

## HARYANA RAIL INFRASTRUCTURE DEVELOPMENT CORPORATION LTD.

No.HRIDC/98/Vehicle/I

Dated 13.01.2020

### NOTICE

Haryana Rail Infrastructure Development Corporation Ltd.(HRIDC), Chandigarh invites bids from eligible bidders through online bids in the website <https://etenders.hry.nic.in> under the department head of HRIDC for the services detailed below:

SN.	Name of Work	Estimated Cost of Work	Completion period	EMD	Document Fee	E-Service Fee
1.	Hiring of 7 No. AC vehicle i.e. One No. Honda City (Petrol) or similar, Two no. Ciaz (VXI) or similar, One no. Innova Crysta or similar and Three no. Swift Dzire (VDI) or similar to HRIDC, Chandigarh for a period of 24 months	58.57 Lacs	24 Months	1,17,500/-	10,000/-	1,000/-

Note:

- 1) Date and Time of Bid preparation is from 15.01.2020 to 14.02.2020 upto 1500 Hrs.
- 2) Date and Time of hash submission is from 31.01.2020 at 1100 Hrs to 14.02.2020 upto 1500 Hrs.
- 3) The Bid will be opened on 14.02.2020 at 1500 Hrs.
- 4) Last date of receiving queries is 07.02.2020.
- 5) Cost of Tender Document, EMD and E-Service fees are to be deposited only online.
- 6) For further details and e-tendering schedule visit website <https://etenders.hry.nic.in//www.hridc.co.in>.

DGM(Project)  
HRIDC

# 1. NOTICE FOR INVITATION OF BIDS (IFB)

Bid Reference No. HRIDC/98/Vehicle/

Date: 13.01.2020

**1.1.** Haryana Rail Infrastructure Development Corporation Limited (HRIDC), a joint venture Company of Ministry of Railways and Government of Haryana, having its office at SCO 17-18-19, 3rd Floor, Sector-17A, Chandigarh, India, invites open e-bids (Electronic Bid) (Manual bids are not permitted) on Local Competitive Bidding (LCB) under single stage.

1.1.1. Name of Work: Hiring of 7 No. AC vehicle i.e. One No. Honda City or similar, Two no. Ciaz (VXI) or similar, One no. Innova Crysta or similar and Three no. Swift Dzire (VDI) or similar to HRIDC, Chandigarh for a period of 24 months

## 1.2. Bid schedule/ details:

a)	Estimated Cost of Work	Rs 58.57 lacs
b)	Bid Security/ Earnest Money Deposit (EMD)	Amount of Bid security: Rs. 1,17,500/- Bid Security (NEFT/RTGS) in original as per clause 2.16 of ITB shall be accepted only up to 1500 hrs on 14.02.2020 in the office of the Employer at the address mentioned hereinafter. The bidder must submit the bid security in physical form and shall upload the scanned copies of bid security in their online bid.
c)	Completion period of work	24 months
d)	Availability of Bid Document	From 15.01.2020 to 14.02.2020 (up to 1500 hrs) on e-bidding portal of HRIDC as mentioned in clause j) of IFB (Bid Schedule).
e)	Cost of Bid Documents	Rs. 10,000/-
f)	Last date of Seeking Clarifications	07.02.2020(Up to 1700 Hrs) (Queries from bidders after due date and time shall not be acknowledged)
g)	Date and time of submission of Online Bid	Bid submission start date:31.01.2020 from 1100 Hrs. Bid submission end date: 14.02.2020 up to 1500 Hrs.
h)	Date & Time of opening of Bid	14.02.2020 at 1500 Hrs.
i)	Authority and place for submission of Bid Security, Cost of bid documents, Details of MSEs/ Startup business, seeking clarifications on bid documents.	Deputy General Manager (Projects) Haryana Rail Infrastructure Development Corporation Limited (HRIDC), SCO 17-18-19, 3rd Floor, Sector-17A, Chandigarh Email:hridc2017@gmail.com
j)	E-bidding portal for Uploading of Bid	<a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>

	Documents, Seeking Pre-bid queries, Uploading of Reply to pre-bid queries, Uploading of Corrigendum/Addendum, Submission of bids, Uploading of Post bid clarifications, Award of Work etc.	
<p>* Submission of Bid Security is exempted for those bidders who fulfil the criteria of Purchase Preference Policy for Micro and Small Enterprises (MSEs)/ Startup business as referred in Clause 2.34.1 of BDS. The concerned bidder shall submit the details as stated in the Clause 2.34.1 of BDS in the office of the HRIDC at the address mentioned above before the time and date as stipulated in above. Such bidders shall also upload the scanned copies of these details in their online bid.</p>		

**1.3.** Bidders are advised to note the eligibility and minimum qualifying criteria specified in the “Instruction to Bidders” stipulated in the bid document.

**1.4.** Availability of Bidding documents: The bid documents and addendum/corrigendum (if any) will be available free of cost for downloading on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule). However, it will be the responsibility of the bidder to download complete bid documents and to check and see issuance of addendum / corrigendum (if any). The addendum / corrigendum, if any, shall be made available only on the e-bidding portal of HRIDC.

**1.5.** E-Bids must be accompanied with a bid security of requisite amount and validity as stipulated in clause 1.2 of IFB (Bid Schedule) in any one of the forms as specified in the bidding documents. Any bids received without bid security shall be rejected.

**1.6.** For MSEs / Startup business, e-bids must be accompanied with the details as stipulated in the Clause 2.34.1 (a) of BDS. Such bidders shall also upload the scanned copies of these details in their online bid. The bidder must submit these details in physical form at the address mentioned in clause 1.2 of IFB (Bid Schedule) and shall upload the scanned copies of these details in their online bid before the last date and time mentioned therein.

**1.7.** Last Date of Receipt and opening of Bids: Bid submissions shall be done online on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule). Bidders to take note of uploading the mandatory scanned documents towards Bid Security and other documents as stated in the bid document. Submission of Bids shall be closed automatically after the last date and time on e-bidding portal of HRIDC after which no bid can be uploaded.

**1.8.** General Instructions on e-bidding.

1.8.1. Bid shall be valid for a period of 180 days (both days inclusive i.e. the last date of submission of bids and the last date of period of validity of the bid) from the date of submission of Bids (from the revised date of submission of Bids in case revised in corrigendum/addendum) as prescribed in clause 1.2 of IFB (Bid Schedule) and shall be accompanied with a bid security of the requisite amount as per clause 2.16 of ITB.

1.8.2. HRIDC reserves the right to accept or reject any or all bids any time without assigning any reasons. No bidder shall have any cause of action or claim against the HRIDC for rejection of bids.

1.8.3. Bidders are advised to keep in touch with e-bidding portal of HRIDC for any updates.

1.8.4. The payment for Tender Document Fee and e-Service Fee shall be made by eligible bidders online directly through Debit Cards/ Internet Banking Accounts and the payment for EMD can be made online directly through RTGS/ NEFT Please refer to 'Online Payment Guideline' available at the Single e-Procurement portal of GoH (Govt. of Haryana) and also mentioned under the Tender Document

1.8.5. Intending bidders will be mandatorily required to online sign-up (create user account) on the website <https://etenders.hry.nic.in> to be eligible to participate in the e-Tender. He/ She will be required to make online payment of above-mentioned Bid Security fee. The intended bidder, who fails to pay Bid Security fee under the stipulated time frame, shall not be allowed to submit his / her bids for the respective event / Tenders. The tenderer should refer to Annexure to NIT for instructions regarding Electronic Tendering System.

1.8.6. The interested bidders must remit the funds at least T+1 working day (Transaction day + One working Day); and make payment via RTGS / NEFT to the beneficiary account number specified under the online generated challan. The intended bidder / Agency thereafter will be able to successfully verify their payment online and submit their bids on or before the expiry date & time of the respective events/Tenders at <https://etenders.hry.nic.in>

1.8.7. The interested bidders shall have to pay mandatorily e-Service fee (under document fee – Non-refundable) as given in clause 1.2 of IFB (Bid Schedule) online by using the service of secure electronic gateway.

