, lowering or as means of suspension, safe working load shall be ascertained by adequate means. Every hoisting machine and all gear referred to above shall be plainly marked with safe working load. In case of a hoisting machine or a variable safe working load, each safe working load and conditions under which it is applicable shall be clearly indicated. No part of any machine or any gear referred to in the paragraph above shall be loaded beyond safe working load except for the purpose of testing.

(d) In case of the Employer's machine, safe working load shall be notified by the Engineer or his Representative. As regards Contractor's machines, the Contractor shall notify safe working load of each machine to the Engineer or his Representative, whenever he brings it to the site of work and get it verified by him.

(15) Motors, gearing, transmission, electric wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards; hoisting appliances shall be provided with such meansas will reduce the risk of accident during descent of load to the minimum. Adequate precautions shall be taken to reduce to the minimum risk of any part of a suspended load becoming accidentally displaced. When workers are employed on electrical installations, which are already energised, insulating mats, working apparel such as gloves, sleeves and boots, as may be necessary, shall be provided. Workers shall not wear any rings, watches and carry keys or other materials which are good conductor of electricity.

(16) All scaffolds, ladders and other safety devices mentioned or described herein shall be maintained in a safe condition and no scaffold, ladder or equipment shall be altered or removed while it is in use. Adequate washing facilities shall be provided at or near places of work.

(17) These safety provisions shall be brought to the notice of all concerned by displaying on a notice board at a prominent place at the work location. Persons responsible for ensuring compliance with the Safety Code shall be named therein by the Contractor.

(18) To ensure effective enforcement of the rules and regulations relating to safety precautions, arrangements made by the contractor shall be open to inspection by the Engineer or his Representative.

(19) Notwithstanding anything contained in conditions (1) to (17) above, the Contractor shall at its own costs, remain liable to comply with the provisions of all acts, rules, regulations, and bylaws for the time being in force in India and applicable in this matter.

(20) For work carried out in the vicinity of any wharf or quay, the Contractor shall abide by all the provisions of the Dock Workers (Safety, Health and Welfare) Scheme, 1961.

(21) The Contractor shall at his own expense provide protective safety Equipment like gloves and footwear for all labour engaged on concrete mixing work and all other types of working involving the use of tar, cement, etc. to the satisfaction of the Engineer or his Representative, and on his failure to do so, the employer shall be entitled to provide the same and recover the cost from the Contractor.

(22) The Contractor shall be responsible for observance, by the sub-contractors, of the foregoing provisions.

(23) All construction labour at all time shall use personal protective equipment like, safety shoes, helmets and reflective jackets in all activities at site.
This shall be ensured without fail on each work site. Failing to comply with this, provision shall attract penalty of Rs. 500/- per occasion per staff.

4.8.1 Notwithstanding with any other provision, the Contractor shall have to pay penalty for damage to Railway cable in terms of clause C 15 of the JPO as given in para 1.2 of Chapter 1. (Safety and Security) of Section 5 (Works/Employers Requirements) and shall also indemnify the Employer against any losses, damages to property or life in terms of para 1.11 and 1.12 of the chapter 1. (Safety and Security) of Section 5 (Works/Employers Requirements).

4.9 Quality Assurance

The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Engineer shall be entitled to audit any aspect of the system.

Details of all procedures and compliance documents shall be submitted to the Engineer for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Engineer, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

4.10 Site Data

The Employer shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Employer's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data which come into the Employer's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.

To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Bid or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Bid as to all relevant matters, including (without limitation):

(a) the form and nature of the Site, including sub-surface conditions,

(b) the hydrological and climatic conditions,

(c) the extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,

(d) the Laws, procedures and labour practices of the Country, and

(e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

(f) Data made available by the Employer in accordance with the preceding paragraph shall be deemed to include data listed elsewhere in the contract as open for inspection at the address stipulated in the Contract.

4.11 Sufficiency of the Accepted Contract Amount

The Contractor shall be deemed to:

(a) have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and

(b) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data].

Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the

Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

4.12 Unforeseeable Physical Conditions

In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to the Engineer as soon as practicable.

This notice shall describe the physical conditions, so that they can be inspected by the Engineer, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Engineer may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price.

After receiving such notice and inspecting and/or investigating these physical conditions, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Engineer may also review whether other physical conditions in similar parts of the Works (if any) were more favourable than could reasonably have been foreseen when the Contractor submitted the Bid. If and to the extent that these more favourable conditions were encountered, the Engineer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

The Engineer may take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Bid, which may be made available by the Contractor, but shall not be bound by any such evidence.

4.13 Rights of Way and Facilities

The Contractor shall bear all costs and charges for special and/or temporary rights-of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may require for the purposes of the Works.

In case any operation connected with traffic necessitates diversion, obstruction or closure of any road, railway or any other right of way, the approval of the Engineer and the concerned authorities shall be obtained well in advance by the Contractor.

Provided that if it is found necessary for the Contractor to move one or more loads of heavy constructional plants and equipment, materials or Pre-constructed units or parts of units of work over roads, highways, bridges on which such oversized and overweight items that are not normally to be moved, the contractor shall obtain prior permission from the concerned authorities.

Payments for complying with the requirements, if any, for protection or strengthening of the roads, highways or bridges shall be made by the contractor and such expenses shall be deemed to be included in his quoted contract price.

4.14 Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

(a) the convenience of the public, or

(b) the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others or

(c) Passenger amenities at stations and station platforms.

The Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

4.15 Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

(a) the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;

(b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;

(c) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route;

(d) the Employer does not guarantee the suitability or availability of particular access routes; and

(e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

4.16 Transport of Goods

Unless otherwise stated in the Special Conditions of Contract:

(a) the Contractor shall give the Engineer not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;

(b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and

(c) the Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

4.17 Contractor's Equipment

The Contractor shall be responsible for all Contractors' Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

In the event of Contractor imports any equipment the following shall apply"

(a) Custom Clearance: The Employer will assist the contractor, when required by furnishing letters of recommendation for obtaining expeditious clearance through customs of constructional plants, material and other things required for the works and then for re-export, if any. The following publications, may be referred to by the contractor for guidance about custom regulations etc :

(i) Import & export policy, together with amendments, if any, published by Govt. of India, Ministry of Commerce..

(j) Hand Book of Procedures, together with amendments, if any, Volume 1 and 2 published by Ministry of Commerce.

(iii) Customs Tariff, together with amendments, if any published by Central Customs.

The Contractor shall be responsible to follow the latest rules and regulations without any liability of the Employer.

(c) **Re-export of contractors equipment:** The contractor shall obtain all the relevant information regarding procedure for the import and subsequent re-export of his equipment and materials from the Chief Controller of Imports and Exports, Bangalore, and shall inform himself and keep himself informed on the details of custom charges and draw-back regulations as applicable to the items of Constructional plant. The contractor shall provide the necessary guarantee/bonds where these are required by the customs notwithstanding that import licenses may be granted in the name of Employer.

(c) Notwithstanding the provisions mentioned above, Contractor's Equipment, including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall be temporarily exempt from the payment of import duties and taxes upon initial importation, provided the Contractor shall post with the customs authorities at the port of entry an approved export bond or bank guarantee, valid until the Time for Completion plus six months, in an amount equal to the full import duties and taxes which would be payable on the assessed imported value of such Contractor's Equipment and spare parts, and **callable** in the event the Contractor's Equipment is not exported from the Country on completion of the Contract. A copy of the **bond** or bank guarantee endorsed by the custom authorities shall be provided by the Contractor to the Employer upon the importation of individual items of Contractor's Equipment and spare parts. Upon export of individual items of Contractor's Equipment or spare parts, or upon the completion of the Contract, Contractor shall prepare for approval by the customs authority the authorities, an assessment of the residual value of the Contractor's Equipment and spare parts to be exported based on the depreciation scale(s) and other criteria used by the customs authorities for such purposes under the provisions of the applicable Laws. Import duties and taxes shall be due and payable to the customs authorities by the Contractor on (a) the difference between the initial imported value and the residual value of the contractor's equipment and spare parts to be exported and (b) on the initial imported value that contractor's equipment and spare parts remaining in the Country after completion of the Contract. Upon payment of such dues within 28 days of being invoiced, the bond or bank guarantee shall be reduced or released accordingly; otherwise the security shall be called in the full amount remaining in the Country.

(d) **Conditions of hire of the contractor's equipment:** A certified copy of the agreement in respect of any item of Equipment held by contractor under any agreement for hire or hire purchase thereof, shall be supplied to the Engineer/Employer."

4.18 Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

4.19 Electricity, Water and Gas

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require.

The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specification. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Employer.

4.20 Employer's, Equipment and Free-Issue Material

The Employer shall make the Employer's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Specification. Unless otherwise stated in the Specification:

(a) the Employer shall be responsible for the Employer's Equipment, except that

(b) the Contractor shall be responsible for each item of Employer's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.

The appropriate quantities and the amounts due (at such stated prices) for the use of Employer's Equipment shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Employer.

The Employer shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Contract data.

The Employer shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them, and shall promptly give notice to the Engineer of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Employer shall immediately rectify the notified shortage, defect or default.

In case materials are handed over, in accordance with the procedure prescribed by the Engineer, after proper measurement and accounted for, the contractor shall be solely liable for any shortage, damage, defect or default in such material, and shall indemnify the Employer until the final accountal of materials is made by the Contractor on completion of the work.

4.21 Progress Reports

Unless otherwise stated in the Special Conditions of Contract, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Each report shall include:

i. charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
photographs showing the status of manufacture and of progress on the Site; for the manufacture of each main item of Plant and Materials, the name of the manufacturer,

manufacture location, percentage progress, and the actual or expected dates of:

(i) commencement of manufacture,

(ii) Contractor's inspections,

(iii) tests, and

(iv) shipment and arrival at the Site;

- the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- copies of quality assurance documents, test results and certificates of Materials;
- list of notices given under Sub-Clause 2.5 [Employer's Claims] and notices given under Sub-Clause 20.1 [Contractor's Claims];
- safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- comparisons of actual and planned progress of all activities, with details of any events or circumstances which may jeopardise the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4.22 Security of the Site

Unless otherwise stated in the Special Conditions of Contract:

(a) the Contractor shall be responsible for keeping unauthorised persons off the Site, and

(b) authorised persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor, by the Employer or the Engineer, as authorised personnel of the Employer's other contractors on the Site.

4.23 Contractor's Operations on Site

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Engineer as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition.

However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfill obligations under the Contract.

4.24 Fossils

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

5 Nominated Subcontractors

5.1 Definition of nominated Subcontractor

In the Contract, "nominated Subcontractor" means a Subcontractor:

(a) who is stated in the Contract as being a nominated Subcontractor, or

(b) whom the Engineer, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor.

5.2 Objection to Nomination

The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Engineer as soon as practicable, with supporting particulars. An objection shall be deemed reasonable if it arises from (among other things) any of the following matters, unless the Employer agrees to indemnify the Contractor against and from the consequences of the matter:

(a) there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength;

(b) the subcontract does not specify that the nominated Subcontractor shall indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, his agents and employees; or

(c) the subcontract does not specify that, for the subcontracted work (including design, if any), the nominated Subcontractor shall:

  (i) undertake to the Contractor such obligations and liabilities as will enable the Contractor to discharge his obligations and liabilities under the Contract, and

  (ii) indemnify the Contractor against and from all obligations and liabilities arising

under or in connection with the Contract and from the consequences of any failure by the Subcontractor to perform these obligations or to fulfil these liabilities.

5.3 Payments to nominated Subcontractors

The Contractor shall pay to the nominated Subcontractor the amounts which the Engineer certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with sub-paragraph (b) of Sub-Clause 13.5 [Provisional Sums], except as stated in Sub-Clause 5.4 [Evidence of Payments].

5.4 Evidence of Payments

Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Engineer may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received (Within 7 days of receipt of previous payment by the contractor) all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

(a) submits this reasonable evidence to the Engineer, or

(b)

(i) satisfies the Engineer in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and

(ii) submits to the Engineer reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement,

then the Employer may (at his sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Employer, the amount which the nominated Subcontractor was directly paid by the Employer.

6	Staff and Labour

6.1 Engagement of Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the Country.

6.2 Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and

observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.

If the Employer is obliged to provide amenities or arrange payment of wages to contract labour employed by the contractor either directly or through sub contractor under the contract on account of failures on the part the contractor to provide the amenities and / or arrange payment of wages to the contract labour as required of him under the provision of the said act / rules made there under, the Engineer/Employer shall be at liberty without prejudice to the rights of Engineer/Employer under Section 20(2) and 21(4) of the contract labour (Regulation and Abolition) Act 1970 to recover the whole or part of the expenditure so incurred on the wages so paid by the Engineer/Employer/Railway from the security deposit and/or from any sum or sums due to the contractor whether under this contract or any other contract.

The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances, and any benefits as are subject to taxes under the Laws of the Country for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there-under, regulation or notifications including amendment. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/ regulations including amendments, if any, on the part of the Contractor, the Engineer/Employer shall have the right to deduct any money due to the contractor including his amount of performance security. The Employer/Engineer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

The Contractor shall duly comply with the provisions of the Apprentices Act 1961 (III of 1961), the rules made there under and the orders that may be issued from time to time under the said Act and the said Rules and on his failure or neglect to do so he shall be subject to all liabilities provide by the said Act and said Rules.

The Contractor and his Sub Contractors shall comply with all applicable Labour Laws, and should not employ Child Labour for construction and maintenance activities. The Contractor shall provide appropriate facilities for children in Construction Camp sites.

The Contractors shall not differentiate wages between men and women for work of equal value.

6.3 Persons in the Service of Employer

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst persons in the service of the Employer or the Engineer.

6.4 Labour Laws

The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration, and emigration, and shall allow them all their legal rights. The contractor and his sub-contractors shall be responsible to ensure at his own cost, compliance to all laws, bye-laws, rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through sub-contractors or petty contractors on the works which shall include all the acts listed in Appendex – 1 but not limited to the same.

The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

During continuance of the Contract, the Contractor and his Sub-Contractors shall abide at all times by all existing labour enactments and rules made thereunder, regulations, notifications and bye laws of the State or Central government or local authority and any other labour laws (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws hat are applicable to construction industry are given in Appendix 1 to these Conditions of Contract.

6.5 Working Hours

No work shall be carried out on the Site on locally recognised days of rest, or outside the normal working hours stated in the Contract Data, unless:

(a) otherwise stated in the Contract,

(b) the Engineer gives consent, or

(c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer.

6.6 Facilities for Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

6.7 Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and a standing arrangement for ambulance service are available at a phone call at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities, for the purpose of dealing with and overcoming the same. The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence.

HIV-AIDS Prevention. The Contractor shall conduct an HIV-AIDS awareness programme via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the HIV virus between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

Epidemics

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities, for the purpose of dealing with and overcoming the same.

Records of Safety and Health

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

Submission of Returns: :

The contractor shall be responsible for timely submission of all returns and statements to the concerned authorities in full compliance of all rules, bye-laws and regulations for the time being in force.

The Contractor shall throughout the contract (including the Defects Notification Period): (i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Sub-Contractors and Consultants' employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate

local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to of Sexually Transmitted Diseases (STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labor as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labor.

The Contractor shall include in the program to be submitted for the execution of the Works under Sub-Clause 8.3 an alleviation program for Site staff and labour and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose.

6.8 Contractor's Superintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

The Contractor shall employ the key personnel named in the Schedule of Personnel as referred to in the Contract Data to carry out the functions stated in the Schedule or other personnel approved by the Engineer. The Engineer will approve any proposed replacement of key personnel only if their qualifications, abilities and relevant experience are substantially equal to or better than those of the personnel listed in the Schedule.

The Contractor shall not employ any retired government Gazetted officer, who has either not completed one year after the date of retirement, or has not obtained permission to employment with the Contractor.

6.9 Contractor's Personnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

(a) persists in any misconduct or lack of care,

(b) carries out duties incompetently or negligently,

(c) fails to conform with any provisions of the Contract, or

(d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating the reasons, the Contractor shall ensure that the person leaves the Site within seven (7) days and has no further connection with the work in the Contract. The replacement person shall be appointed within fourteen (14) days of the notification by the Engineer.

A reasonable proportion of the Contractor's Superintending Staff shall have a working knowledge of the English language or the Contractor shall have available on site at all times a sufficient number of competent interpreters to ensure the proper transmission of instructions and information. If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

6.10 Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

6.11 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

6.12 Foreign Personnel

The Contractor may bring in to the country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, without any financial liability, if requested by the Contractor, use his best endeavours in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial. Contractor shall also be responsible for any legal liabilities during their stay.

6.13 Supply of Foodstuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

6.14 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

6.15 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

The Contractor shall provide his staff and labour with suitable prophylactics for the prevention of malaria, and take steps to prevent the formation of stagnant pools of water. He shall comply with all the regulations of the local health authorities in these respects and shall in particular arrange to spray thoroughly with approved insecticides all buildings erected on the site such treatment shall be carried out at least once a year or as instructed by the Engineer. The Contractor shall warn his staff and labour of the dangers of diseases like Malaria, Filaria and other contagious diseases etc. and also Scorpions, Snakes, Wild animals etc. and preventive actions required to be taken by the labour and staff.

6.16 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal thereto by Contractor's Personnel.

6.17 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

6.18 Festivals and Religious Customs

The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

6.19 Funeral Arrangements

The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works.

6.20 Prohibition of Forced or Compulsory Labour

The contractor shall not employ "forced or compulsory labour" in any form. "Forced or compulsory labour" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

6.21 Prohibition of Harmful Child Labour

The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

6.22 Employment Records of Workers

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and shall be available for inspection by the Engineer during normal working hours. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

(j) In addition to the above, the Contractor shall register his firm/company etc. on website 'www.shramikkalyan.indianrailways.gov.in' and upload requisite details of labour and their payment in this portal. These details shall be available in public domain. The Registration/ updation on 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. Employer/Engineer shall approve the contractor's registration in the portal within 7 days of receipt of such request.

