SECTION-10

FORMAT OF BANK GUARANTEE FOR SECURITY DEPOSIT ETC.,

INDEX

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NOTE:

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.

FORMAT OF BANK GUARANTEE FOR SECURITY DEPOSIT

To, … (Name of the Employer)
… (Address of the Employer).

Whereas----------(Name and Address of the contractor) (herein after called the Contractor) has undertaken, in pursuance of contract no…….. Dated:……(Name of the contract and brief description of the work) (herein after called the Contract)

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of ₹._____*[amount of guarantee]*
Rupees_*[in words]*, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of guarantee]* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until 28 days from the date of expiry of the Defects Liability Period.

Signature and seal of the guarantor _____
Name of Bank
Address _____
Date _____

From:

FORM OF BANK GURANTEE FOR PERFORMANCE SECURITY

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

From,
Name and Address of the Bank…..
……..
To:
The Managing Director,
BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE LIMITED, "Samparka Soudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall), Dr. Rajkumar Road,
Rajajinagar 1st Block, Bangalore - 560 010

WHEREAS**,** BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE 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 not withstanding 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.

14. This guarantee shall be valid for 28days from the date of expiry of defect liability period.

Date ……. ……

Place……. [*Signature of Authorized person of Bank/Guarantor]*

……..

[Name in Block letters]

……..

[Designation]

……

[P/Attorney] No.

……..

Bank's Name and 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 BANK GUARANTEE FOR ADDITIONAL PERFORMANCE SECURITY

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

From:

Name and Address of the Bank…..
……..

To:
The Managing Director,
BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT
ENTERPRISE LIMITED, "Samparka Soudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall), Dr.
Rajkumar Road,
Rajajinagar 1st Block, Bangalore -
560 010

WHEREAS, BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE 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. *His 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 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.*

ADVANCE PAYMENT SECURITY

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

From
[Name and Address of the Bank]

To
The Managing Director,
BANGALORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE LIMITED, "Samparka Soudha" , 1st Floor,
B.E.P Premises (Opp. Orion Mall),
Dr. Rajkumar Road,
Rajajinagar 1st Block,
Bangalore - 560 010

Beneficiary/Employer: BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE LIMITED.

Guarantee No.: […. reference number of the guarantee…] Dated: […….....]

WHEREAS, BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE 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 ₹. [….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)

Witness:……

……

(Bank's Seal)

……

(Authorization No.)

.....

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. **Mobilization Advance**

(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*

For each Installment of Advance, individual JV 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.

4. **Advance against Plant and Machinery**

(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*

For each Installment of Advance, individual JV 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.

INDEMNITY BOND FOR THE SAFE CUSTODY OF THE MATERIALS SUPPLIED BY THE CONTRACTOR

(To be executed on Non-Judicial Stamp Paper of Appropriate Value and notarized)

THIS INDEMNITY BOND made on this day of 20 by (insert the name of the Contractor and its registered address) (hereinafter called "the Contractor") which expression shall where the context do admits or implies be deemed to include its executors, administrators and assigns, in favour of the BANGLORE INTEGRATED RAIL INFRASTRUCTURE DEVELOPMENT ENTERPRISE LIMITED, Samparka Soudha", 1st Floor, B.E.P Premises (Opp. Orion Mall), Dr. Rajkumar Road, Rajajinagar 1st Block, Bangalore - 560 010 (hereinafter called "K RIDE") on the other part.

WHEREAS by an Agreement/Letter of Acceptance No. dated (hereinafter called "the said agreement"), the Contractor has agreed to execute the (Name of Work) (hereinafter called "the Works") .

AND WHEREAS the Contractor has submitted to K RIDE/ the Engineer for payment on materials procured by him and brought to the site of the Works or his workshop for use in the Works.

AND WHEREAS K RIDE/ the Engineer has agreed to make advance/stage payment to the Contractor the total sum of ₹. (in Figures) [Rupees (in Words) in Interim Payment Certificate (IPC) No. , the quantities and other particulars of which are detailed in this IPC for the said works signed by the Contractor on for the Materials brought by the Contractor to site of the works. Brief details are also mentioned in schedule 1 appended hereto.