1.8.8. The interested bidders are requested to go through 'Annexure: Instructions Regarding Electronic Tendering System' in Section-10.

## **2. INSTRUCTIONS TO BIDDERS (ITB)**

### **2.1. Scope of bid**

2.1.1. In connection with the Invitation for Bids indicated in the Bid Data Sheet (BDS), HRIDC, hereinafter referred to as the 'Employer', issues these Bidding Documents for Hiring of Vehicles as specified in Employers Requirements. The name, identification, number of contract(s) are provided in the BDS.

2.1.2. 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 a calendar day.
- d) "week" means a period of seven days.

### **2.2. Source of funds**

2.2.1. The required funds have been sourced by HRIDC, unless otherwise specified in the BDS.

### **2.3. Corrupt Practices**

2.3.1. 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 bidder 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 bidder 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;

(a) has the right to reject the 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

(b) will sanction a bidder 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 bidder 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.

(c) In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that the bidder has made material misrepresentation or has given any materially incorrect or false information, the bidder may be:

(i) Disqualified and banned for further business dealings for a period of 05 years with the Employer forthwith if not yet appointed as the bidder either by issue of Letter of Acceptance or entering into of the Agreement. In such an event, Employer shall forfeit and appropriate the Bid Security (to be treated as mutually agreed pre-estimated compensation and damages payable to the Employer for, inter alia, time cost and efforts of the Employer), without prejudice to any other right or remedy that may be available to the Employer.

(ii) And if the bidder has already been issued the Letter of Acceptance or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this bid document, be banned for further business dealings with the Employer for a period of five years, by a communication in writing by the Employer to the bidder, without the Employer being liable in any manner whatsoever to the bidder or the bidder, as the case may be. Further the Contract of the bidder may be terminated and the decision of Employer in this regard shall be final and binding on the bidder. In case the contract is terminated, Employer shall forfeit and appropriate the Performance Security (to be treated as mutually agreed pre-estimated compensation and damages payable to the Employer for, inter alia, time cost and efforts of the Employer), without prejudice to any other right or remedy that may be available to the Employer.

## **2.4. Eligible Bidders**

2.4.1. A Bidder may be a natural person, private entity or government-owned entity. The bidder must ensure the following:

(a) In case of Single Entity:

i. Submit Power of Attorney (As per Form EL-1.2) authorizing the signatory of the bid to commit the bidder.

ii. Bidder shall also furnish Form EL-1.1 and documents required therein with their technical submission.

(b) In case of Joint Venture: Joint Ventures and Consortiums are not allowed

(c) Foreign Bidder(s) should be covered under the grant of general permission to establish project offices in India (as per RBI Master Circular No. 10/2015-16 updated up to the deadline for submission of bids) on securing the subject project or have already opened project office in India. In case of award of contract to a foreign bidder such foreign bidder has to submit proof of having opened project office in India before submitting any interim payment certificate failing which no payment shall be made till such time.

(d) In case of a foreign bidder, the foreign bidder must have executed at least one work outside its home country in a period (in years) and value as mentioned in BDS in addition to the criteria mentioned herein above.

2.4.2. A Bidder or any of its constituents shall not have conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder shall 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 business 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) a Bidder cannot participate as a single entity or as a partner in more than one bid for a package in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the partner is involved. Also, a bidder cannot be a subcontractor to another bidder. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
- (f) a Bidder or its constituents participated as a consultant in the preparation of the design or technical 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 bidder or entity that has been hired (or is proposed to be hired) by the Employer as Engineer for the contract.

**2.4.3. The bidder shall be disqualified if:**

- (a) In the last five years there has been a written directive by Ministry of Railways or any of its attached/ subordinate offices or HRIDC or any state rail JV promoted by Ministry of Railways or Haryana State Govt or any of its attached/ subordinate offices, blacklisting the bidder against providing such professional services as mentioned in the tender.
- (b) In the last two years the bidder has failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the bidder, or the bidder has been expelled from any project or contract or have had any contract terminated for breach on part of the bidder as evidenced by any court decree or arbitral award against the bidder to such effect.
- (c) The bidder or any of its constituents has suffered bankruptcy/ insolvency or it is in the process of winding-up or there is a case of insolvency pending before any Court on the deadline of submission of bids or thereafter till finalization of bids.
- (d) The bidder is found ineligible by the Employer, in accordance with clause 2.4 of ITB.
- (e) The bidder or its constituent(s) has been declared by Ministry of Railways or any of its attached/ subordinate offices or HRIDC or any state rail JV promoted by Ministry of Railways in India to be a poor performer and the period of poor performance is still in force on the deadline for submission of bids.

2.4.4. The Bidder shall submit an affidavit stating that they are not liable to be disqualified as per this sub clause (using Form PS-2, given in Section: Bidding Forms) along with the Bid submission.

2.4.5. Bidders shall immediately inform the Employer in case they cease to fulfill eligibility in terms of Evaluation and Qualification Criteria para 4.2& 4.3. In case the bidder fails to inform the Employer or submits a false affidavit, the Employer has the right to reject his bid and forfeit his bid security.

**2.5. Sections of Bidding Document**

2.5.1. The Bidding Document consists of Sections indicated below and should be read in conjunction with any Addenda/Corrigenda issued in accordance with ITB clause 2.4.

- Instructions to Bidders (ITB)
- Bid Data Sheet (BDS)
- Evaluation and Qualification Criteria (EQC)
- Bidding Forms (BF)
- General Conditions of Contract (GCC)
- Special Conditions of Contract (SCC)
- Contract Forms (CF)
- Scope of Work
- Reference Documents (If any):
- Financial Bid

2.5.2. The Invitation for Bids (IFB) issued by the Employer shall be part of the Bidding Document.

2.5.3. The Employer is not responsible for the completeness of the Bidding Document and their Addenda/Corrigenda, if they were not obtained directly from the source stated by the Employer in the clause 1.2 of IFB (Bid Schedule) Invitation for Bids.

2.5.4. The 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.

## **2.6. Clarification of Bidding Document, Site Visit**

2.6.1. A prospective Bidder requiring any clarification of the Bidding Document shall seek clarification from the authority as mentioned under clause 1.2 of IFB (Bid Schedule) by uploading the queries in the standard performa provided in Section: Bidding Forms (Form PQ-1 of Bidding Forms) on e-bidding portal of HRIDC, not later than the last date of seeking clarification given in clause 1.2 of IFB (Bid Schedule). The Employer will respond in writing to any request for clarification, provided that such request is received on the e-bidding portal before date and time mentioned in IFB. The clarification/reply from the Employer shall be made available on the e-bidding portal of HRIDC only, 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 2.4 and ITB 2.19.2.

2.6.2. 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.



2.6.3. 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 subject to condition that the Bidder, its personnel, and agents will hold Employer harmless and also indemnify it and its personnel and agents from and against all liability in respect thereof, and shall be solely responsible for death or personal injury, loss or damage to property, and any other loss, damage, costs, and expenses incurred during or as a result of such inspection.

2.6.4. The Bidder is requested to submit any questions in writing as per the standard performa provided in Section of Bidding Forms (Form PQ-1) and uploading it on the e-bidding portal not later than the date and time as stipulated in clause 1.2 of the IFB.

2.6.5. The text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be made available on the website. 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 2.4 and not through the minutes of the pre-bid meeting.

## **2.7. Amendment of Bidding Document**

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

2.7.2. Any corrigendum/ addendum issued shall be part of the Bidding Document and shall be made available only on the E-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule).

2.7.3. 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 ITB2.19.2.

## **2.8. Cost of Bidding**

2.8.1. 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.