(b) Contractor once approved by any Employer/Engineer, can create password with login ID (PAN No.) for subsequent use of portal for all LoAs issued in his favour.

(c) The contractor once registered on the portal, shall provide details of his Letter of Acceptances (LoA) / Contract Agreements on shramikkalyan portal within 15 days of issue of any LoA for approval of concerned Employer/Engineer. Employer/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 Employer/Engineer, contractor shall fill the salient details of contract labours 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 labour& payments made thereof after each wage period.

(ii) While processing payment of any 'Interim Payment Certificate' or 'Final Payment Certificate' 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 labours 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."

7 Plant, Materials and Workmanship

7.1 Manner of Execution

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

(a) in the manner (if any) specified in the Contract,

(b) in a proper workmanlike and careful manner, in accordance with recognised good practice, and

(c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

7.2 Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Engineer for consent prior to using the Materials in or for the Works:

(a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and

(b) additional samples instructed by the Engineer as a Variation.

Each sample shall be labelled as to origin and intended use in the Works.

7.3 Inspection

The Employer's Personnel shall at all reasonable times:

(a) have full access to all parts of the Site and to all places from which natural Materials are being obtained, and

(b) during production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

The Contractor shall give the Employer's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

The Contractor shall give notice to the Engineer whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Engineer shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Engineer does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Engineer, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

7.4 Testing

This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

The Engineer may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

The Engineer shall give the Contractor not less than 24 hours' notice of the Engineer's intention to attend the tests. If the Engineer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Engineer, and the tests shall then be deemed to have been made in the Engineer's presence.

If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Employer is responsible, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost , which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall promptly forward to the Engineer duly certified reports of the tests. When the specified tests have been passed, the Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Engineer has not attended the tests, he shall be deemed to have accepted the readings as accurate.

7.5 Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Engineer may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

If the Engineer requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

7.6 Remedial Work

Notwithstanding any previous test or certification, the Engineer may instruct the Contractor to:

(a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,

(b) remove and re-execute any other work which is not in accordance with the Contract, and

(c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

If the Contractor fails to comply with the instruction, the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer all costs arising from this failure.

7.7 Ownership of Plant and Materials

Each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer at whichever is the earlier of the following times, free from liens and other encumbrances:

(a) when it is delivered to the Site;

(b) when the Contractor is entitled to payment of the value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

(a) natural Materials obtained from outside the Site, and

(b) the disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.

8 Commencement, Delay and Suspension

8.1 Commencement of Works

The Engineer shall give the Contractor not less than 7 days' notice of the Commencement of work. Unless otherwise stated in the Special Conditions of Contract, the Commencement of work shall be within the number of days after the Contractor receives the Letter of Acceptance as specified in Contract Data.

The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with

due expedition and without delay.

8.2 Time for Completion

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:

(a) achieving the passing of the Tests on Completion, and

(b) completing all work which is stated in the Contract as being required for whole of the Works or Section(s) to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

(c) The date of completion for works described in this sub-clause, shall be the earliest of the following :

(i) The date CRS recommends opening of the Section(s) for public carriage of passengers to Central Government, for speeds of not less than 75% of the designed operating speeds or,

(ii) The date CRS authorises the Railway Administration for opening of Section(s), subject to sanction of the Central Government for speeds of not less than 75% of the designed operating speeds, or,

(iii) The date CRS authorizes/sanctions opening of Section(s) without inspection.

8.3 Programme

The Contractor shall submit a detailed time programme to the Engineer within 28 days after receiving the notice under Sub-Clause 8.1 [Commencement of Works]. The program shall include the physical and Financial Progress vis-à-vis program and forecast cash flow adopting Project Management Software Primavera/Sure Track/MS Project or as mutually agreed. 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 or with the Contractor's obligations. Each programme shall include:

(a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,

(b) each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),

(c) the sequence and timing of inspections and tests specified in the Contract, and

(d) a supporting report which includes:

(i) a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and

(ii) details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's 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 Employer's Personnel shall be entitled to rely upon the programme when planning their activities.

The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause 13.3 [Variation Procedure].

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.

8.4 Extension of Time for Completion

The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking-Over of the Works and Sections] is or will be delayed by any of the following causes:

(a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]) or other substantial change in the quantity of an item of work included in the Contract,

(b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,

(c) exceptionally adverse climatic conditions,

(d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or

(e) any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension of time.

8.5 Delays Caused by Authorities

If the following conditions apply, namely:

(a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,

(b) these authorities delay or disrupt the Contractor's work, and

(c) the delay or disruption was Unforeseeable,

then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

8.6 Rate of Progress

If, at any time:

(a) actual progress is too slow to complete within the Time for Completion, and/or

(b) progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme],

other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Engineer may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer, in addition to delay damages (if any) under Sub-Clause 8.7 below.

8.7 Extension of Time for Completion with Delay Damages

If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion for entire work or for specified section wise completion period], and he is not entitled to an extension of time under sub clause 8.4 then the employer may grant extension of time with delay damage in such case, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay delay damages to the Employer for this default. These delay damages shall be the sum stated in the Contract Data, which shall be paid for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the Contract Data.

Further, if the contractor fails to achieve physical/financial targets as per the agreed programme for a consecutive period of 3 months without any valid reasons, other than attributable to the contractor, a provisional recovery of delay damages shall be made from the next interim payment certificate @ $1/10^{th}$ of the sum of delay damages stated in the contract data, for the entire period of 3 months. Such recovery shall continue from the further interim payment certificates till the contractor is able to make good the shortfall and achieve the cumulative targets as per agreed programme. On achieving the cumulative progress targets as per agreed programme, the entire amount recovered till that month, shall be refunded to the contractor in the next interim payment certificate. In case the contractor is unable to make good the shortfall and achieve the cumulative targets resulting in delay in completion of the project, then the provisional recoveries made shall

be adjusted against the delay damages to be finally imposed on the contractor.

These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Employer] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

8.8 Suspension of Work

The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

The Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

8.9 Consequences of Suspension

If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

8.10 Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension)of Plant and/or Materials, if:

(a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days,

(b) the Contractor has marked the Plant and/or Materials as the Employer's property in accordance with the Engineer's instructions, and

(c) Such materials or plant is received at site.

8.11 Prolonged Suspension

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Engineer's permission to proceed. If the Engineer does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Engineer, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the

suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

8.12 Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension.

8.13 Bonus for early completion:

If the Contractor achieves completion of the whole of the Works or any section(s) prior to the intended Completion Date prescribed in Contract data (Extension of time pursuant to Clause 8.4 or any other clause of these conditions will not be considered), the Employer shall pay to the Contractor a sum stated in the Contract data as bonus for early completion, for every calendar month which shall elapse between the date of completion of all items of works as stipulated in the contract, including variations ordered by the Engineer and the time prescribed in Clause 8.2. However, on handing over of the particular section for construction of OHE foundations after completing formation, turfing, side drains & protection works for the section excluding station yards but including buildings required for commissioning of the section, the section shall be considered to be substantially completed for the purposes of first stage bonus payment.

If General Manager of the Zonal Railway has signed application for opening of the section(s), such section(s) shall be treated as substantially completed on the date 45 days after the date of signing the application for the purposes of second stage bonus under this clause subject to the conditions that: -

a) In case the CRS has authorized the opening of the section(s) within 45 days from the date of signing the application, then date of authorization shall be the date of completion.

b) In case the CRS has not authorized opening of the section(s) after having come for inspection within 45 days from the date of signing the application, then the section(s) shall not be treated as substantially completed for the purposes of bonus under this clause.

For the purpose of calculating bonus payments, the time given in the Bid for completion of the whole works or any section(s) is fixed and unless otherwise agreed, no adjustment of the time by reasons of granting an extension of time pursuant to clause 8.4 or any other clause of these conditions will be allowed. Any period falling short of completed month shall be ignored for the purpose of computing the period relevant for the payment of bonus.

If the Contractor achieves completion of the whole of the Works or any section(s) prior to the intended Completion Date prescribed in Contract data (Extension of time pursuant to Clause 8.4 or any other clause of these conditions will not be considered), the Employer shall pay to the Contractor a sum stated in the Contract data as bonus for early completion, for every calendar month which shall elapse between the date of completion of all items of works as stipulated in the contract, including variations ordered by the Engineer and the time prescribed in Clause 8.2. However, on completion of all PSC girder/slab bridges including protection works and successful passing of load testing but excluding linking of track, and on completion of all steel girder bridges, if any, including

protection works but excluding load testing and linking of track on steel girder bridges, the section shall be considered to be substantially completed for the purposes of bonus payment under this clause. In case the particular section involves construction of steel bridges, the payment of bonus shall only be done on successful passing of load testing of steel bridges but the bonus is to be calculated from the date of substantial completion as defined above.

For the purpose of calculating bonus payments, the time given in the Bid for completion of the whole works or any section(s) is fixed and unless otherwise agreed, no adjustment of the time by reasons of granting an extension of time pursuant to clause 8.4 or any other clause of these conditions will be allowed. Any period falling short of completed month shall be ignored for the purpose of computing the period relevant for the payment of bonus.

9	Tests on Completion

9.1 Contractor's Obligations

The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause 4.1 [Contractor's General Obligations].

The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.

In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Engineer.

9.2 Delayed Tests

If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Engineer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

9.3 Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

9.4 Failure to Pass Tests on Completion

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Engineer shall be entitled to:

(a) order further repetition of Tests on Completion under Sub-Clause 9.3;

(b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or

(c) issue a Taking-Over Certificate, if the Employer so requests.

In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations].

9.5 Contractor's obligations

Notwithstanding the provisions of sub-clauses 4.1, 9.1 to 9.4 the provisions in subsequent sub-clauses shall apply for works of Permanent Way, signaling and telecommunication and railway electrification excluding General Electrical Services.

(a) The Contractor shall be responsible for the execution of temporary and/or permanent works which may require the prior sanction/approval of Commissioner of Railway Safety (CRS) in accordance with extant rules for " The Railways opening for Public Carriage of Passengers" was amended from time to time. And applicable as and when the works are undertaken. The Contractor shall initiate the process for approval at least **63** (sixty three) days prior to undertaking such works which require the approval of Commissioner of Railway Safety (CRS) and furnish draft documentation to the Engineer.

(b) The Contractor shall ensure that existing services and operations for public carriage of passengers or goods, are not affected except those, which are essentially required to be regulated for execution of works. Such items of works shall be planned and coordinated through the Engineer.

(c) Prior to the commencement of commercial operations of passenger traffic :

(i) The Contractor may have to operate locomotives, track machines and any other rolling stock for track tamping, trial runs, etc. for which track, signaling

or OHE works must comply with the specifications.

(ii) The Employer may permit freight train operations to Railway after certification by the authorized person of Zonal Railway

(iii) The Contractor shall be responsible for maintaining the facilities ensuring safety of operations under (i) & (ii) above as per specifications.

10 Employer's Taking Over

10.1 Taking Over of the Works and Sections

Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Employer/Railway when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

In case the works are to be taken over in accordance with sub-clause 9.5, the completed works shall be taken over by the Zonal Railway with the procedure specified by the Engineer.

The Engineer shall, within 28 days after receiving the Contractor's application:

(a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or

(b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

10.2 Taking Over of Parts of the Works

The Engineer may, at the sole discretion of the Employer, issue a Taking-Over Certificate for any part of the Permanent Works.

The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Taking-Over Certificate for this part. However, if the Employer

does use any part of the Works before the Taking-Over Certificate is issued:

(a) the part which is used shall be deemed to have been taken over as from the date on which it is used,

(b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and

(c) if requested by the Contractor, the Engineer shall issue a Taking-Over Certificate for this part.

After the Engineer has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

If the Contractor incurs Cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.

10.3 Interference with Tests on Completion

If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer/Engineer/other Contractors of the Employer, are responsible, the Employer shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

The Engineer shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Engineer shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.

If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under

Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

10.4 Surfaces Requiring Reinstatement

Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.

11 Defects Liability

11.1 Completion of Outstanding Work and Remedying Defects

In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

(a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and

(b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Employer.

11.2 Cost of Remedying Defects

All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

(a) any design for which the Contractor is responsible,

(b) Plant, Materials or workmanship not being in accordance with the Contract, or

(c) failure by the Contractor to comply with any other obligation.

If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer, and Sub-Clause 13.3 [Variation Procedure] shall apply

11.3 Extension of Defects Notification Period

The Employer shall be entitled subject to Sub-Clause 2.5 [Employer's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or damage. However, a Defects Notification Period shall not be extended by more than two years.

If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

11.4 Failure to Remedy Defects

If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Employer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Employer may (at his option):

(a) Carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer the costs reasonably incurred by the Employer in remedying the defect or damage;

(b) require the Engineer to agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or

(c) if the defect or damage deprives the Employer of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, the Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

11.5 Removal of Defective Work

If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

11.6 Further Tests

If the work of remedying of any defect or damage may affect the performance of the Works, the Engineer may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 28 days after the defect or

damage is remedied.

These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.

11.7 Right of Access

Until the Performance Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with this Clause, except as may be inconsistent with the Employer's reasonable security restrictions.

11.8 Contractor to Search

The Contractor shall, if required by the Engineer, search for the cause of any defect, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search shall be agreed or determined by the Engineer in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

11.9 Performance Certificate

Performance of the Contractor's obligations shall not be considered to have been completed until the Employer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

The Employer shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defects Notification Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects.

Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

11.10 Unfulfilled Obligations

After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

11.11 Clearance of Site

Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 days after the Employer receives a copy of the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's costs, the Contractor shall pay the outstanding balance to the Employer.

12 Measurement and Evaluation

12.1 Works to be Measured

The Works shall be measured, and valued for payment, in accordance with this Clause.

Whenever the Engineer requires any part of the Works to be measured, reasonable notice shall be given to the Contractor's Representative, who shall:

(a) promptly either attend or send another qualified representative to assist the Engineer in making the measurement, and

(b) supply any particulars requested by the Engineer.

If the Contractor fails to attend or send a representative, the measurement made by (or on behalf of) the Engineer shall be accepted as accurate.

Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the Engineer. The Contractor shall, as and when requested, attend to examine and agree the records with the Engineer, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate.

If the Contractor examines and disagrees the records, and/or does not sign them as agreed, then the Contractor shall give notice to the Engineer of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Engineer shall review the records and either confirm or vary them. If the Contractor does not so give notice to the Engineer within 14 days after being requested to examine the records, they shall be accepted as accurate.

12.2 Method of Measurement

Except as otherwise stated in the Contract and notwithstanding local practice:

(a) measurement shall be made of the net actual quantity of each item of the Permanent Works, and

(b) the method of measurement shall be in accordance with the Bill of Quantities or other applicable Schedules.

12.3 Evaluation

Except as otherwise stated in the contract, the Engineer shall proceed in accordance with sub clause 3.5 (Determinations) to agree or determine the contract price by evaluating each item of work, applying the measurement agreed or determined in accordance with the above sub clause 12.1 and 12.2 and the appropriate rate or price for the item.
For each item of work, the appropriate rate or price for the item shall be the rate or price specified for such item in the contract or, if there is no such item, specified for similar work.

12.3.1 However, a new rate or price shall be appropriate for an item of work if :

(a) all the following conditions are met for existing item of the contract:

(i) the measured quantity of the item is increased by more than 50% from the quantity of this item in the Bill of Quantities or the Schedule,

(ii) this increase in quantity multiplied by specified rate for this item in the Bill of Quantities or the Schedule, exceeds 0.25% of the Accepted Contract Amount,

(iii) this item is not specified in the contract as a "fixed rate item".

Note: New rates in case of increase in quantity of the agreement items shall be applicable to the increase in quantities beyond the quantities required to meet conditions specified under 12.3.1 (a) (i) & (ii) above.

OR

(b) (i) the work is instructed under clause 13[Variations and Adjustments],

(ii) no rate or price is specified in the contract for this item, and

(iii) no specified rate or price is appropriate because the item of work is not of similar character, or is not executed under similar conditions, as any item in the contract.

OR

(c) On passage of original completion period stipulated in the contract, if site in some stretches has not been handed over for execution of the work due to any of the reasons mentioned below:

(i) non acquisition of land,

(ii) non availability of forest/wild life clearances,

(iii) non removal of encroachments, delay in shifting of utilities (to be shifted by other agencies) and

(iv) non handing over of the sites by other agencies/authorities

and the contractor otherwise has been executing the works satisfactorily on other sites, as certified by the Engineer, the contractor shall be entitled for new rates for the items and quantities of work which could not be executed in the stretches still to be handed over. In case the progress is not satisfactory, the contractor shall not be entitled for new rates and the Employer shall have the option either to continue the work in these stretches through the same agency or get it executed through other means.

In case of entitlement for new rates, if the contractor is not willing to take up the work in these stretches, he will have the option to say so in writing or if no agreement is reached on new rates, the remaining works of such stretches shall be excluded from the scope of the contract through a variation statement. In such a case the contractor shall not be entitled for any claim or compensation on this account. The employer shall get the remaining works on these stretches executed through other means.

12.3.2

(i) Each new rate or price for item(s) as described in sub paragraph 12.3.1 (a) & (c) above shall be derived from an assessment of the reasonable cost of executing the work with an additional element of 15% towards overheads and profit of the Contractor.