NOW THIS INDEMNITY BOND WITNESS that in pursuance of the said agreement and in consideration of the sum of ₹. (in Figures) (in Words) on or before the execution of these presents to be paid to the Contractor by K RIDE so aforesaid, the Contractor doth hereby covenant and agree with K RIDE and declare as follows: -

1. *That the said sum of ₹.. (In Figures) (in Words) to be paid by K RIDE to the Contractor as aforesaid shall be utilized by the Contractor in or towards the execution of the said works and for no other purpose whatsoever.*
2. *That the Materials detailed in the said IPC which have been offered to and accepted by K RIDE/ the Engineer, are absolutely the Contractor's own property and free from encumbrances of any kind and the Contractor will not make any application for or receive any further payment on the Materials which are not absolutely his own property and free from encumbrances of any kind, the Contractor indemnifies the K RIDE against all claims on any Materials in respect of which payment is to be made to him as aforesaid.*
3. *That the Contractor undertakes that the Materials shall be used exclusively for the performance / execution of the Contract strictly in accordance with the terms and conditions of the Contract and no part of the Materials shall be utilized for any other work or purpose whatsoever.*
4. *That the Contractor is obliged and shall remain absolutely responsible for the safe transit / protection and custody of the Materials against all risks whatsoever including acts of the God till the Materials are duly incorporated in the works, commissioned and are taken over by K RIDE/Railway (including*

surplus Materials, if required as instructed by K RIDE/ the Engineer) in accordance with the terms of the Contract. The Contractor undertakes to keep K RIDE harmless against any loss or damage that may be caused to the Materials.

5. *That the said Materials shall not on any account be removed from the site of the works except with the written permission of K RIDE/ the Engineer. Further, K RIDE/ the Engineer shall always be free at all times to take possession of the materials in whatever form the materials may be in, if in its opinion, the Materials are likely to be endangered, mis-utilized or converted to uses other than those specified in the Contract, by any acts or omission or commission on the part of the Contractor or any other person or on account of any reason whatsoever and the Contractor binds himself and undertakes to comply with the directions of demand of K RIDE to return the Materials without any demur or reservation.*

6. *That the said materials shall, at all times, be open to inspection by K RIDE/ the Engineer or any authorized representative. In the event of the said material or any part thereof at any time being found to be in lesser quantity than for which payment has been released or the same has been stolen, destroyed or damaged or becoming deteriorated, the Contractor will forthwith replace the same or repair and make good the same as required by K RIDE/ the Engineer.*

7. *That making payment does not mean that Materials are of required specifications and quality or that whole of the quantity brought to site by Contractor will be used in the work. The Contractor is fully responsible for the materials to conform to required quality and specification and if at any time K RIDE/ the Engineer do not find the material satisfactory, the Contractor at his own cost would replace these. K RIDE/ the Engineer would be at liberty to recover cost of these from any dues of the Contractor. Also any Materials which are in excess of what is finally required under the contract would be the Contractor's property without any liability on K RIDE/ the Engineer who would recover the cost of this from the Contractor.*

8. *That this INDEMNITY BOND is irrevocable. If at any time, any loss or damage occurs to the Materials or the same or any part thereof is mis-utilized in any manner whatsoever, then the Contractor hereby agrees that the decision of K RIDE/ the Engineer as to assessment of loss or damage to the Materials shall be final and binding on the Contractor. The Contractor binds itself and undertakes to replace the lost and/or damaged Materials at its own cost and/or shall pay the amount of loss to K RIDE without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to K RIDE/ the Engineer against the Contractor under the Contract or under this Indemnity Bond*

9. *That if the Contractor shall at any time make any default in the performance or observance in any respect of any of the terms and provisions of the said agreement or of those presents, the total amount of the payment shall immediately on the happening of such default be recovered by K RIDE/ the Engineer from any dues of Contractor. It is also clearly understood by the Contractor that non-observance of the obligations under this Indemnity Bond by the Contractor shall inter-alia constitute a criminal breach of trust on the part of the Contractor for all intents and purpose including legal / penal consequences.*

10. *IN WITNESS WHEREOF, the Contractor has hereunto set its hand through its authorized representative, the day, month and year first above mentioned.*

11. ***SCHEDULE 1***

Particulars of the Materials	*Quantity*	*Value of the Materials*

Signed, Sealed and Delivered by the said Contractor

(Contractor's Name)

Dated: ……. *(AUTHORISED SIGNATORY)*

Place: ……. *SEAL OF COMPANY IN*

THE PRESENCE OF:

WITNESS: *SIGNATURE*

NAME:

ADDRESS :

Note:

The contractor has the option to submit the INDEMNITY BOND to cover all the items and quantities of Materials of stage payment or to submit INDEMNITY BOND each time the stage payment is to be taken or Materials advance is to be taken.

Office of the……

No. *Date:……..*

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