## **2.9. Language of Bid**

2.9.1. 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 and authenticated translation of the relevant passages in English in which case, for the purposes of interpretation of the Bid, such translation shall govern. In case the documents are in foreign language or Indian Language other than English, a translation of the same by an authorized translator shall be submitted.

## **2.10. Documents comprising the Bid**

2.10.1. The bidder shall submit their bid on-line on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule).

Only “Original Bid Security” in the format as provided in Section: Bidding Forms or the relevant details for MSEs / Startup business as specified in Clause 2.34.1 of Section: BDS shall be submitted in physical form to the authority as mentioned under clause 0of IFB (Bid schedule) prior to closing of submissions. The scanned copies of the bid security/ details for MSEs / Startup business shall also be upload along with the Bid. It shall be the responsibility of the bidder to ensure that his original bid security/details of MSEs / Startup business reaches the designated place before the time and date as stipulated in clause 0of IFB (Bid Schedule).

2.10.2. The Bids shall be opened online at the latest date and time specified in clause 1.2 of IFB (Bid Schedule). The Bids shall be evaluated by the Employer in accordance with the stipulated Evaluation and Qualification criteria. No amendments or changes to the Bids would be permitted after the opening of Bid. If Bid do not conform to the specified requirements, the Employer has the right to reject such bid and the contract is awarded to the bidder in accordance with the stipulated evaluation criteria.

2.10.3. Deleted.

2.10.4. The Bid shall contain the following:

- a) Letter of Bid in accordance with ITB 2.13;
- b) Scanned Copy of Bid Security (Original bid security shall be submitted to authority as mentioned under clause 1.2 of IFB (Bid schedule), in accordance with ITB Clause 2.16;
- c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 2.17.2;
- d) documentary evidence in accordance with ITB Clause 2.14 establishing the Bidder’s qualifications to perform the contract; and
- e) any other document required in the BDS.
- f) Bid Index
- g) Duly filled bidding forms along with requested documents as mentioned in Section: Bidding Forms;
- h) Form –UT -Undertaking regarding downloaded bid document

2.10.5. The financial bid is provided in the bid documents in the form of MS-EXCEL file. The rates/ percentage shall be quoted in the MS-EXCEL file provided in the bid documents. The bidder shall download the MS-EXCEL file and after quoting their rates/ percentage upload the same accordingly. The rates/ percentage shall not be offered/ quoted elsewhere in the technical submission/ bid submission. These prices should include all costs associated with the contract. The bidder shall complete the Bid in accordance with the instructions given in the Financial Bid. Alternative technical solution will not be permitted.

## **2.11. Bid form and Financial Bid**

2.11.1.1. The Bidder (in MS-EXCEL file) using the appropriate formats available in bid documents. 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. Alternative bids will not be permitted. Alternative times for completion will not be permitted.

## **2.12. Bid Prices and Discounts**

2.12.1. The prices quoted by the Bidder in the financial bid shall conform to the requirements specified below.

2.12.2. In the financial bid, quantity and unit against each item have been indicated. The bidder shall quote rates in figures as per format for each item in the summary sheet. If the bidder fails to quote rates against any item, the bid will be treated as incomplete and may result in the rejection of the Bid.

2.12.3. All duties, taxes, royalties, cess and other levies payable by the Bidder under the Contract, or for any other cause (including standard specifications), as on 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 except Goods and Services Tax (GST). GST will be paid extra as applicable on the submission of GST Invoices for first RA bill. The subsequent RA bill shall be processed for payment upon submission of documentary evidence towards payment of GST collected on the previous bill to the GST Authorities. The Final bill/single bill payment shall be released on the undertaking by the contractor/supplier for providing evidence within 21 days from the close of month in which payment is released.

## **2.13. Documents Comprising the Bid**

2.13.1. The Bidder shall furnish a commitment Letter for deployment of equipment and personnel as stipulated in Employer's Requirement.

2.13.2. The bidder shall furnish a commitment Letter for adhering to deploy key personnel as proposed in bid consistent with the requirements stipulated in Employer's Requirements

2.13.3. Bidder should note that for non-submission of the Letter by the bidder, the Employer has the right to reject his bid.

## **2.14. Documents Establishing the Qualifications of the Bidder**

2.14.1. To establish its qualifications to perform the Contract in accordance with Section: 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: Bidding Forms.

2.14.2. Domestic Bidders, individually applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility as described in ITB 2.30.

## **2.15. Period of Validity of Bids**

2.15.1. Bids shall remain valid for a period identified in Para 1.8 of IFB. A bid valid for a shorter period may be rejected by the employer as non-responsive.

2.15.2. 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 2.16, 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.

## **2.16. Bid Security/Earnest Money Deposit (EMD)**

2.16.1. Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a bid security in stipulated form with requisite validity and for the said amount of Currency as specified in clause 1.2 of IFB (Bid Schedule).

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

(a) Deleted

(b) NEFT/RTGS as per guidelines given in Section 10: Annexure.

(c) Deleted

2.16.3. Any bid is not accompanied by an enforceable and compliant bid security, as required in accordance with ITB 2.16.1, the Employer has the right to reject such bid.

2.16.4. The bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB 2.34. However, bid security of those bidders who have not been technically and financially qualified shall be returned after evaluation of bids.

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

2.16.6. The bid security shall be forfeited:

- a. if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bids
- b. if a Bidder misrepresents or omits the facts in order to influence the bidding process;
- c. if the successful Bidder fails to:
  - i. sign the Contract in accordance with ITB 2.35;
  - ii. furnish a performance security in accordance with ITB 2.34;
  - iii. accept the correction of its Bid Price pursuant to ITB2.28.2; or
  - iv. furnish a domestic preference security if so required.
- d. if the affidavit submitted by the bidder or its constituents in pursuance to ITB clause 2.4.3 or any of the declarations of Letter of Bid submitted by the bidder has been found to be false at any stage during the process of bid evaluation.
- e. In case the bidder who has been exempted for submission of Bid Security being Micro & Small Enterprise/ Startup Business, and;
  - i. withdraws his Bid during the period of Bid validity; or
  - ii. becomes the successful bidder, but fails to commence the work (for whatsoever reasons) as per terms & conditions of bid; or
  - iii. refuses or neglects to execute the contract; or

iv. fails to furnish the required Performance Security within the specified time, Then such bidders shall be debarred from participating in future bids for a period of 05 year from the date of discharge of bid / date of cancellation of LOA / annulment of award of contract as the case may be. Thereafter, on expiry of period of debarment, the bidder may be permitted to participate in the bidding process only on submission of required Bid Cost / Bid Security.

2.16.7. Further the Employer may advise the authority responsible for issuing the exemption certificate to take suitable actions against the bidder such as cancellation of enlistment certificate etc.

2.16.8. Deleted.

## **2.17. Format and Signing of Bid**

2.17.1. The bidder shall submit their bid on-line on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule).

2.17.2. The bid shall be submitted online and bidder shall upload its bid on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule) using class-III digital signature of the authorized signatory having notarized Power of Attorney (POA).

## **2.18. Sealing and Marking of Bids**

2.18.1. Bidders shall upload their bids online on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule) within the stipulated date and time provided in clause 1.2 of IFB (Bid Schedule). The bidder shall ensure that they had received receipt/ acknowledgement of their bid submission which is generated by the system itself on successful submission of bid online

2.18.2. Original Bid Security/ Relevant details of MSEs / Startup business shall also be submitted physically to designated authority as mentioned under clause 1.2 of IFB (Bid Schedule) within the deadline provided in clause 1.2 of IFB (Bid Schedule). It shall be the responsibility of the bidder to ensure that the envelope containing 'Bid Security/Relevant details of MSEs / Startup business' is submitted to designated authority before the time and date as stipulated in clause 1.2 of IFB (Bid Schedule).