(ii) Each new rate or price for item(s) as described in sub paragraph 12.3.1 (b) above shall be derived from an assessment of the reasonable cost of executing the work with an additional element of 15% towards overheads and profit of the Contractor,

subject to the condition that such item(s) as described in sub paragraph 12.3.1 (b) above is/are not available in the "Standard Bill of Quantities of K RIDE".

(iii) In case item(s) as described in sub paragraph 12.3.1 (b) above is/are available in the "Standard Bill of Quantities of K RIDE (updated upto 28 days prior to deadline for submission of bids)", new rate or price for such items shall be the rate as available in the "Standard Bill of Quantities of K RIDE (updated upto 28 days prior to deadline for submission of bids)", modified by the percentage above/below accepted in this contract for the respective schedule and also price variation shall be applicable in the same manner as applicable to items specified in the contract.

(iv) The assessment of reasonable cost of executing the work (except over heads and profit which shall be 15%) shall be arrived at based on the prevailing rates and by taking guidance from the following documents. The priority of the documents shall be in accordance with the following sequence:

a) Analysis of Unified SOR of Indian Railway;

b) Analysis issued by MORTH;

c) Schedule of Rates issued by CPWD;

d) Market analysis.

(v) If the final rate decided by the competent authority as per K RIDE SOP is not acceptable to the contractor, the contractor will be bound to execute the work at the rates as decided by the competent authority of K RIDE but he may refer the dispute in rate for settlement as per provisions of clause 20 of General Conditions of Contract.Until such time as an appropriate rate or price is agreed or determined, the Engineer shall make the Interim payment at the rate of 80% of the rate proposed by him and accepted by the Project Director (concerned GM(Civil) in charge of the project).

12.3.3

Until such time as an appropriate rate or price is agreed or determined, the Engineer shall make the Interim payment at the rate of 80% of the rate proposed by him and accepted by the Project Director (concerned GM(Civil) in charge of the project).

12.4 Omissions

Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

(a) the Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;

(b) the omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and

(c) this cost is not deemed to be included in the evaluation of any substituted work;

then the Contractor shall give notice to the Engineer accordingly, with supporting particulars. Upon receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this cost, which shall be included in the Contract Price.

13 Variations and Adjustments

13.1 Right to Vary

Variations may be initiated by the Employer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by making a request to the Contractor to submit a proposal.

The Contractor shall execute and be bound by each Variation till the price does not exceed 50% of the agreemental value as specified in letter of acceptance / original agreement. For variation beyond the above the contractor shall be bound to execute, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that the Contractor cannot readily obtain the Goods required for the Variation. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

Each Variation may include:

(a) changes to the quantities of any item of work included in the Contract,

(b) changes to the quality and other characteristics of any item of work,

(c) changes to the levels, positions and/or dimensions of any part of the Works,

(d) omission of any work unless it is to be carried out by others,

(e) any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or

(f) changes to the sequence or timing of the execution of the Works.

The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves a Variation.

13.2 Value Engineering

The Contractor may, at any time, submit to the Engineer a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.

The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

If a proposal, which is approved by the Engineer, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:

(a) the Contractor shall design this part,

(b) sub-paragraphs (a) to (d) of Sub-Clause 4.1 [Contractor's General Obligations] shall apply, and

(c) if this change results in a reduction in the contract value of this part, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:

(i) such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost],and

(ii) the reduction (if any) in the value to the Employer of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies.

However, if amount (i) is less than amount (ii), there shall not be a fee.

13.3 Variation Procedure

If the Engineer requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

(a) a description of the proposed work to be performed and a programme for its execution,

(b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and

(c) the evaluation of the Variation shall be as specified in Clause 12.3 Evaluation.

The Engineer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Engineer to the Contractor, who shall acknowledge receipt.

Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Engineer instructs or approves otherwise in accordance with this Clause.

13.4 Payment in Applicable Currencies

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

13.5 Provisional Sums

Each Provisional Sum shall only be used, in whole or in part, in accordance with the Engineer's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Engineer shall have instructed. For each Provisional Sum, the Engineer may instruct:

(a) work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or

(b) Plant, Materials or services to be purchased by the Contractor, from a nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]) or otherwise; and for which these shall be included in the Contract Price:

(i) the actual amounts paid (or due to be paid) by the Contractor, and

(ii) a sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in the Contract Data shall be applied.

The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

13.6 Day work

For work of a minor or incidental nature, the Engineer may instruct that a Variation shall be executed on a daywork basis. The work shall then be valued in accordance with the Daywork Schedule included in the Contract, and the following procedure shall apply. If a Daywork Schedule is not included in the Contract, this Sub-Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Engineer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

Except for any items for which the Daywork Schedule specifies that payment is not due, the Contractor shall deliver each day to the Engineer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

(a) the names, occupations and time of Contractor's Personnel,

(b) the identification, type and time of Contractor's Equipment and Temporary Works, and

(c) the quantities and types of Plant and Materials used.

One copy of each statement will, if correct, or when agreed, be signed by the Engineer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Engineer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates]

13.7 Adjustments for Changes in Legislation

Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-

Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

In case there is a decrease in cost as a result of changes of Law by Legislation after the Base Date, the Engineer shall proceed in accordance with Sub Clause 3.5 (determination) to agree or determine these matters without waiting for Contractor's / Employer's Notice.

Notwithstanding the foregoing, the Contractor shall not be entitled to such an extension of time if the same shall already have been taken into account in determining an extension and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8.

13.8Adjustment for changes in cost.

Price Variation Clause (PVC):

13.8.1 Applicability: Price Variation Clause (PVC) shall be applicable only in those contracts where tender conditions specifically permit it. Materials supplied free of cost by Railway to the Contractors and any extra NS item(s) included in subsequent variation falling outside the purview of the Schedule of Items of tender shall fall outside the purview of Price Variation Clause. If, in any case, accepted offer includes some specific payment to be made to consultants or some materials supplied by Railway free or at fixed rate, such payments shall be excluded from the gross value of the work for the purpose of payment/recovery of price variation.

13.8.2 Base Month: The Base Month for 'Price Variation Clause' shall be taken as month 28 days prior to opening of tender including extensions, if any, unless otherwise stated elsewhere. The quarter for applicability of PVC shall commence from the month following Base month. The Price Variation shall be based on the average Price Index of the quarter under consideration.

13.8.3 Validity: Rates accepted by Railway Administration shall hold good till completion of work and no additional individual claim shall be admissible except:
(a) Payment/recovery for increase/decrease in GST on works contract or imposition/removal of any tax/cess on Works Contract,
(b) Payment/recovery for overall market situation as per Price Variation Clause given hereunder.

13.8.4 Adjustment for variation in prices of material, labour, fuel, explosives, detonators, steel, concreting, ferrous, non-ferrous, insulators, zinc and cement shall be determined in the manner prescribed.

13.8.5 Components of various items in a contract on which variation in prices be

admissible, shall be Material, Labour, Fuel, Explosives & Detonators, Steel, Cement, Concreting, Ferrous, Non-ferrous, Insulator, Zinc, Erection etc. However, for fixed components, no price variation shall be admissible.

13.8.6 The percentages of labour component, material component, fuel component etc. in various types of Engineering contracts shall be as under:

S. No.	Component	E/Work & Minor Bridges Contracts, Ballast Supply Contracts, Tunneling Contracts (without explosive)	Tunneling Contracts (with explosives)	Major and Important Bridges Contracts	Building Contracts	Permanent Way linking Contracts (Manual)	Other Works Contracts
1	Labour Component	20	20	20	40	50	20
2	Other Material Components	10	15	30	35	5	20
3	Plant Machinery & Spares	30	15	20	5	15	30
4	Fuel & Lubricants Component	25	15	15	5	15	15
5	Fixed Component*	15	15	15	15	15	15
6	Detonators & Explosive Component	-	20	-	-	-	-

* It shall not be considered for any price variation.

13.8.7 Formulae: The Amount of variation in prices in several components (labour, material etc.) shall be worked out by the following formulae:

(i) $$L = W \times \frac{(LQ - LB) \times LC}{LB \quad 100}$$

(ii) $$M = W \times \frac{(MQ - MB) \times MC}{MB \quad 100}$$

(iii) $$F = W \times (FQ - FB) \times FC$$

$$\frac{FB}{100}$$

(iv) $E = W \times (EQ - EB) \times \frac{EC}{EB} \times \frac{}{100}$

(v) $PM = W \times (PMQ-PMB) \times \frac{PMC}{PMB} \times \frac{}{100}$

(vi) $S = SW \times (SQ - SB) \times \frac{}{SB}$

(vii) $C = CV \times (CQ - CB) / CB$

For Railway Electrification Works:

(viii) $T = [(CS - CO) / CO \times 0.4136] \times TC$
(ix) $R = [(RT - RO) / RO + (ZT - ZO) / ZO \times 0.06] \times RC$
(x) $N = [(PT - PO) / PO] \times NC$
(xi) $Z = [(ZT - ZO) / ZO] \times ZC$
(xii) $I = [(IT – IO) / IT] \times 85$

Where,

L Amount of price variation in Labour

M Amount of price variation in Materials

F Amount of price variation in Fuel

E Amount of price variation in Explosives

PM Amount of price variation in Manufacture of machinery for mining, Quarrying and Construction

S Amount of price variation in Steel

C Amount of price variation in Cement

T Amount of price variation in Concreting

R Amount of price variation in Ferrous Items

N Amount of price variation in Non-Ferrous Items

Z Amount of price variation in Zinc

I Amount of price variation in Insulator

Lc % of Labour Component

Mc % of Material Component

Fc % of Fuel Component

Ec % of Explosive Component

PMc % of Manufacture of machinery for mining, Quarrying and Construction Component

Tc % of Concreting Component

Rc % of Ferrous Component

Nc % of Non-Ferrous Component

Zc % of Zinc Component

W Gross value of work done by Contractor as per on-account bill(s) excluding cost of materials supplied by Railway at fixed price, minus the price values of cement and steel.

This will also exclude specific payment, if any, to be made to the consultants engaged by Contractors (such payment shall be indicated in the Contractor's offer)

LB Consumer Price Index for Industrial Workers - All India: Published in R.B.I. Bulletin for the base period

LQ Consumer Price Index for Industrial Workers - All India: Published in R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration

MB Wholesale Price Index: All commodities – as published in the R.B.I. Bulletin for the base period

MQ Wholesale Price Index: All commodities – as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration

FB Wholesale Price Index for the group Fuel & Power as published in the R.B.I. Bulletin for the base period

FQ Index Number of Wholesale Price Index – By Groups and Sub-Groups for the group Fuel & Power as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration

EB Index number of Monthly Whole Sale Price Index for the category 'Explosive' of (g).Manufacture of other chemical products under (J) MANUFACTURE OF CHEMICALS AND CHEMICAL PRODUCTS, published by Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (DIPP), for the base period.

EQ Index number of Monthly Whole Sale Price Index for the category 'Explosive' of (g).Manufacture of other chemical products under (J) MANUFACTURE OF CHEMICALS AND CHEMICAL PRODUCTS, published by Office of Economic Adviser, Govt. of India, Govt. of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (DIPP), for the average price index of 3 months of the quarter under consideration.

PMB Index number of Monthly Whole Sale Price Index for the category 'k. Manufacture of machinery for mining, quarrying and construction' under (R) MANUFACTURE OF MACHINERY AND EQUIPMENT, published by Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (DIPP), for the base period.

PMQ Index number of Monthly Whole Sale Price Index for the category 'k. Manufacture of machinery for mining, quarrying and construction' under (R) MANUFACTURE OF MACHINERY AND EQUIPMENT, published by Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (DIPP), for the average price index of 3 months of the quarter under consideration.

SW Gross value of steel supplied by the Contractor as per the 'on-account' bill for the month under consideration

SB Index number of Monthly Whole Sale Price Index for the relevant category of mild steel item as mentioned in Clause 13.8.9, published by Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry Department of Industrial Policy & Promotion (DIPP); for the base period.

SQ Index number of Monthly Whole Sale Price Index for the relevant category of mild steel item as mentioned in Clause 13.8.9, published by Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry Department of Industrial Policy & Promotion (DIPP); for the average price index of the 3 months of the quarter under consideration.

CV Value of Cement supplied by Contractor as per on account bill in the quarter under consideration

CB Index No. of Wholesale Price Index of sub-group Cement, Lime & Plaster as published in RBI Bulletin for the base period

CQ No. of Wholesale Price Index of sub-group Cement, Lime & Plaster as

published in RBI Bulletin for the average price index of the 3 months of the quarter under consideration

CS RBI wholesale price index for Cement, Lime & Plaster for the month which is six months prior to date of casting of foundation

Co RBI wholesale price index for Cement, Lime & Plaster for the month which is one month prior to date of opening of tender

RT IEEMA price index for Iron & Steel for the month which is two months prior to date of inspection of material.

RO IEEMA price index for Iron & Steel for the month which is one month prior to date of opening of tender.

PT IEEMA price index for Copper wire bar for the month which is two months prior to date of inspection of material.

PO IEEMA price index for Copper wire bar for the month which is one month prior to date of opening of tender.

ZT IEEMA price index for Zinc for the month which is two months prior to date of inspection of material

ZO IEEMA price index for Zinc for the month which is one month prior to date of opening of tender

IT RBI wholesale price index for the sub-group "other Portland and Ceramic product" for the month which is two months prior to date of inspection of material

IO RBI wholesale price index for the sub-group "other Portland and Ceramic product" for the month which is one month prior to date of opening of tender

13.8.8 The demands for escalation of cost shall be allowed on the basis of provisional indices as mentioned above in Clause 13.8.7. Any adjustment needed to be done based on the finally published indices shall be made as and when they become available.

13.8.9: Relevant categories of steel for the purpose of operating Price Variation formula as mentioned in this Clause shall be as under:

SL	Category of Steel Supplied in Railway Work	Category of Steel Items as mentioned in Office of Economic Adviser, Govt. of India, Ministry of Commerce & Industry Department of Industrial Policy & Promotion (DIPP).
1.	Reinforcement bars and other rounds	'MS Bright Bars' individual commodity of group item (d) Mild Steel-Long Products under (N) MANUFACTURE OF BASIC METAL.
2.	All types and sizes of angles, channels and joists	'Angles, Channels, Sections, Steel' individual commodity of group item (d) Mild Steel-Long Products under (N) MANUFACTURE OF BASIC METAL.
3.	All types and sizes of plates	'e. Mild Steel – Flat Products' of (N) MANUFACTURER OF BASIC METAL

4	Any other section of steel not covered in the above categories and excluding HTS	Average of price for the 3 categories covered under SL 1, 2 & 3 above

13.8.10 Price Variation during Extended Period of Contract

The price adjustment as worked out above, i.e. either increase or decrease shall be applicable upto the stipulated date of completion of work including the extended period of completion where such extension has been granted under Clause 8.4 of the Standard General Conditions of Contract. However, where extension of time has been granted due to Contractor's failure under Clause 8.7 of the Standard General Conditions of Contract, price adjustment shall be done as follows:

a. In case the indices increase above the indices applicable to the last month of original completion period or the extended period under Clause 8.4, the price adjustment for the period of extension granted under Clause 8.7 shall be limited to the amount payable as per the Indices applicable to the last month of the original completion period or the extended period under Clause 8.4 of the Standard General Conditions of Contract; as the case may be.

b. In case the indices fall below the indices applicable to the last month of original/extended period of completion under Clause 8.4, as the case may be; then the lower indices shall be adopted for the price adjustment for the period of extension under Clause 8.7 of the Standard General Conditions of Contract.

14 The Contract Price

14.1 The Contract Price

Unless otherwise stated in the Special Conditions of Contract:

(a) the Contract Price shall be agreed or determined under Sub-Clause 12.3 [Evaluation] and be subject to adjustments in accordance with the Contract;

(b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];

(c) any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and final quantities:

(i) of the Works which the Contractor is required to execute, or

(ii) for the purposes of Clause 12 [Measurement and Evaluation]; and

(d) the Contractor shall submit to the Engineer, within 28 days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules, if applicable. The Engineer may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.

(e) It may be noted that in the event of the Contractor not making the due payments stated in sub-clause (b) above, and the concerned party puts up a claim with the Employer / Engineer, then the Employer / Engineer may make such payments and deduct the same from the sums due to the Contractor.

14.2 Advance Payment

14.2.1 Mobilization Advance

The Employer shall make payment, as an Interest bearing advance for mobilization, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the Contract Data.

Unless and until the Employer receives this guarantee, or if the total advance payment is not stated in the Contract Data, this Sub-Clause shall not apply.

The Engineer shall issue an interim payment certificate for the first installment of mobilisation advance after receiving an application for advance payment(under sub clause 14.3 [Application for Interim Payment Certificates]) and after the Employer receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment plus 10%. The next installment shall be released only when the contractor submits statement of having utilized the previous installment of mobilization advance and the Employer is satisfied that the utilization has been done in purposeful manner.

14.2.2 Advance against Plant and Machinery

Interest bearing advance against plant and machinery, is payable for procurement of plant, equipment and machinery to be utilized specifically for the subject works, provided

the same have reached the site along with purchase order and the invoices against a guarantee in amounts and currencies equal to the advance payment plus 10%. The total advance payment under this sub-clause, including the applicable currencies and proportions, shall be as stated in the Contract Data.

All such plant, equipment and machinery shall be used only for executing the works under this Contract. No such plant, equipment and machinery shall be removed from the site, unless advance equivalent to the advance against such machinery has been fully repaid and prior permission of the Engineer has been obtained.

The Engineer shall decide whether a particular plant, equipment or machinery is actually required to execute the work. No advance is payable against items identified as unnecessary. The plant and machinery admissible for advance payment and its valuation shall be done by the Engineer on following considerations;

(i) New items : 80% of purchase price

(ii) Used or Second hand items : Not to be considered

(iii) New Items valued at less than Rs. 10,00,000 each : Not to be considered.

14.2.3 Guarantees

Advances as mentioned in sub-clauses 14.2.1 & 14.2.2 above, shall be payable against acceptable Bank Guarantees from banks as specified in clause 4.2. The guarantees shall be in the form as given in Section 8 (Contract Forms) or in another form approved by the Employer. The Contractor shall ensure that the guarantees are valid and enforceable until the advance amount paid as has been repaid, but its amount may be progressively reduced by the amount repaid by theContractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

14.2.4 Recovery of Advances

Unless stated otherwise in the Contract Data, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Engineer in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates], as follows:

(a) deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment) exceeds 5 percent of the Accepted Contract Amount less Provisional Sums or passage of six months from the date of release of first advance payment, whichever is earlier; and

(b) deductions shall be made for accrued interest on the advance up to the month and advance at the rate stated in the Contract Data of the amount of each Interim Payment Certificate (excluding the advance payment and deductions and repayments of retention) in the currencies and proportions of the advance payment until such time as the advance payment and accrued interest has been repaid; provided that the advance payment and accrued interest shall be completely repaid prior to the time when 80 percent of the Accepted Contract Amount has been certified for payment. If the amount of interim payment certificate is not sufficient for recovery of accrued interest or in the opinion of the Employer satisfactory

progress is not being achieved by the contractor, then the contractor will have to deposit the accrued interest and return the mobilisation advance in part or in full as demanded by the Employer, failing which Employer shall have the right to encash the Bank Guarantee(s)

The contractor shall always have the option to start repayment earlier and/or to complete the repayment earlier than the due date.

If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Employer], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

14.2.5 Advances to be Used only for this Work

The advances shall be used by the Contractor strictly for the purpose of the Contract, and for the purpose for which they are paid. Under no circumstances, shall the advances be diverted for other purposes. Any such diversion shall be construed as a breach of the Contract and the Contractor shall be asked to return the advance at once and pay interest at 15% per annum till the advance is recovered back from him. The Contractor shall return the advance and pay the interest in one go without demur.

Employer retains the right for any other remedy prescribed for breach of Contract in this regard.

The Contractor, if required by the Engineer shall provide the details of utilisation of Mobilisation advance.

14.3 Application for Interim Payment Certificates

The Contractor shall submit a Statement in six copies to the Engineer in accordance with the payment procedure specified by the Engineer, after the end of each month, in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.21 [Progress Reports] and Record Measurement Sheets.

The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:

(a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);

(b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];

(c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Contract Data to the total of the above amounts, until the amount so retained by the Employer reaches the limit of Retention Money (if any) stated in the Contract Data;

(d) Any amounts to be added and deducted for the advance payments and repayments

in accordance with sub clause 14.2 [Advance Payment];

(e) any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];

(f) any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and

(g) the deduction of amounts certified in all previous Payment Certificates.

(h) for invoicing as per GST Laws, the estimated contract value of the Works executed in terms of (a) above and any amounts added or deducted as per (b), (e) to (g) above is to be broken up in two components i.e. (i) the base amount excluding GST (ii) GST component (calculated at the rate for works contract service as per GST Laws).

(i) Statement of interim payments certificates should be submitted by the Contractor to the Engineer by the 7th day of each month for the work executed upto the end of the previous month.

(j) An amount to be deducted for the payments to be made to different Departments towards payments liable to be made by the Contractor.

14.4 Schedule of Payments

If the Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, then unless otherwise stated in this schedule:

(a) the instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates];

(b) Sub-Clause 14.5 [Plant and Materials intended for the Works] shall not apply; and

(c) if these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less than that on which this schedule of payments was based, then the Engineer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less than that on which the instalments were previously based.

If the Contract does not include a schedule of payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

14.5 Plant and Materials intended for the Works

If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3:

(k) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and

(ii) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates].

If the lists referred to in sub-paragraphs (b)(i) or (c)(i) below are not included in the Contract Data, this Sub-Clause shall not apply.

The Engineer shall determine and certify each addition if the following conditions are satisfied:

(a) the Contractor has:

(i) kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and

(ii) submitted a statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;

and either:

(b) the relevant Plant and Materials:

(i) are those listed in the Schedules for payment when shipped,

(ii) have been shipped to the Country, en route to the Site, in accordance with the Contract; and

(iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Engineer together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Employer in amounts and currencies equal to the amount due under this Sub-Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause 14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration;

or

(c) the relevant Plant and Materials:

(i) are those listed in the Schedules for payment when delivered to the Site,

(ii) the original 'Invoice' and the original 'Inspection Certificate' by the approved Inspection agency marked 'for payment' is furnished with the Application for IPC [sub-Clause 14.3].

(iii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.

The additional amount to be certified shall be the equivalent of eighty percent of the Engineer's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials. The amount shall be certified on receipt of an Indemnity Bond for the stated amount in the Form approved by the Employer.

The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under

sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

14.6 Issue of Interim Payment Certificates

No amount will be certified or paid until the employer has received and approved the performance security. Thereafter, the Engineer shall within two days after receiving a statement and supporting documents (including Contractor's certificate in terms of Sub-Clause 6.22 (ii)), issue to the Employer a provisional interim payment certificate which shall state the amount which the Engineer determines to be due after preliminary check as per K RIDE's procedure order. After this the Engineer shall, within 28 days after receiving a statement and supporting documents, issue to the employer an Interim Payment Certificate which shall state the amount which the Engineer fairly determines to be due, with supporting particulars.

However, prior to issuing the Taking-Over Certificate for the Works, the Engineer shall not be bound to issue the Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated in the Contract Data. In this event, the Engineer shall give notice to the Contractor accordingly.

An Interim Payment Certificate shall not be withheld for any other reason, although:

(a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or

(b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Engineer may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer's acceptance, approval, consent or satisfaction.

14.7 Payment

The Employer shall pay to the Contractor:

(a) the first instalment of the advance payment within 42 days after issuing the Letter of Acceptance or within 21 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment], whichever is later;

(b) (i) After preliminary scrutiny and certifications by the Engineer, payment of 70% of the certified net payment due (after recoveries and deductions), shall be made by the Employer within 10 days of receiving a statement and supporting documents by the Engineer subject to the condition that last interim payment certificate has been settled after detailed check. In the event of the contractor submitting bills based on false measurements, Project Director should issue a written warning to him to the effect that the facility of 70% payment without detailed check will be withdrawn in future. If the contractor repeats the misconduct this facility should be withdrawn.

(iii) The amount certified in each Interim Payment Certificate within 56 days after the Engineer receives the Statement and supporting documents. Any discrepancy shall be rectified in the next payment to the Contractor; and

(c) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate or, the undisputed amount shown in the Final Statement, within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2.

Payment of the amount due, unless specified in the Contract Data, shall be made in INR into the bank account, nominated by the Contractor except for the Contract where the Contractor has opted for payment through Letter of Credit (LC) arrangement. In such a case, the procedure for payment shall be as prescribed in clause 14.7.1 below.

(d) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate or, the undisputed amount shown in the Final Statement, within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2.

Payment of the amount due, unless specified in the Contract Data, shall be made in INR into the bank account, nominated by the Contractor except for the Contract where the Contractor has opted for payment through Letter of Credit (LC) arrangement. In such a case, the procedure for payment shall be as prescribed in clause 14.7.1 below.

However, in case of JV, direct payment to individual JV partners shall be made on joint certification (about the net amounts payable to individual partners) by the authorized representative of the JV and concerned respective authorized representative of individual JV partners, after making requisite recoveries/deductions from the gross payment. In case of any dispute regarding the net amounts payable to individual partners, the Engineer shall decide the same on the basis of the execution of items of works under Schedules/Bills indicated in the JV agreement as the responsibility of execution of each JV partner. Payment to individual JV partners shall be treated as payment made to the JV. The said payment shall not alter any obligation of the JV and its individual Partners under the Agreement and their obligations under the agreement shall remain joint and several.

A foreign company (either single entity or JV partner), shall have to submit proof of having opened their project office in India before any payment (including advance payment) is released to such a company. The required proof here shall be a copy of the report containing information as per format prescribed by Reserve Bank of India submitted to the Director General of Police (DGP) of the state concerned in which project office has been established.

14.7.1 Procedure for payment through LC:

(i) The LC shall be a sight LC.

(ii) 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.

(iii) The Employer's Bank and its nodal branch for issue of LCs based on requests received from Employer Accounts Units shall be as indicated in the Contract Data. The Branch office of the Employer's Bank, where the Employer Accounts Office has its Account, as indicated in the Contract Data, 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 present incidental cost @ 0.15% per annum of LC value or any increase/decrease by the banks for issue of LC and operation thereof shall be borne by the contractor and shall be recovered from his Interim Payment Certificates.

(iv) 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.

(v) The LC terms and conditions shall inter-alia indemnify and save harmless the Employer from and against all losses, claims and demands of every nature and description brought or recovered against the Employer 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 Employer on this account shall be considered as reasonable compensation and paid by contractor.

(vi) The LC terms and conditions shall inter-alia provide that Employer will issue a Document of Authorisation (in the format decided in consultation with the Employer's Bank) after passing the Interim Payment Certificate for completed work, to enable contractor to claim the authorized amount from their bank.

(vii) The acceptable, agreed upon document for payments to be released under the LC shall be the Document of Authorisation.

(viii) The Document of Authorisation shall be issued by Employer Accounts Office against each Interim Payment Certificate passed by Employers.

(ix) On issuance of document of Authorisation, a copy of Document of Authorization shall be sent to the contractor. A copy of Document of Authorisation shall also be sent by Employer Accounts Office to Employer's bank.

(x) On receipt of Document of Authorization, the contractor shall 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 Payment Certificate.

(xi) The payment against LC shall be subject to verification from Employer's Bank .

(xii) The contractor's bank (advising bank) shall submit the documents to the Employer's Bank .

(xiii) The Employer's bank (Issuing Bank) shall, after verifying the claim so received w.r.t. the Document of Authorisation received from Employer Accounts Office release the payment to contractor's bank (advising bank) for crediting the same to contractor's account.

(xiv) Any number of Interim Payment Certificates can be dealt within one LC, provided the sum total of payments to contractor is within the amount for which LC has been opened.

(xv) The LC shall be closed after the release of Final Payment certificate including PVC amount, if any, to the contractor.

(xvi) In case of JV, LC shall be opened in the name of JV and option of direct payment to individual JV partners through LC shall not be permissible.

14.8 Delayed Payment

If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive interest compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b)) of the date on which any Interim Payment Certificate is issued.

Unless otherwise stated in the Special Conditions of Contract, the interest amount be calculated at the annual rate of seven percent.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

14.9 Payment of Retention Money

The Retention Money shall be certified and paid with the final payment certificate or bank guarantee against retention money shall be released, after making required adjustments for recovery for shortage/excess materials, if any (except those quantities which become surplus due to change in planning/scheme by K RIDE in case the recovery for surplus/excess materials is still balance after adjusting the amount payable in the final payment certificate.

The contractor shall be entitled to substitute a bank guarantee in the form approved by the Employer with the retention money amount recovered upto the date of request. Such substitution shall be permissible maximum upto 3 times. The Bank Guarantee shall be valid upto end of Defect Liability Period. In case of extension of date of completion of contract, the Contractor shall extend the validity of the Bank Guarantee(s) until the revised end of Defect Liability Period.

Wherever the contract is terminated under Clause 15.2, the Retention Money shall be forfeited and the balance work should be got done separately.

14.10 Statement at Completion

Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Engineer six copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payment Certificates], showing:

(a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,

(b) any further sums which the Contractor considers to be due, and

(c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Engineer shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Engineer, six copies of a draft final statement as per procedure prescribed by the Engineer, with supporting documents showing in detail in a form approved by the Engineer:

14.11 Application for Final Payment Certificate

Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Engineer, six copies of a draft final statement as per procedure prescribed by the Engineer, with supporting documents (including Contractor's certificate in terms of Sub-Clause 6.22 (ii)) showing in detail in a form approved by the Engineer:

(a) the value of all work done in accordance with the Contract, and

(b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.

If the Engineer disagrees with or cannot verify any part of the draft final statement, as per procedure prescribed by the Engineer the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

However if, following discussions between the Engineer and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Engineer shall deliver to the Employer (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.3 [Obtaining Dispute Board's Decision] or Sub-Clause 20.2 [Amicable Settlement], the Contractor shall then prepare and submit to the Employer (with a copy to the Engineer) a Final Statement.

14.12 Discharge

When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.

14.13 Issue of Final Payment Certificate

Within 28 days after receiving the Final Statement and discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall issue, to the Employer, the Final Payment Certificate which shall state:

(a) the amount which he fairly determines is finally due, and

(b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer, as the case may be.

If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 28 days, the Engineer shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

14.14 Cessation of Employer's Liability

The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

(a) in the Final Statement and also

(b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

However, this Sub-Clause shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in any case of fraud, deliberate default or reckless misconduct by the Employer.

14.15 Currencies of Payment

The Contract Price shall be paid in Indian Rupees (INR).

15	Termination by Employer

15.1 Notice to Correct

If the Contractor fails to carry out any obligation under the Contract as mentioned below, but not limited to, the Engineer/ Employer may serve the contractor with a 14 days notice in writing calling upon the contractor to make good the failure and to remedy it. If the contractor;

(a) fails to comply with Sub-Clause 4.2 [Performance Security],

(b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,

(c) without reasonable excuse fails to:

(i) proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or

(ii) comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 28 days after receiving it, or

(iii) adhere to the agreed programme of work / activity on the critical path, by a margin of 10% of the stipulated period, or

(iv) take steps to deploy competent and adequate number of personnel, and equipment to achieve progress as per agreed programme or

(v) adhere to the instructions of Engineers/Employer persistently or

(vi) comply any provision of the contract or

(vii) provide the Engineer/Employer or their representative proper facilities for inspecting the works or any part thereof as required, under Clause 7.3 (Inspection) and 7.4 (Testing).

(d) subcontracts the whole or major part of the Works or assigns the Contract without prior written consent of the Employer.,

If the contractor does not, within 14 days of receipt of notice under this sub-clause, proceed to make good his default in so far as the same is capable of being made good and carry on the work of complying with such direction as contained in the notice under sub clause 15.1, to the entire satisfaction of the Engineer/Employer, the Employer shall be entitled to take action under sub-clause 15.1.1 or 15.1.2 or 15.2 below.

15.1.1

In case of contractor's repeated failure to adhere to the agreed program, and whereas the contractor has been served with a Notice to Correct under Clause 15.1 of GCC, if the contractor approaches K RIDE with a revised program with specific monthly physical and financial targets along with the proposal to deploy matching inputs in the form of manpower and other resources to the satisfaction of the Employer, then the Employer may consider whether to proceed with termination of the contract under Clause 15.2 of GCC or to continue with the contract. However, the request to continue with the contract shall only be considered if the contractor

supports his earnestness to adhere to the revised program by submitting additional Performance Security in the form of Bank Guarantee(s) of specified number and value as decided by the Employer (total value of which will not exceed 10% of the contract price). The encashment of these additional Bank Guarantee(s) shall be linked with the non achievement of agreed physical/financial targets agreed upon by the Contractor and the Employer.

15.1.2

In case the contractor's failure is limited to only some of the works, and in response to Notice to Correct under Clause 15.1 of GCC, the contractor approaches the Employer that such works may be offloaded from him and got executed through another agency and additional cost incurred, if any, should be recovered from his dues, the Employer, on being convinced that the anticipated additional cost for such works will not be substantial and can be recovered from the dues of the contractor and that such offloading will help in improving the overall progress of the project, may agree to such offloading without any repercussion on the performance security and/or additional bank guarantees, if any, submitted by the contractor. However, the Employer will not be under any compulsion to agree to such a request. The Contractor shall be informed of the LOA issued to other agency(ies) for such works.

In case the contractor does not approach the employer for offloading but the Employer is convinced that:

(i) offloading of some works will help in improving the progress of the project;

(ii) termination/part termination of the contract at this stage will not be in the interest of the project;

(iii) the anticipated additional cost for such works will not be substantial and can be recovered from the dues of the contractor;

The Employer may issue 7 days notice to the Contractor stating the resources required to be deployed against each work. If the contractor fails to deploy the required resources as indicated in the notice, the employer shall offload such works and proceed with getting the works executed through other agency(ies). The Contractor shall be informed of the LOA issued to other agency(ies) for such works.

Offloading under the sub clause 15.1.2 shall be without any repercussion on the performance security and/or additional bank guarantees, if any, submitted by the contractor. The Contractor would have no future claim on this account and the extra expenditure so incurred, if any, by the Employer in getting the offloaded work done, shall be recovered from subsequent payment certificates or any other dues of the contractor.

15.2 Termination by Employer

The Employer shall be entitled to terminate the Contract as a whole or any part or parts (as may be specified in the Notice of Termination under any of the above Sub-Clause issue) if the Contractor:

(a) fails to comply with the directions contained in the notice under Sub-Clause 15.1

[Notice to Correct],

(b) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against it by Court or Statutory Authority him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or

(c) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:

(i) for doing or forbearing to do any action in relation to the Contract, or

(ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract,

or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (c). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination

In any of these events or circumstances, the Employer may, by Notice Terminate the contract with immediate effect.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

The Contractor shall remove all his plants and machinery from the site then leave the Site and deliver any required Goods, all Contractors' Documents, and other design documents made by or for him, to the Engineer within 7 days from the issue of Notice of Termination, failing which Delay Damages as prescribed for delay in completion of works shall be imposed as per provision of clause 8.7. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice of Termination (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor for completing the work.