2.18.3. Deleted.

2.18.4. Deleted.

2.18.5. Deleted.

2.18.6. The Employer may, at his discretion, extend the deadline for submission of bids by issuing a corrigendum/addendum, in which case all rights and obligations of the Employer and the bidder previously subject to the original deadline will thereafter be subject to the deadline as extended.

2.18.7. Bids sent telegraphically or through other means of transmission except as mentioned in clause 2.17.1 of ITB shall be treated as invalid and shall stand rejected.

## **2.19. Deadline for Submission of Bids**

2.19.1. It shall be the responsibility of the bidder to ensure that his bid is submitted online on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule) before the deadline of submission. HRIDC will not be responsible for any delay, internet connection failure or any error in uploading of bid submission. The bidders are advised to upload their submissions well before the due date and time of bid submission to avoid any problem and last-minute rush.

2.19.2. The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 2.4, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **2.20. Late Bids**

2.20.1. Submission of Bids shall be closed on e-bidding portal of HRIDC at the date & time of submission prescribed in clause 1.2 of IFB (Bid Schedule) after which no bid can be uploaded. The Employer shall not consider any bids after the deadline of submission.

### **2.20.2. Withdrawal, Substitution, and Modification of Bids**

2.20.3. A Bidder may withdraw, substitute, or modify its Bid prior to deadline of the bid submission as mentioned in clause 1.2 of IFB.

2.20.4. Bids requested to be withdrawn in accordance with ITB 2.20.2 shall not be allowed to be resubmitted.

2.20.5. 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 or any extension thereof, if any.

## **2.21. Bid opening**

2.21.1. The Employer shall conduct the electronic opening of Bids on e-bidding portal of HRIDC as per the schedule date and time. The opening of the Bids and subsequent details can be viewed by the bidders by logging on the e-bidding portal of HRIDC. Alternatively, any bidder who wish to attend the Bid opening can be present during the opening. The Bidder's representatives who are present shall be requested to mark their attendance on the format available with the employer.

2.21.2. Deleted.

2.21.3. Envelopes holding the "Original Bid Security/ Relevant details of MSEs / Startup business" shall be opened one at a time, and the following read out and recorded:

- a. the name of the Bidder;
  - b. the presence of a Bid Security/ Relevant details of MSEs / Startup business,if required; and
  - c. any other details as the Employer may consider appropriate.
- Only e-Bids recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at the opening of Bids in accordance with ITB Sub-Clause 2.20.1 except the bid (s) which are not accompanied by “Original Bid Security” in physical form.

2.21.4. The Employer shall prepare a record of the opening of e-Bids that shall include, as a minimum: the name of the Bidder and the presence or absence of a “Original Bid Security/Relevant details of MSEs / Startup business”. The Bidders’ representatives who are present shall be requested to sign the record available with the HRIDC. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record.

2.21.5. Deleted.

2.21.6. The Employer will also publish on the e-bidding portal, the names of bidders whose bid have not been found substantially responsive to the requirements of the Bidding Document and have not been determined as qualified for award of work as a result of evaluation of Bid.

2.21.7. The Employer shall conduct the electronic opening of Financial bids on e-bidding portal of HRIDC. The opening of the Financial bids and subsequent details can be viewed by the bidders by logging on the e-bidding portal of HRIDC. Alternatively, any bidder who wish to attend the financial bid opening can be present during the opening. The Bidder’s representatives who are present shall be requested to mark their attendance on the format available with the employer.

2.21.8. The Financial bids shall be opened one at a time and the following read out and recorded:

- a) the name of the Bidder
- b) the Bid Price(s).
- c) any other details as the Employer may consider appropriate.

2.21.9. The Employer shall prepare a record of the opening of Financial bids that shall include, as a minimum: the name of the Bidder and the Bid Price. The Bidders’ representatives who are present shall be requested to sign the record available with the HRIDC. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record.

## **2.22. Confidentiality**

2.22.1. 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.

2.22.2. Any attempt by a Bidder to influence the Employer in the examination, evaluation and comparison of the Bids or Contract award decisions shall result in the rejection of its Bid.

2.22.3. Notwithstanding ITB Sub-Clause 2.22.2, from the time of opening the Bids 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.

### **2.23. Clarification of Bids**

2.23.1. To assist in the examination, evaluation and comparison 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 and delivered to concerned bidders through e-bidding portal. The due date and time to response these queries will also be communicated. 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 Financial bids, in accordance with ITB Clause 2.28.

2.23.2. The bidder shall respond to the queries on e-bidding portal. If a Bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, their bid shall be evaluated as per the available information in the submitted bid.

### **2.24. Deviations, Reservations, and Omissions**

2.24.1. 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.

### **2.25. Determination of Responsiveness**

2.25.1. The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 2.10.

2.25.2. 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.

2.25.3. The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 2.13, Bid, in particular, to confirm that all requirements of Employer's Requirements have been met without any material deviation or reservation.



2.25.4. The evaluation of the Bid shall be done in accordance with the Evaluation and Qualification Criteria described in Section: Evaluation and Qualification Criteria.

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

## **2.26. Nonconformities, Errors, and Omissions**

2.26.1. Provided that a bid is substantially responsive, the Employer may waive any non-conformities in the bid that do not constitute a material deviation, reservation or omission.

2.26.2. Provided that a bid is substantially responsive, the Employer may request the Bidder to 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. Failing which bids shall be evaluated based on the information available in the submitted bids.

## **2.27. Qualification of the Bidder**

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

2.27.2. 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 2.14, to clarifications in accordance with ITB Clause 2.23 and the qualification criteria indicated in Section: Evaluation and Qualification Criteria. Factors not included in Section: Evaluation and Qualification Criteria shall not be used in the evaluation of the Bidder's qualification.

2.27.3. Deleted.

## **2.28. Correction of Arithmetical Errors and Omissions in bid and Evaluation of Bid Price**

2.28.1. 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. The cost for each schedule shall first be calculated after applying quoted percentage rate to that schedule and the net amount shall be rounded off to two decimal places. Thereafter, sum of evaluated amounts of all schedules shall be the overall Evaluated Bid Price.

2.28.2. 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.

## **2.29. Conversion to Single Currency**

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

## **2.30. Purchase Preference**

2.30.1. Unless otherwise specified in the BDS the Purchase Preference shall not apply.

2.30.2. Unless otherwise specified in the BDS the Domestic Preference shall not apply.

## **2.31. Evaluation of bids**

2.31.1. The Employer shall evaluate each Bid for the bidder who fulfil all the elements of minimum eligibility criteria as stipulated in section: Evaluation and Qualification Criteria. The Employer shall use the criteria and methodologies listed in this section. No other evaluation criteria or methodologies shall be permitted.

2.31.2. To evaluate the bid of a bidder, the Employer shall consider the following:

(a) price adjustment for correction of arithmetic errors and omissions in the bid in accordance with ITB 2.28.1

2.31.3. 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.

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

2.31.5. 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, bid securities shall be promptly returned to the Bidders.

## **2.32. Award Criteria**

2.32.1. Negotiations with the bidders being considered for the award of work. The lowest bidder found successful in accordance with the Section: Evaluation and Qualification criteria, shall be invited for negotiations.

2.32.2. 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 eligible offer in accordance with the criteria stipulated in section: Evaluation and Qualification Criteria.

2.32.3. The Employer has the right to review at any time prior to award of contract that the qualification criteria as specified in Section: Evaluation and Qualification Criteria are still being met by the Bidder whose offer is under consideration for the award of work. A Bid shall be rejected if the qualification criteria as specified in Section: Evaluation and Qualification Criteria are no longer met by the Bidder whose offer is under consideration for the award of work. In this event the Employer shall proceed to the next eligible bidder in the ranking to make a similar reassessment of that Bidder's capabilities to perform satisfactorily

## **2.33. Notification of Award**

2.33.1. Prior to the expiration of the period of bid validity or extended period, if any, the Employer shall notify the successful Bidder, in writing, that its bid has been accepted by the Employer. Such notification (hereinafter and in the Conditions of Contract called the “Letter of Acceptance”) shall specify the sum that the Employer will pay to the Bidder in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract called “the Contract Price”) and the requirement for the Bidder to remedy any defects therein as prescribed by the Contract. The Letter of Acceptance shall be published on the e-bidding portal. The successful bidder can also download the same.

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

#### **2.34. Performance Security**

2.34.1. Within twenty-eight (28) days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security @5% of contract value in accordance with the conditions of contract, for that purpose the Performance Security Form is included in Section: Contract Forms.

2.34.2. Failure of the successful Bidder to submit the above-mentioned Performance Security and additional Performance Security, if any, or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security and banning of business for 02 years with HRIDC. In that event, the Employer may award the contract to the next lowest evaluated Bidder whose bid is substantially responsive and is determined by the Employer to be qualified to perform the contract satisfactorily.

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

#### **2.35. Signing of Contract**

2.35.1. Promptly after the receipt of performance security, the Employer shall send the Contract Agreement to the Bidder.

2.35.2. Within twenty-eight days of receipt of the contract agreement the successful bidder shall sign, date and return it to the employer.

#### **2.36. Jurisdiction of Courts**

2.36.1. 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.

### 3. BID DATA SHEET (BDS)

1. This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section: Instructions to Bidders (IFB). The BDS is numbered with the same numbers as the corresponding ITB clauses.

ITB 2.1.1	The number of the Invitation for Bids is: Contract: HRIDC/98/Vehicle
ITB 2.1.1	The Employer is: Haryana Rail Infrastructure Development Corporation Ltd.
ITB 2.1.1	The name of the work is: <i>“Hiring of 7 No. AC vehicle i.e. One No. Honda City (Petrol) or similar, Two no. Ciaz (VXI) or similar, One no. Innova Crysta or similar and Three no. Swift Dzire(VDI) or similar to HRIDC, Chandigarh for a period of 24 months”</i>
ITB 2.4.1	Foreign bidders are not permitted.
ITB 2.9.1	The language of the bid is: English
ITB 2.17.2	Following is added in ITB Para 2.17.2 The written confirmation of authorization to sign on behalf of the Bidder shall consist of: (a) In case of Private/Public 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. Copy of Board Resolution shall also be submitted. (b) In case of proprietorship bidders, Power of Attorney by the Proprietors. (c) In case of partnership bidders, Power of Attorney duly signed by all the partners. (d) In case of Limited Liability Partnership (LLP), 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. Copy of Board Resolution shall also be submitted.
ITB 2.29.1	The prices shall be quoted by the bidder entirely in Indian Rupees (INR) and the payment shall be released in INR only. No payment shall be released in foreign currency.  All other provisions stipulated in the bid documents in this regard shall be deemed to be modified accordingly.  The foreign currency component figure shall be converted to Equivalent INR based on exchange rates of State Bank of India TT selling as prevailing on 28 days before the latest date of submission of bids.
ITB 2.14.2	No domestic preference shall be applicable except for MSEs registered firms and Make in India and Startup India as identified in Clause 2.30.1 below.
ITB 2.30.1	Add following to ITB 2.30.1: (A) Purchase Preference Policy for Micro and Small Enterprises (MSEs) Registered Firms: -

(i) Purchase Preference to Micro and Small Enterprises (MSEs) as admissible under Government existing policy on the date of acceptance of bid shall be applicable to Micro and Small Enterprises (MSEs) registered with any statutory bodies specified by Ministry of Micro, Small & 1 Medium Enterprises having Udyog Aadhaar Memoranda shall also be given all benefits under Public Procurement Policy Order 2012.

(ii) The bidders shall submit photocopy of current and valid MSEs registration certificate inclusive of all the pages showing the category of entrepreneur – whether the registered firm is owned by General or SC/ST entrepreneurs, monetary limit of their registration for the items tendered to avail the benefits under the policy. The SMEs shall also submit a copy of “Entrepreneur’s Memorandum (Part – II)” of the concerned District Centre where the unit is established. The SMEs must also indicate the terminal validity date of their registration.

(iii) Such MSE registered firms shall be exempted from payment of bid document cost and payment of Bid Security.

(iv) Definition of MSEs owned by SC/ST is as given below:

(a) In case of proprietary MSE, proprietor(s) shall be SC/ST.

(b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit.

(c) In case of Private Limited Companies, at least 51% share shall be held by SC/ST promoters.

(v) All bidders registered under Micro and Small Enterprises (MSEs) shall have to satisfy the eligibility criteria at par with other bidders. There shall not be any relaxation in eligibility criteria/bidding process or other bid requirement and L1 price.

(vi) If lowest valid bidder is non-MSE firm, then in such a case purchase preference facility shall not be applicable in the bid as quantity cannot be split. The total quantity shall be offered to the lowest valid bidder irrespective of their registration status and the benefit to MSEs shall be limited to exemption from cost of bid document and bid security only.

(vii) The above facilities shall not be applicable for the items for which they are not registered.

(viii) The above facility shall be applicable for single entity only.

**(B) Public Procurement (Preference to Make in India)**

Purchase preference policy for Make in India: -

(i) 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 custom duties) as a proportion of the total value, in percent.

	<p>‘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.</p> <p>(ii) Purchase Preference shall be given to local suppliers in the manner specified hereunder:</p> <p>a) 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.</p> <p>b) 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 +20% (the margin of purchase preference), and the contract shall be awarded to such local supplier subject to matching the L1 price.</p> <p>c) 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 +20% (the margin of purchase preference) matches the L1 price, then the contract may be awarded to the L1 consultant.</p> <p>d) The above facility shall be applicable for single entity only.</p> <p>(C) STARTUP INDIA -</p> <p>1. All Startups (Whether Micro &amp; Small Enterprises or otherwise) are exempted from bid cost and bid security.</p> <p>2. Definition of Startup: Startup means an entity recognized as Startup by Department of Industrial Policy and Promotions (DIPP), Ministry of Commerce and Industries, Govt. of India.</p> <p>3. The above facility shall be applicable for single entity only.</p>
ITB 2.35	<p>Add following to ITB 2.35:</p> <p>In case, the successful Bidder considers that they will not be able to sign, date and return the contract agreement to the employer, the successful Bidder shall inform possible date to return to the Employer not later than 7 (seven) days prior to the time limit. The modified time limit shall be subject to agreement by both the contracting parties.</p>
ITB 2.36	<p>The Courts at Chandigarh shall have exclusive jurisdiction over all the disputes/issues arising under, pursuant to and/ or in connection with the bidding process</p>

#### **4. Evaluation and Qualification Criteria**

##### **4.1. Similar Nature of Work:**

The bidder should have successfully completed office vehicle (only cars, SUV's) hiring work in any Central Govt/State Govt/PSU's organization.

##### **4.2. Technical Eligibility:**

(a) The tenderer must have successfully completed similar nature of single work of value not less than 30% of advertised value of the tender, during last 05 (five) years, ending last day of month previous to the one in which tender is invited.

**4.3. Financial Eligibility :** As a proof of sufficient financial capacity and organizational resources, the tenderer (s) should have received the total payments against satisfactory execution of all completed/ongoing works of all types (not confined to only similar works) during the last three financial years and in the current financial year {up to the date of opening of the tender} of a value not less than 150% of the advertised cost of work under Government /Semi Government / PSU.