15.3 Valuation at Date of Termination

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract. For this purpose, the contractor shall be notified the date for witnessing of measurements and handing over of the materials for which contractor has already been paid. In case the contractor fails to attend or send a representative even after such notice, the Engineer shall ex parte proceed with measurements of the works executed and taking over of plants and materials etc. for which payment has already been made to the contractor, which shall be treated as final.

15.4 Payment after Termination

After a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Employer may:

(a) proceed in accordance with Sub-Clause 2.5 [Employer's Claims],

(b) encash the Performance Guarantee and forfeit the Performance

Security:

i) In full including additional Performance Guarantee amount if any taken in terms of sub clause 35.5 of ITB and not due for release on the date of issue of termination letter, in case of termination of the contract as a whole; Or

ii) in part/parts proportionate to the contract price of the bill/schedule to which the terminated part of work belongs i.e.

P = (A x B) ÷ C where,

P = Proportionate Bank Guarantee Amount

A = Contract Price of the particular bill/schedule to which the terminated part of work belongs

B = Performance Guarantee amount in terms of GCC sub clause 4.2

C = Total Contract Price

Plus additional Performance Guarantee amount if any taken in terms of sub clause 35.5 of ITB and not due for release on the date of issue of termination letter against that particular bill/Schedule to which the terminated part of the work belongs in case of termination in part/parts.

(c) release any payment due to the contractor for works executed prior to termination and evaluation under clause 15.3 (valuation at date of termination, however, if by this time the Contractor has failed to make a payment due to the Employer, the same will be deducted from the payment due and any balance remaining shall then be paid to the Contractor.)

15.5 Employer's Entitlement to Termination for Convenience

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor under Clause 16.2 [Termination by Contractor].

After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 19.1 [Payment and Release in case of Optional Termination].

15.6 Corrupt or Fraudulent Practices

If the Employer determines that the Contractor has engaged in corrupt, fraudulent, collusive or coercive practices, in competing for or in executing the Contract, then the

Employer may, after giving 14 days' notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of Clause 15 shall apply as if such expulsion had been made under Sub-Clause 15.2.

For the purposes of this Sub-Clause:

(a) "corrupt practice" means the offering, giving, receiving of soliciting of anything of "value to influence the action of a public official in the procurement process or in the Contract execution.

(b) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of the Contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

(c) *"collusive practice" means a scheme or arrangement between two or more bidders, with or without the knowledge of the Employer, designed to establish bid prices at artificial, noncompetitive levels.*

(d) *"coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract.*

16	Deleted

17	Risk and Responsibility

17.1 Indemnities

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

(a) bodily injury, sickness, disease or death, of any person including railway user whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and

(b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, wilful act or breach of the Contract by the Employer,

the Employer's Personnel,, their respective agents, or anyone directly or indirectly employed by any of them.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d)(i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property].

17.2 Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Employer.

After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Employer's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

17.3 Employer's Risks

The risks referred to in Sub-Clause 17.4 below, insofar as they directly affect the execution of the works in the Country, are:

(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,

(b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war, within the Country,

(c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel,

(d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,

(e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,

(f) use or occupation by the Employer of any part of the Permanent Works, except as may be specified in the Contract,

(g) design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible, and

(h) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.

17.4 Consequences of Employer's Risks

If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Employer's Risks], Cost shall be payable.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

17.5 Intellectual and Industrial Property Rights

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

(a) an unavoidable result of the Contractor's compliance with the Contract, or

(b) a result of any Works being used by the Employer:
  (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
  (ii) in conjunction with any thing not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

17.6 Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, provided that this exclusion shall not apply to any obligation of the Contractor to pay Delay Damages to the Employer under Sub-Clause 8.7 [Delay Damages].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Employer's Equipment and Free-Issue Material], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum as specified in the Contract Data or if nothing is specified in the Contract Data, the accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

17.7 Use of Employer's Accommodation/ Facilities

The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation(where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Engineer.

18 Insurance

18.1 General Requirements for Insurances

In this Clause, "insuring Party" means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in the Contract Data (calculated from the Commencement Date), submit to the other Party:

(a) evidence that the insurances described in this Clause have been effected, and

(b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].

(c) If the contractor fails to submit evidence and copies of the policies as mentioned in (a) & (b) above to prove that the policies have been obtained within the period specified in the contract data, and submits the same later on and from the submitted evidence it is found that the policies have not been obtained within the period specified, the Employer shall recover double the cost of the premium for the period the policies have been delayed.

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay double the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Employer's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.

The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 18) with insurers from any eligible source country.

18.2 Insurance for Works and Contractor's Equipment

The Contractor shall insure the Works, Plant, Materials, including those issued by the Employer and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit, subject to a maximum value indicated in Contract Data**.**. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.

Unless otherwise stated in the Special Conditions of Contract, insurances under this Sub-Clause:

(a) shall be effected and maintained by the Contractor as insuring Party,

(b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage,

(c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Employer's Risks],

(d) shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Employer's Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated in the Contract Data (if an amount is not so stated, this sub-paragraph (d) shall not apply), and

(e) may however exclude loss of, damage to, and reinstatement of:

i) part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),

ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,

iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, and

iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

If, more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Employer, with supporting particulars. The Employer shall then (i) be entitled subject to Sub-Clause 2.5 [Employer's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

18.3 Insurance against injury to Persons and Damage to Property

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in the Contract Data, with no limit on the number of occurrences. If an amount is not stated in the Contract Data, this Sub-Clause shall not apply.

Unless otherwise stated in the Special Conditions of Contract, the insurances specified in this Sub-Clause:

(a) shall be effected and maintained by the Contractor as insuring Party,

(b) shall be in the joint names of the Parties,

(c) shall be extended to cover liability for all loss and damage to the Employer's property including Railways Property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and

(d) may however exclude liability to the extent that it arises from:

(i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,

(ii) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects, and

(iii) a cause listed in Sub-Clause 17.3 [Employer's Risks], except to the extent that cover is available at commercially reasonable terms.

18.4 Insurance for Contractor's Personnel

The Contractor shall abide by the provisions of ESIC Act, 1948 (extended from time to time) to take care of insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness or disease. In addition the contractor shall also maintain insurance against liability for claim of death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer and the Engineer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

19 Force Majeure

If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reason of any war, hostility, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, explosions, epidemics, strikes, lockouts or 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 14 days from the date of occurrence thereof, neither party shall by reason of such event, be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non-performance of delay in performance, and works under the contract shall be resumed as soon as practicable after

such event has come to an end or ceased to exist, and 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 continuous period exceeding 84 days, either party may at its option terminate the contract by giving notice to the other party.

19.1 Payment and Release in case of Optional Termination

Upon such termination, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include :

(a) The amounts payable for any work carried out for which a price is stated in the contract;

(b) The Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the contractor is liable to accept delivery; this Plant and materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, the Contractor shall place the same at the Employer's disposal;

(c) Other Costs or liabilities supported by necessary documentary evidence which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works as per mutually agreed programme.

(d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost).

20 Claims, Disputes and Arbitration

20.1 Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

(a) this fully detailed claim shall be considered as interim;

(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and

(c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.

Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, the Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

Each Payment Certificate shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

20.2 Amicable Settlement

In case any dispute between the Engineer and the Contractor for which claim has already been made by the contractor, remains unresolved, the Contractor shall, then, give notice of dissatisfaction and intention to commence arbitration to the Employer duly specifying the subject of the dispute or difference as also the amount of claim item wise. The Parties shall make attempts to settle the dispute amicably before the commencement of

arbitration as per procedure by KRIDE. However, unless both Parties agree otherwise, demand for arbitration may be made by the contractor after ninety days from the day on which a notice of dissatisfaction and intention to commence arbitration was given, even if no attempt at amicable settlement has been made.

Procedure for Amicable Settlement in contracts

1. Amicable Settlement Committee at senior management level shall make an attempt to resolve the issues/disputes within 90 days of request by the contractor.

2. The committee shall comprise of the following:-

(i) GM /K RIDE directly in-charge of the project;
(ii) Concerned finance officer, and
(iii) GM /K RIDE (in the same order) directly in-charge of the project of other discipline(s) in case the issues involve other discipline(s) of the engineering

3. Whenever the contractor submits a request for amicable settlement, MD/K RIDE should forward the same to concerned GM /K RIDE (in the same order) directly in-charge of the project. GM /K RIDE on receipt of the same shall issue a note to the concerned finance officer and concerned GM/K RIDE of other discipline in case the issues involved other discipline(s) of engineering, about the request for amicable settlement to be dealt by them and fix a date in consultation with them for a hearing. The date should then be communicated to the MD/K RIDE, GM/ /K RIDE of other department (if the issues involved their department) and contractor for presenting their case before the Amicable Settlement Committee.

4. This being an additional workload like arbitration, the Committee members shall be paid fee by KRIDE at the rates payable to the Arbitrators of KRIDE.

20.3 Arbitration

Any dispute, in respect of which amicable settlement has not been reached, arising between the Employer and the Domestic or Foreign Contractor related to any matter arising out of or connected with this contract, then the contractor shall be entitled to demand in writing that the dispute or difference be referred to arbitration.

Only such dispute(s) or difference(s) in respect of which the demand had been made for amicable settlement under GCC 20.2 but could not be settled, shall be referred to arbitration subject to the condition that cumulative amount of claims in the contract is not exceeding 20% of the contract price. In case the cumulative amount of claims exceeds 20% of the contract price, arbitration clause will not be applicable.

The Arbitration proceedings shall commence from the day, a written and duly quantified demand for arbitration is received by Managing Director, Rail Infrastructure Development Company (Karnataka) Limited, Bangalore /K RIDE).

The disputes so referred to arbitration shall be settled in accordance with the Indian Arbitration & Conciliation Act, 1996 and any statutory modification or re-enactment

thereof.

Further, it is agreed between the parties as under:

20.3.1

Number of Arbitrators: The arbitral tribunal shall consist of three arbitrators.

20.3.2

Procedure for Appointment of Arbitrators: The arbitrators shall be appointed as per following procedure:

(a) The Contractor, while invoking demand for arbitration, shall submit to MD/K RIDE, claims duly quantified along with name and contact details of his nominee arbitrator. Thereafter, he Employer will nominate his nominee arbitrator within a period of 30 days from receipt of such demand from the Contractor and will issue letter of appointment to both the arbitrators appointed by the parties with a copy to the Contractor.

(b) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two Arbitrators appointed by the parties to reach upon consensus within a period of 30 days from the appointment of the Arbitrators subsequently appointed, then, upon the request of either or both parties, the Presiding Arbitrator shall be appointed by the Managing Director, Rail Infrastructure Development Company (Karnataka) Limited, Bangalore.

(c) 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 concerned GM/K RIDE fails to act without undue delay, the MD/K RIDE shall appoint new arbitrator/arbitrators to act in his/their place except in case of new Presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (b) above. 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).

20.3.3

Qualification and Experience of Arbitrators (to be appointed as per sub-clause 20.3.2 above): The contract being of specialized nature requiring knowledge and experience of dealing with construction contracts, the arbitrators to be appointed shall have minimum qualification and experience as under:

Arbitrator shall be;

a working/retired officer (not below E-9 grade and above in a PSU with which K RIDE has no business relationship) of any discipline of Engineering or Accounts/Finance department, having experience in Contract Management of construction contracts; or

a retired officer (retired not below the HAG level) of any Engineering/Accounts Services of Central Government, having experience in Contract Management of construction

contracts; ora retired officer who should have retired more than 3 years previously from the date of appointment as Arbitrator (retired not below E-9 grade in K RIDE or a PSU with which K RIDE has a business relationship) of any Engineering discipline or Accounts department, having experience in Contract Management of construction contracts.

20.3.4

No person other than the persons appointed as per above procedure and having above qualification and experience shall act as Arbitrator. In case any person having the qualification and experience other than that mentioned above is nominated as arbitrator, the arbitration clause shall cease to exist and shall not be applicable.

No new claim, except as otherwise mutually agreed by the Parties, shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

20.3.5

Neither party shall be limited in the proceedings before such arbitrators to the evidence nor did arguments previously put before during amicable settlement.

20.3.6

The reference to arbitration may proceed, notwithstanding that the Works shall not then be or be alleged to be complete, provided always that the obligations of the Employer, the Engineer and the Contractor shall not be altered by the reason of the arbitration being conducted during the progress of the Works. Neither party shall be entitled to suspend the Works, nor shall payment to the Contractor be withheld on account of such proceedings

20.3.7

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 Employer/Engineer that the final bill is ready for signature of the contractor(s), he/they will be deemed to have waived his/their claim(s) and the Employer shall be discharged and released of all liabilities under the contract in respect of these claims.

20.3.8

Arbitration proceedings shall be held at Bangalore, India or at a place where GM(CIVIL)/K RIDE's (dealing the contract) office is located, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

20.3.9

The Arbitral Tribunal should record day to day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements.

All arbitration awards shall be in writing and shall state item wise, the sum and detailed reasons upon which it is based.

20.3.10

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.

A party may apply for correction 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 specific point of award to tribunal within 60 days of the receipt of award.

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.

20.3.11

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.

20.3.12

The fees and other charges of the conciliator/arbitrators shall be as per the fee structure fixed by the employer as amended from time to time irrespective of the fact whether the Arbitrator(s) is/are appointed by the parties or by the Court of law unless specifically directed by Hon'ble Court otherwise on the matter, and shall be shared equally by the Employer and the Contractor. However, the expenses incurred by each party in connection with the preparation, presentation will be borne by itself

21. Jurisdiction of courts

The Contract Agreement shall be subject to exclusive jurisdiction of Courts as indicated in the Contract Data.

APPENDIX 1

SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK

(The laws as current on the date of bid opening will apply)

a) **Workmen Compensation Act 1923**: The Act provides for compensation in case of injury by accident arising out of and during the course of employment.

b) **Payment of Gratuity Act 1972**: Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

c) **Employees P.F. and Miscellaneous Provision Act 1952 (since amended):** The Act Providesfor monthly contributions by the employer plus workers @ 10% or 8.33%. The benefits payable under the Act are :

   (i) Pension or family pension on retirement or death, as the case may be.

   (ii) Deposit linked insurance on the death in harness of the worker.

   (iii) payment of P.F. accumulation on retirement/death etc.

d) **Maternity Benefit Act 1951**: The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.

e) **Contract Labour (Regulation & Abolition) Act 1970**: The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The Principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more contract labour.

f) **Minimum Wages Act 1948**: The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, Runways are scheduled employments.

g) **Payment of Wages Act 1936:** It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

h) **Equal Remuneration Act 1979**: The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.

i) **Payment of Bonus Act 1965**: The Act is applicable to all establishments employing 20 or more employees. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs.3500/-per month or less. The bonus to be paid to employees getting Rs.2500/- per month or above upto Rs.3500/- per month shall be worked out by taking wages as Rs.2500/-per month only. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of this Act.

j) **Industrial Disputes Act 1947**: The Act lays down the machinery and procedure for resolution of Industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.

k) **Industrial Employment (Standing Orders) Act 1946**: It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same certified by the designated Authority.

l) **Trade Unions Act 1926:** The Act lays down the procedure for registration of trade unions of workmen and employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.

m) **Child Labour (Prohibition & Regulation) Act 1986**:The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of Child Labour is prohibited in Building and Construction Industry.

n) **Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979:** The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home upto the establishment and back, etc.

o) **The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996:** All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the Building or construction work and other welfare measures, such as Canteens, First-Aid facilities, Ambulance, Housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.

As per Central Government's Notification No.S.O.2899 dated 26.09.1996 under this act, the cess shall be levied @1% of cost of construction works which shall be deducted from each bill of the payment due to the contractor.

p) **Factories Act 1948**: The Act lays down the procedure for approval at plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.

q) **The Employees State Insurance Act, 1948 (Act No. 34 of 1948) (Provisions as extended from time to time):**An Act to provide for certain benefits to employees in case of sickness, maternity and 'employment injury' and to make provision for certain other matters in relation thereto.