## 5. BIDDING FORMS

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

Letter of Bid (Form PS-1)

Invitation for Bid No.:

Dated: XX.XX.2020

To:

Deputy General Manager (Projects)

Haryana Rail Infrastructure Development Corporation Ltd

SCO 17-18-19, 3rd Floor,

Sector-17A, Chandigarh

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 2.7;

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

(c) Our bid shall be valid for a period as defined in Para 1.8 of IFB 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 submit a performance security in accordance with the Bidding Documents;

(e) If our bid is accepted, we commit to deploy key personnel as proposed by us in our bid consistent with the requirements stipulated in Employer's Requirements;

(f) We understand that Employer requires that bidders, must observe the highest standard of ethics during the execution of such contracts. We confirm and undertake that we including our constituents, any sub-consultants for any part of the contract directly or otherwise have not been / shall not be engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract in accordance with ITB 2.3; and

We also understand that the Employer has the right to reject our bid at any stage if it determines that we have directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract and 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 otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the Employer in accordance with ITB 2.3;

(g) We, including any sub-consultants for any part of the contract, do not have any conflict of interest in accordance with ITB 2.4.2;

(h) We are not participating as a Bidder, in more than one bid in this bidding process in accordance with ITB 2.4.2;

(i) We declare that we are not liable to be disqualified in Accordance with ITB 2.4.3, 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 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.



(1) We declare and confirm that in the submission of this bid, 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.

Name:

In the capacity of:

Signed and Sealed:

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

Date:

***Format for Affidavit to be Submitted by Bidder along with the Bid (Form PS-2)***

(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 HRIDC, do hereby solemnly affirm and state on behalf of the bidder including its constituents as under:

1. We understand that Employer requires that bidders, suppliers, and contractors must observe the highest standard of ethics during the procurement and execution of such contracts. We confirm and undertake that we including our constituents, any subcontractors or suppliers for any part of the contract directly or otherwise have not been / shall not be engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract in accordance with ITB 2.3.

We understand that the Employer has the right to reject our bid at any stage if it determines that we have directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract and will sanction a bidder 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 bidder has, directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the Employer in accordance with ITB 2.3;

2. In the last five years there has been no written directive by Ministry of Railways or any of its attached/ subordinate offices or HRIDC or any state rail JV promoted by Ministry of Railways in India, blacklisting the bidder against providing such professional services as mentioned in the tender.

3. In the last two years the bidder has not failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the bidder, or the bidder has not been expelled from any project or contract or have had any contract terminated for breach on part of the bidder as evidenced by any court decree or arbitral award against the bidder to such effect.

(Add Proviso of Clause 2.4.3 (b) (ITB suitably, if any Contract was so terminated).

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. The bidder or its constituent(s) has not been declared by Ministry of Railways or any of its attached/ subordinate offices or HRIDC or state rail JV promoted by Ministry of Railways in India to be a poor performer and the period of poor performance is still in force on the deadline for submission of bids.

6. We declare that financial data for last five financial years including that for the latest concluded financial year are being submitted duly certified by Chartered Accountant / Company Auditor.

OR

We declare and certify that financial data for the latest concluded financial year has not been finalized till date and that is why we are furnishing financial data for last 04 financial years ignoring the latest concluded financial year.

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

7. 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.

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

9. We understand that in case we cease to fulfill 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, the Employer has right to reject our bid and forfeit our bid security. 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.

10. 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. Further, we [insert name of the bidder] \*\*\_\_\_\_\_ and all our constituents understand that we shall be liable for banning of business dealings for a period of five years.

11. 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 five years.

(DEPONENT)

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.

(DEPONENT)

SEAL AND SIGNATURE OF THE BIDDER

*\*\* 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

## 5.2 Financial Bid

For financial bid, please refer the excel upload on e-bidding portal.

Bidder's Information (Form ELI-1.1)

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

Bidder's Information	
Bidder's legal name	
Bidder's country of constitution	
Bidder's year of constitution	
Status of the bidder	<ul style="list-style-type: none"> <li>• Sole Proprietorship Firm</li> <li>• Partnership Firm</li> <li>• Public Limited Company</li> <li>• Private Limited Company</li> </ul> (Tick the appropriate)
Bidder's legal address in country of constitution and in India	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
Bidder's bank account details for the refund of bid security (if submitted in the form of DD/BC) by RTGS/NEFT	
Bidder's GST No.	

Power of Attorney (POA) for Submitting Bid (Form ELI-1.2)

(For Single Entity/Sole Bidder only)

Know all men by these presents, we ..... (name and address of the registered office) do hereby constitute, appoint and authorize Mr./Ms.....(name and residential address) who is presently employed with us and holding the position of .....as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project, including signing and submission of all documents and providing information/responses to HRIDC, representing us in all matters before HRIDC, and generally dealing with HRIDC in all matters in connection with our Bid for the Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall always be deemed to have been done by us.

..... (Signature)  
 (Name, Title and address) of the Person Accepting the POA

..... (Signature)  
 (Name, Title and address) of the Person issuing the POA.

Note:

- (i) The bidder should submit the notarised Power of Attorney. In case of Foreign Partners, Power of Attorney(s) and Board Resolution confirming authority on the persons issuing the Power of Attorney for such actions shall be submitted duly notarized by the notary public of country of origin and should be either stamped by Embassy/High Commission or Partner Countries of Hague convention may submit these documents with “Apostille” stamp. Also, in case the documents are in foreign language the translation of the same shall be authenticated by Embassy/High Commission.
- (ii) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.
- (iii) The bidder should submit following additional document in support of the POA as case to case basis:
  - a) Proprietorship Affidavit in case of Proprietary bidder.
  - b) Partnership deed in case of partnership bidder.
  - c) Board Resolution in case of a Public/Private limited company.
  - d) Memorandum & Article of Association in case of a Public/Private limited company

### 5.3 Financial Situation (Form FIN-1)

Name of Bidder:

S. No.	Description	Financial Data for Last 5 Years [Indian 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 [ Paid-up share capital + All reserves - Accumulated losses] #					
6.	Profit After Tax (PAT)					
7.	Whether the bidder was at default in repayment of dues to a financial					

	institution or bank or debenture holders at the end of the latest financial year for which audited balance sheet is available (Yes/No).					
--	---	--	--	--	--	--

# Revaluation reserves to be excluded.

**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 note following:  
 All such documents reflect the financial situation of the Bidder and not sister or parent companies.

Copies of Annual Report shall not be enclosed.

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

In the event the bidder certify that the audited accounts for the latest concluded Financial Year are not available, the Bidder shall furnish information pertaining to the last 04 financial years after ignoring the latest concluded financial year. In case the bidder submits audited financial information for other years, only the figures for the latest four years shall be considered for evaluation.

Annual Turnover for the last 5 years (Form FIN-2)

(From Professional Fees only)

Name of Bidder:

Annual Turnover from Consultancy Services for the Last 5 Years				
Year	Turnover Amount And Currency (INR crores)	Updated Turnover (See note 4 below)	Exchange Rate between INR and the foreign currency	Updated Turnover in Equivalent INR (See note 4 below)

Average Annual Turnover for last 5 Years				

1. Contents of this form should be certified by a Chartered Accountant/Auditor.
2. In the event if bidder certifies that the audited accounts for the latest concluded Financial Year are not available the Bidder shall furnish information pertaining to the last 04 financial years after ignoring the latest concluded financial year. In case the bidder submits audited financial information for other years, only the figures for the latest four years shall be considered for evaluation.
3. Copies of Annual Report shall not be enclosed.
4. For the Average Annual Turnover, the Bidder should submit actual turnover figures for the specified financial years. For Evaluation purpose the figures of previous years shall be updated @ 5% per year for Indian Currency and @ 2% per year for foreign currencies compounded annually to bring them to the level of the last Financial Year specified in sub-clause. If the figure for turnover in an individual year is in a currency other than INR, then the same shall first be updated as per above modality and converted to INR based on the exchange rates of State Bank of India TT selling rates as prevailing on 28 days before the latest date of submission of bids.