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Section 7 Part A	Special/Particular Conditions of Contract (SCC) Contract Data

Section 7 Particular Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Part A – Contract Data

Conditions	Reference to GCC	Data
Employer's name and address	1.1.2.2 & 1.3	K RIDE (Rail Infrastructure Development Company (Karnataka) Limited) (A Joint venture of GoK and MoR) #8, 1st Floor, Samparka Soudha, Dr. Rajkumar Road, opposite Orion Mall, Bengaluru – 560010 Mobile No +91 63648 90810, +91 63648 90811
Employer's Representative	1.1.2.6	General Manager/Civil/Project, K RIDE (Rail Infrastructure Development Company (Karnataka) Limited) #8, 1st Floor, Samparka Soudha, Dr. Rajkumar Road, opposite Orion Mall, Bengaluru – 560010 Mobile No +91 63648 90810, +91 63648 90811 E – Mail: md@kride.in
Engineer's name and address	1.1.2.4 & 1.3 (b)	*Will be notified later*
Defects Notification Period	1.1.3.7	Not Applicable
Electronic transmission systems	1.3 (a)	Not permitted
Address for Communication to Employer	1.3 (b)	General Manager /Civil/Project,, K RIDE (Rail Infrastructure Development Company (Karnataka) Limited) #8, 1st Floor, Samparka Soudha, Dr. Rajkumar Road, opposite Orion Mall, Bengaluru – 560010 Mobile No +91 63648 90810, +91 63648 90811 E – Mail: md@kride.in
Governing Law	1.4	The Laws of Republic of India
Ruling language	1.4	English
Language for communications	1.4	English

Conditions	Reference to GCC	Data
Time for access to Site (after the date of commencement)	2.1	Starting from the Date of Commencement.
Performance Security	4.2	(a) The Performance Security shall be for an amount of 3% (Three percent) of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract amount in the prescribed form for the stated amount valid for a period of 28 days beyond issue of performance certificate. The contractor shall have the following options; (i) to submit full performance security for an amount equal to 3% of the contract price; or (ii) to submit part performance security for an amount equal to 1.5% of the contract price and the balance performance security shall be recovered from interim payment certificates @ 10% of the bill amount starting from 1st bill till it reaches full Performance Security. The contractor shall not be entitled to any interest on the amounts so recovered. However, the contractor shall be entitled for release of recovered amount of performance security against submission of bank guarantee of an equivalent amount, maximum three times during the contract.
Sub-Contractors	4.4	Clause- a,b,c,d and e - Deleted
Assignment of Benefit of Subcontract	4.5	Not Applicable
Safety Procedures	4.8	Additional Safety Precautions – Deleted 4.8.1 - Deleted
Access Route	4.15	Not Applicable
Normal working hours	6.5	Sunrise to Sunset (This will be modified to suit the work requirements).
Commencement of works	8.1	Within fifteen (15) days from the date Contractor receives Letter of acceptance.
Maximum amount of delay damages	8.7	10% (ten percent) of the Contract Price.
Amount of bonus for early completion	8.13	Not Applicable

Conditions	Reference to GCC	Data
Maximum limit of bonus	8.13	Not Applicable
State Capital Applicable		Bengaluru
Mobilization advance payment	14.2.1	Not Applicable
Timing of Mobilization Advance Payment	14.2.1	Not Applicable
Advance Payment against Plant and Machinery	14.2.2	Not Applicable
Interest on Advance Payment	14.2.1 & 14.2.2	Not Applicable
Repayment rate of Advance payment	14.2.4	Not Applicable
Percentage of Retention Money	14.3	i. Not Applicable
Limit of Retention Money	14.3	Not Applicable
Plant and Materials	14.5 (b)	Not applicable
	14.5(c) (i)	Not Applicable
Employers' Bank details for Letter of Credit **(a) Nodal Branch** **(b) Issuance/ reimbursing branch for LC**	14.7.1	(a) IDBI Bank, 11, First Cross, Gandhinagar, P B No. 9931, Bangalore 560009 IFSC Code – IBKL0000551 A/c No - 0551104000143226 (b) Should be indicated later
Maximum Total Liability of the Contractor	17.6	Accepted Contract Amount
Periods for submission of insurance: **a) evidence of insurance** **b) relevant policies**	18.1	Not applicable

Conditions	Reference to GCC	Data
Maximum amount of deductibles for insurance of Employer's risks.	18.2 (d)	NIL
Minimum amount of insurance by the Contractor for Works and Contractor's Plant and Materials including loss or damage to equipment.	18.2	Not Applicable
Minimum amount of insurance by the Contractor for Third party insurance including damage to Other Property and personal injury or death insurance for: a) for other people, and b) for Contractor's Employees.	18.3	Not Applicable
Jurisdiction of Courts	21	*Bengaluru*

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Section 7 Part B	Technical Specifications Contract Data

Section 7B	Special Conditions of Contract

Section 7 – PART B - Special Conditions of Contract

The following Special Conditions of Contract (SCC Section 7- Part B shall supplement the General Conditions of Contract (GCC) Section 6. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC Section 6.

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K RIDE

SPECIAL CONDITIONS OF CONTRACT

ARTICLE I

Personnel

1.01: In the event that any of the deployed personnel is found by the Employer to be incompetent, guilty of misbehavior or incapable of discharging the assigned responsibilities, the Employer may direct the Consultant by a written notice, at the expense of the Consultant, to forthwith provide a replacement with equivalent or better qualifications and experience acceptable to the Employer.

Consultant shall promptly submit the CV of the personnel proposed to be deployed as replacement and K-RIDE shall convey approval/rejection (after personal meeting, if required, with K RIDE), within a period of 10 days of receipt of such CV.

Such replacement should be arranged at the earliest but not later than 60 days of such notice. If a replacement is not given within 60 days then a deduction @ 0.5% of the accepted monthly remuneration rate per day of delay, shall be applicable. In case K-RIDE instructs to remove the personnel with immediate effect in the interest of project implementation, the Consultant shall be bound to comply with Employer's instructions without demur. However, in such a case payment of remuneration for the notice period of 60 days shall be borne by K-RIDE.

In case K-RIDE does not convey the approval/rejection within 10 days of receipt of CV, the period of 60 days shall deemed to be extended by the number of days taken beyond stipulated 10 days subject to the condition that there is no delay on account of the Consultant in presenting the person for meeting with K RIDE on the date decided and conveyed by K-RIDE and in such a case, the Consultant shall give a reminder to the Employer promptly and wait for the decision of the Employer for another 10 days from the receipt of such reminder by the Employer , if still Employer fails to convey its approval/rejection of the CV, then the CV shall be deemed to be accepted and such proposed personnel shall become eligible for deployment.

1.02: If the Expert/Engineer are required to be replaced on its own by the consultant, for the reasons other than permanent long term disability or death (i) for total replacement above 25% and upto 40% of strength, remuneration shall be reduced by 5% of the accepted remuneration rate of the personnel replaced (ii) for total replacement above 40% and upto 65% remuneration shall be reduced by 10% and (iii) for total replacement beyond 65% of the strength the employer shall initiate action of higher deduction/termination/ debarment upto 2 years as considered appropriate. To arrive at the percentage replacements, multiple replacements for the same position shall be counted multiple times. However, any replacement beyond 3 years from the date of deployment of the personnel being replaced shall not be counted for arriving at the percentage replacements.

1.03: The Team Leader/Expert Engineer being important controlling personnel for the project should normally not be changed once deployed. However, in exceptional circumstances if change is a must, then an overlapping period of 7 days is to be provided for proper handing over and taking over. For such overlapping period, the Employer will pay the man month rate for one person only. In case if such overlapping period is not ensured, recovery @1/30th of the accepted monthly remuneration rate of the personnel shall be done for each day of reduction in overlap.

1.04*:* If CV of the proposed personnel is found incorrect or inflated at a later date, the personnel accepted will be removed from his assignment and debarred from further assignments in K-RIDE works for a period of 3 years. If a consulting firm submits such incorrect or inflated CV for the second time in the same contract, necessary action shall be taken by K-RIDE to debar the firm from participation in future assignments of K-RIDE for a period upto 2 years.

1.05: To ensure better discipline, management and better availability of QSCA personnel, the Consultant shall ensure that the deployed personnel reside in the vicinity of the QSCA office(s) in their work area by making suitable arrangement. Failure to ensure this will be treated as non compliance of contractual obligations under 3.07 of this section.

1.06: Intimation of Daily Deployment of Daily Deployment

The deployment schedule for each Expert/ Engineer for the next day should be fixed on daily basis by the Team Leader on the previous evening, and conveyed by email/messages to the concerned Officer of K-RIDE. Failure to ensure this will be treated as non compliance of contractual obligations in terms of 3.07 of this section. If during check by K-RIDE any of the personnel is not found at site as per the deployment intimated, the person shall be marked absent for the day.

1.07: The Consultant shall not recruit, or attempt to recruit personnel from amongst persons in the services of the Employer, or working on the works of the Employer from contractors/consultants side unless such recruitment is for a position higher than the existing position of the person, which can be done only after the approval of the Employer. In case of non compliance detected at any time the Employer it will be treated as non compliance of contractual obligations in terms of 3.07 of this section and may also lead to termination of contract.

1.08: Any personnel who have been removed by K-RIDE, in any of its contracts, shall not be recruited for the assignment.

1.09: Minimum monthly payment by the Consultant:

The Consultant shall ensure that the personnel engaged for the work shall not be paid less than Rs.79,000/- as their minimum monthly payment.

The payment for this purpose shall include only salary, leave salary, medical insurance, PF contribution of the employer.

The minimum payment as specified above shall be applicable for the first 12 months from the date of commencement and shall be increased @ 6% every 12 months from the date of commencement. The Consultant will certify in each interim payment certificate that no personnel is being paid less than the minimum stipulated amount. In addition, the Consultant will be required to submit documentary proof thereof as demanded by K-RIDE including Form 24 or any other relevant Form (submitted quarterly to Income Tax Department) and Form 16 or any other relevant Form (Issued annually to the employee) under Income Tax Act.

ARTICLE II

Staffing Schedule

2.01: Employer reserves the right to reduce the nos. and estimated Man months of Engineer/Expert **by serving 30 days notice to the consultant,** without any claim on either side, as per site requirement and the staffing schedule shall be amended accordingly**.**

ARTICLE III

Performance of the Services

3.01: The Consultant shall carry out the Services with due diligence and efficiency and shall furnish to the Government and the Employer such

information related to the Services as the Government, or the Employer, may from time to time reasonably request.

3.02: The Consultant shall act at all times so as to protect the interest of the Employer and will take all reasonable steps to keep all expenses to a minimum consistent with sound professional practices.

3.03: The Consultant shall furnish to the Employer such information related to the Services as the Employer may from time to time reasonably request.

3.04: (a) Performance Security - Deleted

3.04: (b) List of Personnel

The candidates whose CVs (Curriculum Vitae) have been submitted at the time of submission of bid shall be directed to K-RIDE office for personal meeting/interview within 15 days of issue of Letter of Acceptance (LOA). Failure to send the candidate as per above shall entitle the Employer to terminate the Consultancy Contract and forfeit the proposal security.

On examination, the approval or rejection of the personnel will be communicated by K-RIDE within 10 days. In case K-RIDE does not convey the approval/rejection within 10 days of interview/meeting, the Consultant shall give a reminder to the Employer promptly and wait for the decision of the Employer for another 10 days from the receipt of such reminder by the Employer, if still Employer fails to convey its approval/rejection of the CV, then the CV shall be deemed to be accepted and such proposed personnel shall become eligible for deployment.

3.05: Effectiveness of Contract

The Contract shall come into force and effect on the effective date subject to fulfilment of conditions precedent to signing of contract agreement.

3.06: Commencement of Services

The consultant shall commence the services in accordance with clause 4 in section 8 of the Contract Agreement. The actual dates of commencement and completion of works for which Quality Safety Auditing consultancy is required to be provided by the consultant shall depend upon the progress of works.

3.07: Deficiency in Services:

a)

I) In case of failure of initial deployment of Expert/Engineer;

(i) within 15 days of the request of the Employer.

K-RIDE will be entitled to a deduction @ 0.5% of the accepted monthly remuneration rate of the personnel not deployed per day of delay, after the notice period of 15 days.

II) In case of failure of replacement of Expert/Engineer on its own by the consultant after initial deployment, within 60 days from the date the Consultant intimates the Employer of his intention to replace the personnel (as the existing personnel has already left and unlikely to resume his duties), K-RIDE will be entitled to a deduction @ 0.5% of the accepted monthly remuneration rate of the personnel for each day of delay beyond 60 days.

b) If the K RIDE is satisfied about non-performance of any obligation/provision as stipulated in the Terms of Reference OR non compliance of any of the provisions of the contract, a deduction of Rs.25,000/- or higher but not exceeding 1% of the monthly payment for supervision consultancy shall be applicable for each instance of non performance/non compliance.

Notwithstanding anything contained above, the Consultant must ensure to perform/take corrective action on the particular non performance/non compliance in a reasonable time frame. Failure to take corrective action within a reasonable time frame, depending upon the importance of the activity, may lead to termination of contract as decided by the employer.

c) If more than 5 incidents occur requiring deductions as mentioned in (b) above, the Employer may initiate action to terminate the contract due to unsatisfactory performance, on the recommendations of K RIDE.

3.08: Extension of Time:

a) Extension of time due to reasons not attributable to Consultant: In case of delays in completion of works and remedying defects during defect notification period of the construction contract(s) on account of any reason(s) which are not attributable to the Consultant, the period of consultancy shall be extended by the Employer on the same rates and terms and conditions of the Agreement.

b) Extension of time due to reasons attributable to the Consultant: If the period of consultancy is required to be extended due to extension of time of the construction contract for the reasons attributable to the Consultant, the Employer shall grant such extension of the Consultancy contract with imposition of delay damages @ 1/5000 of the contract price for each day of delay.

3.09: Performance Certificate:

Performance of the Consultant's obligations shall not be considered to have been completed until the Employer has issued the Performance Certificate to the Consultant, stating the date on which the Consultant completed his obligations under the Contract.

The Employer shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defect Notification Periods of the construction contract(s), or as soon thereafter as the Consultant has completed and tested all the Works, including remedying any defects, prepared final bill, completion report and the Consultant has handed over all the documents and drawings related to the works to the satisfaction of the Employer.

Only the Performance Certificate shall be deemed to constitute completion of the consultancy services.

3.10: Maximum limit of delay damages under 3.08 of this section and deductions/recoveries/reduction in payment effected in terms of provisions of 1.01, 1.02, 1.03, 1.04, and 3.07 a) of this section shall be 10% of the original contract price.

3.11: If validity of contract is extended beyond the original time of completion of services for reasons not attributed to the Consultant, then no deduction shall be made in terms of 1.02 of this section during such extended period for any personnel who has been deployed during the original completion period on replacement basis and is continuing during the extended period .

The provisions of 1.02 of this section shall be applied afresh starting from start of extended period i.e. replacements made during the extended period shall only be counted for arriving at the percentage replacements duly considering all the conditions of 1.04 of this section.

ARTICLE IV

Sub-Contracts

4.01: Not permitted.

ARTICLE V

Relationship of Parties

5.01: Nothing contained herein or in the Technical Assistance Agreement shall be construed as establishing or creating between the Employer and the Consultant a relationship of master and servant or principal and agent.

5.02: The Consultant shall during the performance of the Services be an independent contractor retaining complete control over its personnel, conforming to all statutory requirements with respect to all its employees, and providing all appropriate employee benefits.

ARTICLE VI

Payments and Mode of Billings

6.01: The Employer shall pay to the Consultant in respect of the Services, such remuneration on the accepted rates and reimburse the expenditure as per section 8 clause 6 of contract agreement and also 6.10 of this section. The monthly payment will be made as per actual deployment of staff duly certified by employer or his representative.

In case the project being supervised is completed ahead of schedule of the original completion date, then the payment to the consultant will be restricted up to the month in which the project is concluded plus the defect liability period or upto the period Consultant is asked to continue the services.

In the event of termination of construction contract or removal of contractor, no further payment beyond 30 days of such event shall be made to the Consultant, till it is decided by the Employer, if the services of the Consultant/personnel are required and in which case the situation shall be reviewed including further deployment of consultant's staff etc.

6.02:

a) Remuneration shall be determined on the basis of time spent by the personnel listed in the Staffing Schedule in performance of the Services after the Effective Date at the accepted man month rates.

b) Remuneration for periods of less than one month shall be calculated on a calendar day basis for the time spent in the field for part of the month. The personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave. The Consultant's remuneration shall be deemed to cover these items. Any taking of leave by personnel shall be subject to the prior approval of the Employer (except in emergency cases post facto approval may be considered by the Employer) and the Consultant shall ensure that absence for leave purpose will not delay the progress and adequate supervision of the Services. The period for which the Consultant's personnel will be on leave or absent, shall not be charged on the bill and the bill must be accompanied with the attendance record for the period. In case a person remains absent for more than 3

days in a month, on one hand period of such absence shall not be charged on the bill and in addition recovery @ 1% of the monthly billing rate of the personnel shall also be done from the bills of the consultant for each day of unauthorized absence exceeding 3 days. In case, the Consultant becomes aware that the personnel is unlikely to resume his duty, he shall inform the Employer accordingly and initiate action for replacement of the personnel. The additional recovery for unauthorised absence shall be stopped from the day when the Employer is intimated so by the Consultant. The work of the personnel of the Consultants will have to be adjusted for proper supervision at all times when the work is in progress, without any over time according to the requirement at site.

c) QSCA Personnel can avail a weekly rest, National holidays and three of the religious holidays from the list of religious holidays declared at K-RIDE office, with the approval of K RIDE Officer, for which no deduction in their remuneration will be made. Maximum of Six Weekly rests can be clubbed With/Without prefixing/suffixing it with National Holiday, Religious holiday and taken together, solely at the discretion of the K RIDE Officer. However, this will only be with the prior approval of Employer. Consultant if required shall stagger/defer such weekly rest or availing National Holiday or religious holiday during exigencies, so as to ensure uninterrupted progress of works.

6.03:

(a) Payments to be made by the Employer hereunder shall be strictly subject to, and representative of, satisfactory progress achieved by the Consultant.

(b) As soon as practicable and not later than fifteen days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Employer, in duplicate, the attendance record for the period and the amounts payable to the consultant for such month. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenses.

6.04: As soon as practicable after the completion of the Services or termination of the Contract, the Consultant shall submit to the Employer the Final Statement of Eligible Costs incurred, with vouchers and other appropriate supporting documents for such reimbursable expenditures referred to in 6.10. The statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenses.

6.05: Final payment shall be made by the Employer only after the Final Statement and the Final Report have been submitted by the Consultant and approved by the Employer. The Consultant shall submit the Final Statement to the Employer within 120 calendar days of the date of approval by the Employer of the Final Report. All costs, including reimbursable expenses, which have not been included in the Final Statement will not be paid or reimbursed. Should any discrepancy be found to exist between the actual payments made by the Employer and the costs authorized to be incurred by the Consultant pursuant to this Contract, the final payment shall be adjusted by the Employer to reflect such discrepancy. The Consultant shall reimburse any amount that the Employer has paid or caused to be paid in accordance with this in excess of the costs actually incurred to the Employer within 3 days after receipt by the Consultant of notice thereof.