**Specific Work Experience (Form EXP-2(b))**

[The following table shall be filled in for the Bidder, Fill up one form per contract]

Date: [insert date, month, year]

Bidder's Legal Name: [insert full name]

Bidder's Party Legal Name: [insert full name]

Page [insert page number] of [insert total number of pages]

Contract of Similar Size and Nature			
Contract No.		Contract identification	
Award date		Completion date	
Role in contract	[Consultant/ Sub-consultant/ Member of JV or Consortium]		
Total contract value	INR		
If partner in a JV or consortium specify participation in total contract value	[Percentage of Total]	INR	



Employer's Name, Current Address and Current Telephone/Fax Number, E-mail	
Description of the work in accordance with Evaluation and Qualification Criteria	

Notes:

1. The bidder shall attach a copy of Letter of Award and Completion Certificate(s) issued by the employer in support of the information being furnished in each Exp (2b) form, failing which the claim of the bidder shall be liable to be rejected
2. Use separate sheet for each Eligible Work.

#### 5.4 Summary of Eligible Work Experience [Form EXP-2(c)]

Bidders legal name:

Date:

Name of Bidder	Total Number of similar works as per Evaluation and Qualification Criteria

#### 5.5 Details of Eligible Work Experience [Form EXP-2(d)]

[For Eligible Works]

S No	Name of work	Name of owner of project	Name of client for the bidder	Period of execution From -To	Brief scope of work	Awarded contract value	Project Cost for which services are provided

#### 5.6 Undertaking for Downloaded Bid Document (Form UT)

We here by confirm that, we have downloaded / read the complete set of bid documents /addendum/corrigendum/clarifications along with the set of enclosures hosted on e-bidding website of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule). We confirm that we have gone through the bid documents, addendums/corrigendum's and clarifications for this work placed up to the date of opening of bids on e-bidding portal of HRIDC as mentioned in clause 1.2 of IFB (Bid Schedule). We confirm our unconditional acceptance for the same and have considered for these in the submission of our technical and financial bid.

STAMP & SIGNATURE OF AUTHORISED SIGNATORY

### 5.7 Standard Format for Pre-Bid Queries (Form PQ-1)

Contract No. and Name of the Work:

Name of Bidder:

S.No.	Relevant Section/Clause No. and complete description of clause	Relevant Page No. of bid document	Queries	Replies (To be filled by HRIDC)

## 6. GENERAL CONDITIONS OF CONTRACT (GCC) (FOR CONSULTANCY SERVICES)

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## 1.0 Definitions

The following words and expressions shall have the meanings assigned to them except where the context otherwise requires:

- (i) "Project" means the project/work named in Special Conditions of Contract.
- (ii) "Services" means the services to be performed by the Consultant pursuant to this contract.
- (iii) "Employer" means the Haryana Rail Infrastructure Development Corporation Limited (also referred to as HRIDC) which expression shall also include their legal successors and permitted assigns.
- (iv) "Consultant" means the party or the group/consortium named in the Agreement, who has to perform the services, and which expression shall include his/their legal successors and permitted assigns.
- (v) "Sub – Consultant" means an entity or individual appointed by Consultant with the prior approval of the employer and in accordance with the procedure described in Special Conditions of Contract.
- (vi) "Member", in case the Consultant comprises more than one entity means any of the entities. "Members" means all the entities.  
"Lead Member or Member-in-Charge" means the Member authorized to act on the Members' behalf in exercising all the Consultant's rights and obligations towards the Client under their contract and has majority share in JV/Consortium.
- (vii) "party" means HRIDC or Consultant as the case maybe and "parties" means both of them. "Third party" means any other person or entity as the context requires.

- (viii) "Contract" means the Contract Agreement, the Letter of Acceptance, the Letter of Bid and other documents which are listed in the Contract Agreement or in the Letter of Acceptance.
- (ix) "Employer's Representative" means the official employed by HRIDC and notified as such, or any of its officers nominated by HRIDC and notified from time to time, to the Consultant.
- (x) "Engineer" means the person-in-charge appointed by the employer to supervise the contract awarded to the Consultant or any of its officers nominated by HRIDC and notified from time to time.
- (xi) "day" means calendar day.
- (xii) "month" means a period of one month according to the Gregorian calendar commencing with any day of the month.
- (xiii) "INR" means the currency of India and shall be the currency used for the Project.
- (xiv) "Time for completion" means the time period stated for this purpose in the bid documents.
- (xv) "Applicable Law" means the laws and any other instruments having the force of law in the Employer's Country, or in such other Country as may be specified in the Contract data and specific provisions, as they may be issued and in force from time to time.
- (xvi) "Effective Date" means the date on which this Contract comes into force and effect or the date of issue of Letter of Acceptance (LOA) by the Employer.
- (xvii) "Experts" means, collectively, Key Experts/Persons, on-Key Experts, or any other professional personnel of the Consultant, Sub-consultant or JV/Consortium member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract

## **2.0 Interpretation**

- (i) The headings in the Agreement shall not be used in its interpretation.
- (ii) The singular includes the plural, the masculine includes the feminine, and vice-versa where the context requires.
- (iii) Reference to "Contract" mean this contract (and include the Schedules). References to "Clauses and Schedules" mean clauses of and schedules of this contract. The provisions of Schedules shall be binding on the parties as set out in full in this Contract.
- (iv) If there is a conflict between provisions of the Agreement, the last to be written chronologically shall prevail, unless otherwise specified in the Special conditions of contract.

## **3.0 Languages and Law**

Languages of the agreement/contract communication shall be English. The agreement shall be interpreted, constructed and governed by the laws of India. The Consultant shall, at all times in its performance of its obligations under this Agreement, be responsible to comply with all the Applicable Law, including, without limitation, those rules or regulations enacted or issued by the Employer.

#### **4.0 Information**

The Employer shall within a reasonable time give to Consultant, free of cost, all information which he is able to obtain and which may pertain to the Services. But this will not relieve the responsibility of the Consultant to collect all the necessary information from other organizations, agencies etc to the execution of the work assigned.

#### **5.0 Decisions**

On all matters properly referred to it in writing by Consultant. HRIDC shall give a decision in writing within a reasonable time.

#### **6.0 Assistance**

While it shall be the primary responsibility of the Consultant to obtain necessary information from other organizations to execute the contract and to perform the services specified therein, the Employer shall assist Consultant in:

- (i) providing unobstructed access wherever it is required for the Services.
- (ii) providing access to other organizations for collection of information.

#### **7.0 Agreement Effective Date**

Letter of Acceptance (LOA) issued by the Employer shall be deemed to be binding agreement between the Employer and the Consultant till such time the contract agreement is executed. The Contract shall come into effect from the date of issue of the Letter of Acceptance (LOA) by the Employer or the date mentioned in the LOA, whichever is later.

#### **8.0 Commencement and Completion**

**8.1** The date of commencement shall be from the date of issue of Letter of Acceptance (LOA) by the Employer or the date mentioned in LOA, whichever is later.

**8.2** The Services shall be commenced and completed at the times or within the periods stated in Special Conditions of Contract subject to extensions in accordance with the Agreement.

**8.3** Completion of services of the Consultant shall be certified upon final submission of all the documents/manuals, designs, drawings covered under the scope of this contract. If all the documents/manuals have been satisfactorily submitted, the Employer/Employer's representative shall issue the Completion Certificate.

#### **9.0 Notices**

Notices under the Agreement shall be in writing and will take effect from receipt at the address stated in the Agreement. Delivery can be by hand or facsimile message or email against a written confirmation of receipt or by registered letter or by telex subsequently confirmed by letter.

#### **10.0 Press /Media Relations**

(i) Under any circumstances, no employee of the Consultant deployed on this assignment shall, except with the prior written sanction of the Employer, shall participate in a radio/TV broadcast or contribute to any article or write any article or letter either in his

own name or anonymously, pseudonymously, or in the name of any other person, to any newspaper or periodical or shall give an interview to any media persons.

(ii) The Employers policy regarding responding to Press/Media shall be enforceable on all parties associated with this agreement.