6.06:

(a) Subject to 6.01 and 6.03 of this section, the Employer shall pay to the Consultants the amounts claimed pursuant to this Article VI within twenty one (21) calendar days after receipt of satisfactory statements and supporting documents. The Employer may add to or subtract from any subsequent payment any amount to cover the difference between the amount paid and the cost authorized to be incurred.

(b) All payments by the Employer shall be made to the account(s) specified in section 8, Clause 7 of the contract Agreement.

6.07: Payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

6.08: The Consultant shall give the following details of their bankers for payments in accordance with section 5 ,clause 7 of the Contract Agreement and 6.04 of this section.

(i) Name of the Bank
(ii) Address of the Bank
(iii) Title of Bank Account
(iv) Bank Account Number
(v) Bank's sort code
(vi) Bank's swift code
(vii) Bank's telephone number

6.09: Payments shall be made in accordance with 6.06 of this section. No interest is admissible on amounts payable by the Employer.

6.10: Deleted.

6.11: Deleted.

ARTICLE VII

Accounts and Records

7.01: The Consultant shall keep accurate and systematic accounts and records in respect of the Services in such form and detail as are customary in its profession and are sufficient to establish accurately that the remuneration and reimbursable expenses referred to in Article VI have been duly incurred.

7.02: The Consultant shall permit duly authorized representatives of the Employer, including auditors selected by the Employer, to inspect and make an audit of all such documents, accounts and records in connection with payments made in accordance with this Contract, including a breakdown of remuneration rates and reimbursable expenses, and make copies of such documents, accounts and records if so requested by the Employer. The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to the Contract. The Consultant shall cooperate with and assist the Employer and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the Employer, the Consultant shall immediately reimburse the Employer an amount equivalent to the amount overpaid or short payment of remuneration as specified in 7.01of this section, together with interest on such amount calculated at the then current interest rate for lending by the Employer from its ordinary capital resources, payable from the date of such overpayment until the date of reimbursement. If overpayment is a result of the Consultant having been engaged in what the Employer determines to constitute corrupt practices or fraudulent practices, the Employer shall, unless it decides otherwise, terminate the contract. Such action shall be in addition to any action that the Employer may declare the Consultant ineligible for award of further the Employer-financed contracts.

ARTICLE VIII

Indemnity and Insurance

8.01: The Consultants (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants, as

the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as specified in the 8.02 hereunder, and (b) at the Employer's request, shall provide evidence to the Employer, showing that such insurance has been taken out and maintained and that the current premiums have been paid.

8.02: The risks and the coverage's shall be:

(1) Third Party motor vehicle liability insurance as required under Motor Vehicle Act, 1988, in respect of motor vehicles operated in India by the Consultants of their Personnel or any Sub-Consultant's or their Personnel, for the period of Consultancy.

(2) Third Party liability insurance, with a minimum coverage for Rs.2 lakhs for the period of Consultancy.

(3) Employer's liability and worker's compensation insurance in respect of the Personnel of the Consultants and of Sub-Consultant's, in accordance with the relevant provisions of the Applicable Law, as well as with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

(4) Professional liability insurance with a minimum coverage equal to total contract value for this consultancy.

8.03:

(a) The Consultant shall indemnify, protect and defend at Consultant's own expense the Employer, its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under 3.01 of this section. However, the ceiling on Consultant's liability shall be limited to the original value of the consultancy contract, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct.

(b) In addition to any liability Consultant may have under 3.01 of this section Consultant shall, at its own cost and expense, upon request of Employer, re-perform the services in the event of Consultant's failure to exercise the skill and care required under 3.01 of this section.

(c) The Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by (I) Employer's overriding a decision or recommendation of consultant or requiring consultant to implement a decision or recommendation with which consultant does not agree.

ARTICLE IX

Ownership of Work Product, Computer Programs and Equipment

9.01: All reports, documents, correspondence, draft publications, maps, drawings, notes, specifications, statistics, work product in any form and technical data compiled or prepared by the Consultant and communicated to the Employer in performing the Services (in electronic form or otherwise and including computer-disks comprising data) shall be the sole and exclusive property of the Employer, and may be made available to the general public at its sole discretion. The Consultant may take copies of such documents and data for purpose of use related to the Services under terms and conditions acceptance to the Employer, but shall not use the same for any purpose unrelated to the Services without the prior written approval of the Employer.

9.02: All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Employer; provided, however, that the Consultant may use such programs for their own use with prior written approval of the Employer. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Employer's prior written approval to such agreements. In such cases, the Employer shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

9.03: Equipment, vehicles and materials furnished to the Consultant by the Employer, or purchased by the Consultant wholly or partly with funds supplied or reimbursed by the Employer hereunder, shall be the property of the Employer; Equipment, or materials furnished by the Consultant shall remain the property of the consultant.

ARTICLE X

Disposal of Data and Equipment

10.01: Upon completion or termination of the Services, the Consultant shall:

(i) Sort and index the documents and data (including the related software) referred to in 9.01 and 9.02 of this section and transmit the same to the Employer; and

(ii) Furnish to the Employer, as the case may be, inventories of the equipment and materials referred to in 9.03 of this section as it then remains, and dispose of the same as directed by the Employer, respectively.

ARTICLE XI

Coordination

11.01: The Consultant shall at all times cooperate and coordinate with the Railway and the Employer, with respect to the carrying out of its assignment under the project.

ARTICLE XII

Exemptions and Facilities

12.01: Taxes and Duties:

(a) For Consultants/personnel: The consultants and its personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract and the Employer shall perform such duties in regard to the deduction of such tax as may be lawfully imposed. However, GST will be paid extra, as applicable, to the Consultant by the Employer.

12.02: Deleted.

ARTICLE XIII

Force Majeure

13.01: If either party is temporarily unable by reason of force majeure or the laws or regulations of Republic of India to meet any of its obligations under the Contract, and if such party gives written notice of the event within fourteen (14) days after its occurrence, such obligations of the party as it is unable to perform by reason of the event shall be suspended for as long as the inability continues.

13.02: Neither party shall be liable to the other party for any loss, actually incurred or not, or damage sustained by such other party arising from any event referred to in 13.01 of this section or delays arising from such event.

13.03: The term "force majeure" shall mean events beyond the control of either party, which prevent the affected party from performing and fulfilling its obligations under the Contract, and could not have been reasonably anticipated or foreseen, or although foreseen were inevitable, such as acts of war, whether or not war be declared, public disorders, insurrection, riots, sabotage, explosions, violent demonstrations, blockades and other civil disturbances, epidemics, nuclear contamination, landslides, earthquakes, typhoons, volcanic eruption floods, washouts and other natural calamities and acts of God, strikes, lock-outs or other industrial action or equivalent disruption or disturbances, boycotts and embargo or the effects thereof, and any other similar events.

13.04: No Breach of Contract:

The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of or default under this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has Informed the other Party as soon as possible about the occurrence of such an event.

13.05: Extension of Time:

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

13.06: Payments:

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to continue to be paid under the terms of this Contract for the personnel actually deployed during the period and reimbursable expenses incurred.

ARTICLE XIV

Suspension

14.01:

(a) The Employer may, by notice to the Consultant, suspend, in whole or in part, the Services or the disbursement of funds hereunder if the Employer determines that

(i) The Consultant shall have failed to carry out any of its obligations under this Contract;

(ii) any other condition has arisen which, in the reasonable opinion of the Employer interferes, or threatens to interfere, with the successful carrying out of the Services or the accomplishment of the purposes of the Contract; or

(iii) A force majeure event has occurred.

(b) In the event of a major delay in the implementation of the Services, the Employer may suspend the payments as scheduled.

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Section 8	Contract Forms

Section 8 Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

All italicized text is for guidance how to prepare the various forms and shall be deleted from the final documents.

Table of Forms

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FORM No. COF/1

Letter of Acceptance

[on letterhead paper of the Employer]

. . . . . date. . .. . . .

To: . ...*[name and address of the Contractor]* . . . . . .

Subject:. . . . . [*Insert Name and Identification number]……..[Notification of Award]…..*

This is to notify you that your Bid dated . . . .*[Insert Date]*. . . for execution of the . . . *[name of the contract and identification number, as given in the Contract Data]* . . . for the Accepted Contract Amount of the equivalent of INR . . . *[Insert amount in numbers and words and name of the currency]. .*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted.

You are requested to furnish the Performance Security within 28 days in accordance with theConditions of Contract, using for that purpose the *of* the Performance Security Form No. COF/3 included in Section 8 (Contract Forms) of the Bidding Document.

Authorized Signature: .....

Name and Title of Signatory: .....

FORM No. COF/2

Contract Agreement

THIS AGREEMENT made the . . . . . .day of . . . ., between . . . . . [N*ame of the Employer. . .. .* (hereinafter "the Employer"), of the one part, and . . . . . [*name of the Contractor***]***. . .*[1]*. . .*(hereinafter "the Contractor"), of the other part:

WHEREAS the *Employer* desires that the Works known as . . . . . [*name of the Contract***]***. . . . .*should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

   - the Letter of Acceptance
   - the Letter of Bid
   - the Addenda Nos. . . . . [***insert addenda numbers if any***]*. . . . .*
   - the Special Conditions of Contract

     Part A : Contract Data

     Part B : Specific Provisions
   - the General Conditions of Contract;
   - the Specification
   - the Drawings*;*
   - the Work's Requirements
   - the completed Schedules including (priced Bill of Quantities)
   - Any other documents

3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the

[1]*In case Contractor is a Joint Venture the 'name of the contractor' shall be inserted as under :*
"the Joint Venture under the name and title of ……, comprising of ….[Lead Partner] ;……..; and ….."

Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of . . . . . [*name of the borrowing country*]. . . . .on the day, month and year indicated above.

Signed by	Signed by .....
for and on behalf of the Employer in the presence of	for and on behalf the Contractor in the presence of
Witness, Name, Signature, Address, Date	Witness, Name, Signature, Address, Date

COF/3

FORM OF CONTRACT PERFORMANCE SECURITY(BANK GUARANTEE)

[*Refer Clause 41 of Instructions to Bidders]*

(On non-judicial stamppaperoftheappropriatevalue in accordancewithstampAct. Thestamppaperto be in thenameofExecuting Bank).

From:
Name and Address of the Bank…..
……..
To:
The Managing Director,
Rail Infrastructure Development Company (Karnataka) Limited,
"SamparkaSoudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Dr. Rajkumar Road,
Rajajinagar 1st Block,
Bangalore - 560 010

WHEREAS**,** Rail Infrastructure Development Company (Karnataka) Limited, hereinafter called the **Employer,** acting through ***[Insert Designation and address of the Employer's Representative]***, has accepted the bid of ***[Insert Name and address of the Contractor]***, hereinafter called the **Contractor,** for the work of ***[Insert Name of Work]***, vide Notification of Award No.***[Insert Notification of Award No.]***.

AND

WHEREAS, the contractor is required to furnish Performance Security for the sum of ***[Insert Value of Performance Security required]***, in the form of bank guarantee, being a condition precedent to the signing of the contract agreement.

WHEREAS, ***[Insert Name of the Bank]***, with its Branch ***[Address]*** having its Headquarters office at ***[Address]***, hereinafter called the **Bank,** acting through ***[Designation(s) of the authorised person of the Bank]***, have, at the request of the *[Insert name of the JV partner]* , a JV partner on behalf of the contractor, agreed to give guarantee for performance security and additional performance security as hereinafter contained:

1 KNOW ALL MEN 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 the Employer the full amount in the sum of ***[Insert Value of Performance Security required]*** as above stated.

2 The Bank undertakes to immediately pay on presentation of demand by the Employer any amount up to and including aforementioned full amount

without any demur, reservation or recourse. Any such demand made by the Employer on the Bank shall be final, conclusive and binding, absolute and unequivocal notwithstanding any disputes raised/ pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Employer of Bank..

3 On payment of any amount less than aforementioned full amount, as per demand of the Employer, the guarantee shall remain valid for the balance amount i.e. the aforementioned full amount less the payment made to the Employer.

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

5. The Bank Guarantee shall be unconditional and irrevocable.

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

7 The Bank agrees that no change, addition, modifications to the terms of the Contract Agreement or to any documents, which have been or may be made between the Employer and the Contractor, will in any way release us from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.

8 This guarantee is valid and effective from the date of its issue, which is ***[insert date of issue]***. The guarantee and our obligations under it will expire on [***Insert the date twenty-eight days after the expected end of defect liability period]***. All demands for payment under the guarantee must be received by us on or before that date.

9 The Bank agrees that the Employers right to demand payment of aforementioned full amount in one instance or demand payments in parts totaling up to the aforementioned full amount in several instances will be valid until either the aforementioned full amount is paid to the Employer or the guarantee is released by Employer before the Expiry date.

10 The Bank agrees that its obligation to pay any amount demanded by the Employer before the expiry of this guarantee will continue until the amount demanded has been paid in full.

11 The expressions Bank and Employer herein before used shall include their respective successors and assigns.

12 The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the employer. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

13 The Guarantee shall be in addition to and without prejudice to any other security Guarantee (s) of the contractor in favour of the Employer available with the Employer. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the Employer.

Date …… ……

Place……. [*Signature of Authorised person of Bank]*

……
[Name in Block letters]

……..
[Designation]

……
[P/Attorney] No.

……..
Bank's Seal

[P/Attorney] No.……

Witness:

1. *Signature*
   Name & Address & Seal

2. *Signature*
   Name & address & Seal

Note :

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

2. *In case the guarantee is issued by a foreign Bank, which does not have operations in India, the said bank shall have to provide a counter-guarantee by State Bank of India.*
3. *In case the Contractor is a JV, the Performance Security is required to be furnished on behalf of the JV in favour of the Employer by the JV Partners in proportion of of their respective percentage share specified in the JV Agreement. The percentage share of M/s* ***[Insert Name of the JV Partner****] in the JV is* ***[Fill share % in the JV****] percent. All the Bank Guarantee of JV Partners are liable to be encashed cumulatively.*

FORM OF ADDITIONAL PERFORMANCE SECURITY
(BANK GUARANTEE)

[Refer Clause 35.5 of Instructions to Bidders]

(On non-judicial stamppaperoftheappropriatevalue in accordancewithstampAct. Thestamppaperto be in thenameofExecuting Bank)

From:

Name and Address of the Bank…..
……..

To:
The Managing Director,
Rail Infrastructure Development Company (Karnataka) Limited,
"SamparkaSoudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Dr. Rajkumar Road,
Rajajinagar 1st Block,
Bangalore - 560 010

WHEREAS**,** Rail Infrastructure Development Company (Karnataka) Limited, hereinafter called the **Employer,** acting through ***[Insert Designation and address of the Employer's Representative]***, has accepted the bid of ***[Insert Name and address of the Contractor]***, hereinafter called the **Contractor,** for the work of ***[Insert Name of Work]***, vide Notification of Award No.***[Insert Notification of Award No.]***.

AND

WHEREAS, the contractor is required to furnish additional Performance Security for the sum of ***[Insert Value of additional Performance Security required]***, in the form of bank guarantee, being a condition precedent to the signing of the contract agreement.

WHEREAS, ***[Insert Name of the Bank]***, with its Branch ***[Address]*** having its Headquarters office at ***[Address]***, hereinafter called the **Bank,** acting through ***[Designation(s) of the authorised person of the Bank]***, have, at the request of the [Insert name of the JV/Consortium partner], a JV/Consortium partner on behalf of the contractor, agreed to give guarantee for additional performance security as hereinafter contained:

1 KNOW ALL MEN 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 the Employer the full amount in the sum of ***[Insert Value of additional Performance Security required]***as above stated.

2 The Bank undertakes to immediately pay on presentation of demand by the Employer any amount up to and including aforementioned full amount without any demur,

reservation or recourse. Any such demand made by the Employer on the Bank shall be final, conclusive and binding, absolute and unequivocal notwithstanding any disputes raised/ pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Employer of Bank.

3 On payment of any amount less than aforementioned full amount, as per demand of the Employer, the guarantee shall remain valid for the balance amount i.e. the aforementioned full amount less the payment made to the Employer.

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

5 The Bank Guarantee shall be unconditional and irrevocable.

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

7 The Bank agrees that no change, addition, modifications to the terms of the Contract Agreement or to any documents, which have been or may be made between the Employer and the Contractor, will in any way release us from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.

8 This guarantee is valid and effective from the date of its issue, which is ***[insert date of issue]***. The guarantee and our obligations under it will expire on ***[Insert the date twenty eight days after the expected end of defect liability period]***. All demands for payment under the guarantee must be received by us on or before that date.

9 The Bank agrees that the Employers right to demand payment of aforementioned full amount in one instance or demand payments in parts totaling up to the aforementioned full amount in several instances will be valid until either the aforementioned full amount is paid to the Employer or the guarantee is released by Employer before the Expiry date.

10 The Bank agrees that its obligation to pay any amount demanded by the Employer before the expiry of this guarantee will continue until the amount demanded has been paid in full.

11 The expressions Bank and Employer herein before used shall include their respective successors and assigns.

12 The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the employer. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

13 The Guarantee shall be in addition to and without prejudice to any other security Guarantee(s) of the contractor in favour of the Employer available with the Employer. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the Employer.

Date ……. ……

Place……. *[Signature of Authorised person of Bank]*

……..

[Name in Block letters]

……..
[Designation]

…….……
[P/Attorney] No.

……..
Bank's Seal

[P/Attorney] No.……

Witness:

1. *Signature*
   Name & Address & Seal

2. *Signature*
   Name & address & Seal

Note :

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

2 *In case the guarantee is issued by a foreign Bank, which does not have operations in India, the said bank shall have to provide a counter-guarantee by State Bank of India.*

3 *The Bank Guarantee should be duly attested by Notary public with notarial stamp of appropriate value affixed thereon.*

4 *In case the Contractor is a JV/Consortium, the additional Performance Security is required to be furnished on behalf of the JV/ Consortium in favour of the Employer by the JV/Consortium Partner(s) who is responsible for execution of schedule(s) (as per JV/Consortium agreement) against which additional Performance Security is required to be submitted in terms of ITB 35.5. All the Bank Guarantee of J/VConsortium Partners are liable to be encashed cumulatively.*

Advance Payment Security

[Refer Clause 14.2 of GCC]

(On non-judicial stamppaperofappropriatevalue in accordancewithstampAct. Thestamppaperto be in thenameofExecuting Bank)

From
[Name and Address of the Bank]

To
The Managing Director,
Rail Infrastructure Development Company (Karnataka) Limited,
"SamparkaSoudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Dr. Rajkumar Road,
Rajajinagar 1st Block,
Bangalore - 560 010

Beneficiary: Rail Infrastructure Development Company (Karnataka) Limited.

Guarantee No.: *[…..reference number of the guarantee….]***Dated:** *[……..]*

WHEREAS, Rail Infrastructure Development Company (Karnataka) Limited**(hereinafter called the Employer)** has entered into Contract No. [….*reference number of the Contract….]*dated *[…….]* for the execution of *[name of the contract]* **(hereinafter called the Contract)** with*[….name of the Contractor….]***(hereinafter called the Contractor)**.

WHEREAS, according to the Conditions of the Contract, an advance payment is admissible to the contractor against submission of bank guarantee(s).

At the request of the Contractor, we *[….name of the Bank….]* with our branch at*[….address….],*having our Head Office at *[….address….]* **(hereinafter called the Bank)** have, at the request of *[.....Insert name of the JV partner.....]*, a JV partner on behalf of the Contractor, agreed to give the said guarantee as hereinafter contained:

1. KNOW ALL MEN by these present that I/We the undersigned *[….Insert name(s) of authorized representative(s) 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 guarantees

   to pay the Employer the sum of Rs.*[….value in figure….]*(Rupees [….*value in words….] only***(hereinafter called the Full Amount)**.

2. The Bank undertakes to immediately pay to the Employer, without any demur, reservation or recourse, any amount up to and including aforementioned full amount upon first written demand/demands from the Employer.

3. On payment of any amount less than aforementioned full amount, as per demand of the Employer, the guarantee shall remain valid for the balance amount i.e. the aforementioned full amount less the payment made to the Employer.

4. The Bank shall pay the amount so demanded without any reference to the contractor and without the Employer being required to show grounds or give reasons for its demand or the amount demanded.

5. The guarantee hereinbefore shall not be affected by any change in the constitution of the Bank, the Contractor or the Employer.

6. The Bank agrees that no change, addition, modification to the terms of the Contract Agreement or to any document, which have been or may be made between the Employer and the Contractor, will in any way release us from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.

7. This guarantee is valid and effective from the date of it's issue, which is *[….date of issue….]*. The guarantee and our obligations under it will expire on dated ……..*[….Please refer note 4 & 5….].* All demands for payment under the guarantee must be received by us on or before that date.

8. The Bank agrees that the Employer's right to demand payment of aforementioned full amount in one instance or demand payments in parts totaling up to the aforementioned full amount in several instances will continue until either the aforementioned full amount is paid to the Employer or the guarantee validity period expires.

9. The Bank agrees that it's obligation to pay any amount demanded by the Employer before the expiry of this guarantee will continue until the amount demanded has been paid in full.

10. The expressions Bank and Employer herein before used shall include their respective successors and assigns.

11. The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the employer. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

Dated[.....]

Place[.....]

……..
(Signature of the Authorized Person of the Bank)

……..
(Name in Block Letters)

……..
(Designation)

……..
(Bank's Seal)

……..
(Authorization No.)

Witness:

1. ……..
   Signature, Name & Address

2. ……..
   Signature, Name & Address

Note:

1. *All italicized text in brackets [….text….] is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.*

2. *In case the guarantee is issued by a foreign Bank, the said bank shall have operations in India and should be issued by Indian operations branch of the said bank.*

3. *The Bank Guarantee should be duly attested by Notary Public with notarial stamps of*
4. *appropriate value affixed thereon.*

5. ***Mobilization Advance under GCC 14.2.1**:*

(a) For Single Entity

For each Installment of Advance, two Bank Guarantees of equal amounts (each equal to half of the first installment of advance plus 10%) shall be furnished. Each Bank Guarantee shall be valid for the stipulated completion period of the contract.

OR

(b) For JV/Consortium

*For each Installment of Advance, individual JV/*Consortium *partner shall furnish Bank Guarantee equal to his share in the installment of Advance plus 10%. Each Bank Guarantee shall be valid for the stipulated completion period of the contract.*

6. ***Advance against Plant and Machinery under GCC 14.2.2:***

(a) For Single Entity

For each Installment of Advance, a Bank Guarantee equal to the installment of advance plus 10% shall be furnished. The Bank Guarantee shall be valid for the stipulated completion period of the contract.

OR

(b) For JV/Consortium

*For each Installment of Advance, individual JV/*Consortium *partner shall furnish a Bank Guarantee equal to his share in the installment of advance plus 10%. Each Bank Guarantee shall be valid for the stipulated completion period of the contract.*

FORM OF BANK GUARANTEE FOR RELEASE OF BALANCE RETENTION MONEY

(On non-judicial stamppaperoftheappropriatevalue in accordancewithstampAct. Thestamppaperto be in thenameofExecuting Bank).

From:

……..
…….*Name and Address of the Bank*…..
……..

To:

The Managing Director,
Rail Infrastructure Development Company (Karnataka) Limited,
"SamparkaSoudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Dr. Rajkumar Road,
Rajajinagar 1st Block,
Bangalore - 560 010
.

a) WHEREAS**,** Rail Infrastructure Development Company (Karnataka) Limited, (hereinafter called the **Employer),** acting through ***[Insert Designation and address of the Employer's Representative]***, has entered into a contract with ***[Insert Name and address of the Contractor's Representative]***,, (hereinafter called the **Contractor),** for the work of ***[Insert Name of Work]***, vide Notification of Award No.***[Insert Notification of Award No.].***

b) WHEREAS as per conditions of contract Employer has deducted an amount of RS____***[Insert Amount deducted as retention money]***towards retention money till date, and WHEREAS now the contractor has requested the Employer for releasing the said amount on submission of a bank guarantee of equivalent amount which has been accepted by the Employer.****

OR

WHEREAS as per conditions of contract Employer has deducted an amount of RS____***[Insert Amount deducted as retention money]***towards retention money till date, out of a total amount of Rs____ [***Insert total Amount of retention money deductable as specified in the contract]***which is due to be deducted as retention money as per Contract agreement and WHEREAS now the Contractor has requested the Employer to accept a bank guarantee of the equivalent amount of the total retention money due as per contract agreement so that the amount already deducted may be released in favour of the contractor and that no further deduction towards retention money will be made in future which has been accepted by the Employer. ****

c) WHEREAS, ***[Insert Name of the Bank]***, with its Branch ***[Address]*** having its Headquarters office at ***[Address]***, hereinafter called the **Bank,** acting through

[Designation(s) of the authorised person of the Bank], have, at the request of the contractor, agreed to give guarantee as hereinafter contained:

1. KNOW ALL MEN 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 the Employer to pay the full amount in the sum of ***[Insert Value of the Bank Guarantee being submitted]*** as above stated.

2. The Bank undertakes to immediately pay to the Employer any amount up to and including aforementioned full amount upon written order/orders from the Employer without any demur, reservation or recourse.

3. On payment of any amount less than aforementioned full amount, as per demand of the Employer, the guarantee shall remain valid for the balance amount i.e. the aforementioned full amount less the payment made to the Employer.

4. The Bank shall pay the amount so demanded without any reference to the contractor and without the Employer being required to show grounds or give reasons for its demand or the amount demanded.

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

6. The Bank agrees that no change, addition, modifications to the terms of the Contract Agreement or to any documents, which have been or may be made between the Employer and the Contractor, will in any way release us from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.

7. This guarantee is valid and effective from the date of it's issue, which is ***[insert date of issue]***. The guarantee and our obligations under it will expire on ***[Insert the date twenty eight days after the expected end of defect liability period.]***. All demands for payment under the guarantee must be received by us on or before that date.

8. The Bank agrees that the Employers right to demand payment of aforementioned full amount in one instance or demand payments in parts totaling up to the aforementioned full amount in several instances will continue

until either the aforementioned full amount is paid to the Employer or the guarantee expires.

9. The Bank agrees that it's obligation to pay any amount demanded by the Employer before the expiry of this guarantee will continue until the amount demanded has been paid in full.

10. The expressions Bank and Employer herein before used shall include their respective successors and assigns.

11. The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the employer. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

Date ……
Place…….

……
[*Signature of Authorised person of Bank]*
……
[Name in Block letters]
……..
[Designation]
……..
……[Address]……
…….

Witness :

1. *Signature*
   Name & Address & Seal
2. *Signature*
   Name & address & Seal

Bank's Seal
Authorisation No……..

Note :

1) *All italicized text is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.*
2) *In case the guarantee is issued by a foreign Bank, the said bank shall have operations in India and should be countersigned by Indian operations branch of the said bank.*
3) *The Bank Guarantee should be duly attested by Notary public with notarial stamps of appropriate value affixed thereon.*
4) ***** strike out whichever is not applicable.*

FORM OF CONTRACT AGREEMENT

QUALITY AND SAFETY AUDIT CONSULTING SERVICES FOR THE IMPLEMENTATION OF RAILWAY PROJECTS-

CONTRACT No. _____

This AGREEMENT (hereinafter, together with all the appendices/attachments attached hereto called the "Contract") is made on the _____ day of _____, 2011, between the _____ on the one part (hereinafter called the "Employer") acting through the Managing Director, and _____ in association with_____ (hereinafter [jointly] called the "Consultant") on the other part [notwithstanding such association] the Consultant will be represented hereunder at all times by _____ which will retain full and undivided responsibility for the performance of obligations hereunder and for the satisfactory completion of the Consultant's services to be performed hereunder.

WHEREAS

A) Rail infrastructure development company has been established by Ministry of Railway, hereinafter referred to as "Railway" as a Special Purpose Vehicle (SPV) under the Companies Act 1956 to develop, mobilize resources and implement these projects which are part of National Railway Vikas Yojana (NRVY) Scheme through a Memorandum of Understanding.

B) The Employer has requested the Consultant to provide consulting services for "**Quality and safety audit Consultancy Services for the works** ----------

C) The Consultant has agreed to provide the Services on the terms and conditions set forth in this Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

Clause 1. Services.

The work to be performed by the Consultant under the Contract (such work being hereinafter called the Services) is more particularly described in the Scope of work (Section 5) set forth in the *BID* document. Any modifications to such scope of work (Section 5) that materially impact upon the Services which may be agreed between the Consultant and the Employer.

Clause 2. Reports.

The Consultant shall submit to Employer in the English language the reports and documentation specified in section 5.

Clause 3. Personnel.

(a) Subject to Article I , Article II and 3.01 of the Special Conditions of Contract, the Services shall be carried out by the personnel specified in the *BID* document (hereinafter called the personnel) for the respective periods of time indicated therein.

(b) The consultant shall, at all times, ensure that there is a GM/K RIDE acceptable to the Employer to supervise and coordinate the operations of the personnel in the field and to be responsible for liaison between the Consultant and the Employer.

Clause 4. Commencement Date.

The Consultant shall commence the Services within Fifteen days (15) calendar days after the issue of LOA except when the Employer notifies for commencement of services for a later date.

Clause 5. Date of Arrival.

The Consultant shall promptly inform the Employer of the date of arrival of the personnel at site.

Clause 6. Provision of Services and Payment to the Consultant:

(a) In consideration of the payments to be made by the Employer to the Consultant as indicated in this agreement, the consultant hereby covenants with the Employer to provide the services in conformity in all respects with the provisions of the contract.

(b) The Employer hereby covenants to pay the Consultant in consideration of the provision of services for completion of the project, the contract price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed in the contract.

Clause 7. Accounts for Payment:

Subject to Articles VI of the Special Conditions of Contract, all payments under this Contract shall be made to the following account of the Consultant:

……

(To be indicated by the Consultant and agreed by the Employer)

Clause 8. Authorized Representative of Consultant.

Any action required or permitted to be taken, and any documents required or permitted to be executed under this Contract may be taken or executed on behalf of the Consultant by a designated representative and on behalf of the Employer by designated representative of Rail Infrastructure Limited.

Clause 9. Notices and Requests.

Any notice or request required or permitted to be given or made under the Contract shall be in writing and in the English language. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, telex or facsimile to the party to which it is required to be given or made at such party's address (given below) specified in writing to the party giving such notice or making such request.

The General Manager,
Rail Infrastructure Limited

---,

For the Consultant
_____
_____

Clause 10. Effective Date.

(a) The Contract shall become effective upon the date notice is given to the Consultant to proceed with the Services pursuant to Clause 4 above.

(b) Should the Contract not have become effective within ninety (90) calendar days of the issue of Letter of Acceptance, either party may, by not less than ten (10) calendar days written notice to the other party, declare the Contract to be null and void, and in the event of such a declaration by either party, neither party shall have any claim against the other party with respect hereto.

Clause 11. Miscellaneous.

(a) No delay in exercising or omission to exercise, any right, power or remedy accruing to their party under this contract upon any default shall impair any such right, power or remedy, or be construed to be a waiver thereof or an acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other subsequent default.

(b) The Special Conditions of Contract and documents attached hereto, which including this Agreement collectively constitute this Contract (as defined hereinabove) are each integral and substantive parts of this Contract and are fully binding on each of the parties.

Clause 12: Documents forming the Contract.

The following documents along with original *BID* documents, addendum/corrigendum or any other reference made in connection with *BID* document shall be deemed to form and be read and construed as part of this Contract Agreement.

i) The Letter of Award

ii) The consultant's Proposal along with the addenda

iii) All correspondence between Consultant and Employer after Submission of *BID* and before issue of Letter of Award.

iv) Notice to Proceed.

v) Performance Security.

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

FOR AND ON BEHALF OF (THE EMPLOYER)

_____
(Authorized Representative)

FOR AND ON BEHALF OF (THE CONSULTANT)

_____
(Authorized Representative)

--00--00--00--

Section 9	Bill of Quantities

Section 9	Bill of Quantities

I N D E X

SL. NO	Description	Page No
1.	BOQ	262-264

Name Of Work : - Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section

Sl. No	Expert/ Engineer Team (By Designation)	Quantity	Unit	Consolidated pay in first year (with GST)	Amount (in Rs.) in Figures (Including 6% increase per year - Refer Note 4)
Schedule "A"					
1	Team Leader cum Engineer Earthwork, Bridges and Structures	30	Man Month		
2	Engineer Rail Track	24	Man Month		
3	Engineer OHE & Electrical works	24	Man Month		
4	Engineer Railway Signalling & Telecommunication	24	Man Month		
5	Safety expert	30	Man Month		
Schedule "A" Total					

Name Of Work : - Providing QUALITY AND SAFETY AUDIT CONSULTANCY (QSAC) for Yesvantpur - Channasandra and Baiyyappanahalli - Housr Doubling Projects for all Components of work – Civil, Electrical, OHE, S&T, N.I. Woks, P Way, Miscellaneous works etc. including Commencing of the Section

Sl. No	Description	Quantity	Unit	Rate	Amount
Schedule "B"					
1	Providing Maruti Swift DZIRE / Toyota Etios or similar approved road vehicle(s)	54	Per Month	40000	2160000
2	Extra payment for providing any of the vehicles mentioned in item no. (1) as per the criteria/ stipulations/ specifications/ conditions mentioned therein including the notes and in the ASC, with Driver(s) cum Attendant(s) beyond 12 hours a day	1152	Vehicle Hours	150	172800
3	Extra payment for extra distance run, over and above 3000 km per month on certification by the user official : For the class/type of the vehicle mentioned in item no. (1)	1440	Vehicle KM	12	17280
4	Extra payment for extra days of run, over and above 26 days per month on certification by the user official : For the class of the vehicle mentioned in item no. (1)with all conditions therein	144	Vehicle day	1600	230400
5	Stationery Items	30	LS	5000	150000
Schedule "B" Departmental Value					2730480
Tenderer's / Contractors's percentage					
Schedule "B" Total					

Note :	
1 (a)	The remuneration for person months shall include the payments to personnel (towards salary & allowances, leave salary, medical insurance, PF contribution of the employer and any other payment requires as per extent laws), expenditure allowances, overheads & profit, and all taxes and cess thereon (Including GST).
1 (b)	Overtime, paid sick leave or vacation leave etc. are inclusive in rates and will not be paid separately.
1 (c)	**Clause 1.09 of Section 4 Part B (SCC) regarding minimum monthly payment to personnel should be kept in view while quoting the rates.**
2	Employer reserves the right to reduce the numbers and estimated person months of Experts/Engineers without any claim on either side.
3	Team Leader will be overall incharge of the work.
4	Amount calculated in coloum 6 shall be with **6% increase per year for given duration and inclusive of 18% GST and evaluation for schedule "A" will be based on rates quoted in Column 6.**
5	The above quantities are indicative. Actuals shall be based upon the deployment schedule as detailed by K RIDE from time to time.
6	Schedule "B" : Two vehicles will be deployed One for 30 months duration & other for 24 months duration.

Total Value (Sch "A " + " B")	
In Figure	
In Words	

Seal & Signature of the Bidder

Note:

1 The above rate should be inclusive of GST. No separate GST shall be Paid

2 In case of any discrepancy between the figures and words, the value in words shall prevailed and the same will be considered for evaluation.