### **11.0 Submission of Programme**

The consultant shall submit programmes and Schedules including detailed breakup of activities as per contractual provisions for approval by HRIDC within 30 days of issue of LOA and update them regularly (every 60 days) to assist the Employer in tracking the progress of works. These programmes and schedules are for Employer's use only.

### **12.0 Equipment and Facilities**

The Consultant shall secure for itself and its employees all equipment, transport facilities and services that may enable it to perform its obligations under the contract.

The Consultant shall at all times give to the Employer or to any other person authorised in writing by the Employer, access to premises occupied by the Consultant where the Consultancy Services are being undertaken and shall permit those persons to inspect and audit the performance of the Consultancy Services and any Contract Material or other material related to the Consultancy Services.

### **13.0 Provision of Consultancy Services**

#### **13.1 The Consultant shall:**

(i) Inform itself of the Employer's requirements in respect of the Consultancy Services;

(ii) Consult regularly with the Employer throughout the performance of the Consultancy Services; and Act professionally at all times in the performance of the Consultancy Services, exercising the skill, care, economy, efficiency and due diligence in accordance with generally accepted professional standards & practices, and shall observe sound management practices and employ appropriate technology, safe and effective equipment, material and methods.

(iii) The Consultant shall always act in respect of any matter relating to this contract or to the services as a faithful advisor to the Employer and shall at all times support and safeguard the Employer's legitimate interests in any dealings.

(iv) The Consultant shall provide professional, objective and impartial advice and at all times hold the Employer's interest paramount.

(v) The Consultant shall propose, employ and provide such qualified and experienced experts and sub-consultants as are required to carry out the services.

#### **13.2 Code of Professional Ethics**

(i) The Consultant shall have no direct or indirect interest in commercial, manufacturing or contracting activities that might tend to influence its professional judgement. It is remunerated solely by the fees paid to it by the Employer.

(ii) The Consultant shall approach all assignments objectively and by using sound technical and economic principles that provide solutions which serve the best

interests of the Employer.

(iii) The Consultant shall give a declaration that it has no financial or managerial ties with other organisations that could influence its independence.

#### **14.0 Performance standards**

(i) All services performed under this agreement shall be performed by the Consultant and its sub-consultants in a manner consistent with (a) the latest Indian and International standards and codes applicable for the projects of this type, scope and complexity of the project and also applicable to those who provide similar services ;(b) the applicable laws; (c) the terms of this agreement; and (d) using their professional skill and judgement.

(ii) The Consultant is required to comply with the Employers policies and procedures as may from time to time to be in force.

(iii) Notwithstanding any review of its organization structure, staff or manning schedules, the Consultant shall remain wholly responsible for the provision of stipulated services.

(iv) If in the opinion of the Employer/Employers representative, the progress or performance of the consultant's work is seen to be at any time inadequate to meet those requirements, the Consultant shall take the necessary steps to improve them on being notified.

(v) If within a reasonable period, the Consultant has not improved its progress or performance, the Employer/Employer's representative may by way of written notice require it to take additional measures, including changes in its organization at no additional cost to the Employer. Such notice shall be in no way deemed to constitute a waiver of Employer/Employers representative's rights to terminate the agreement by reason of the Consultant's breach of contract.

(vi) Failure by the Employer/Employer's representative to issue such a notice shall not relieve the Consultant of its obligations to achieve the required rate of progress and quality of work.

#### **15.0 Addressing Ambiguities**

To the extent there are any ambiguities and/or conflicting terms and provisions as between the Consultant's proposal and this contract, this contract shall control and govern.

#### **16.0 Care and Supply of Documents**

(i) The drawings and specifications submitted by the Consultant shall be in the custody and care of the Employer. The Consultant shall keep in the office set up for the execution of the contract, a copy of the contract, publications named in the specifications, the documents and drawings, variations and other communications given under the Contract. The Employers personnel shall have the right of access to all these documents at all reasonable times.

(ii) 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.

(iii) Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request test or similar act by the Employer /Employers representative/Engineer (including absence of disapproval) shall not relieve the Consultant from any responsibility he has under this Contract, including responsibility for errors, omissions, discrepancies and non-compliances.

### **17.0 Delayed Drawings /Submissions**

The Consultant shall give notice to the Employer whenever the Work are likely to be delayed or disrupted to the extent that any necessary drawing could not be issued to the Contractors engaged by the Employer 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 the nature and amount of the delay or disruption likely to be suffered if it is late.

If the Contractors engaged by the Employer suffers delay and/or incurs Cost as a result of a failure of the Consultant to issue the notified drawing within a time which is reasonable and is specified in the notice with supporting details, the Contractor's claim in this regard shall be assessed case to case basis and charged in accordance with Consultant's responsibility for the delay.

### **18.0 Liability of Consultant to the Employer**

Consultant shall be liable to the Employer till the issue of the Performance Certificate. The Employer shall issue Performance Certificate to the consultant after the completion of duration of professional liability, as stated in Clause 21.

The Consultant shall be issued Performance Certificate by the Employer stating that the consultant has completed his obligation to the Employer's satisfaction. Only the issue of Performance Certificate shall be deemed as fulfilment of consultant's obligations with respect to this contract.

Consultant shall only be liable to pay compensation to the Employer arising out of in connection with the Agreement for a breach of Contract. Such compensation shall be limited to the amount specified against limitation of Liability mentioned in Conditions of Contract.

### **19.0 Communications**

The Consultant shall comply with all written procedures, issued by the Employer from time to time, for conduct of communications to deal with matters relating to the planning, programming, design and construction of the Project.

After every meeting, the consultant shall prepare Minutes of Meeting and submit to the Employer for approval and circulation to other parties.

### **20.0 Taxes and Duties**

**20.1**The Consultant shall ensure full compliance with the prevailing tax laws of India and its Country (in case the Consultant is a foreign entity) with regard to this contract and shall be solely responsible for the same. The Consultant shall keep the Employer fully indemnified

against any liability or tax, interest, penalty etc of the Consultant in respect thereof, which may arise. Any liability under this clause to reimburse the Employer any penalty / fine that may be imposed on the Employer solely due to breach of GST laws on the part of the Consultant shall be subject to an overall cap of one time the fees payable to the Consultant under this agreement

**20.2** The Consultant shall maintain complete records in respect of payments made for taxes, duties, GST, Octroi and other levies payable to various authorities. These records shall remain open for inspection by the Employer at any time and shall be made available to the Employer as and when required.

**20.3** The consultant and their personnel shall pay such taxes, duties, fees and other impositions except Goods and Services Tax (GST) as may be levied under the Applicable Laws, the amount of which shall be deemed to have been included in the Contract Price. The Contract price shall be fixed excluding GST. GST will be paid extra as applicable on the submission of GST Invoices for first RA bill. The subsequent RA bill shall be processed for payment upon submission of documentary evidence towards payment of GST collected on the previous bill to the GST Authorities. The Final bill/single bill payment shall be released on the undertaking by the contractor/supplier for providing evidence within 21 days from the close of month in which payment is released

#### **21.0 Duration of Professional Liability**

Consultant shall not be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on him before the expiry of the relevant period stated in Special Conditions of Contract, or such earlier date as may be prescribed by law.

#### **22.0 Change in Legislation**

Changes in the rate of existing taxes/duties/ cess relevant to the Contract, as applicable 28 days prior to the last date of submission of bid, will be considered a Change in legislation. Such additional /reduced cost shall be certified by the Employer after examining the records provided by the Consultant and shall be paid or credited to the Employer accordingly.

#### **23.0 Conflict of Interest**

Unless otherwise agreed in writing by the Employer, the Consultant and his personnel shall have neither any interest in nor receive remuneration in connection with the Project except as provided for in the Agreement.

The Consultant shall take all reasonable measures to ensure that its employees, agents, sub-consultants do not, during the Contract execution, engage in any activity or obtain any interest which is in conflict with providing services to the Employer fairly and independently.

The Consultant has an obligation and shall ensure that its personnel shall have obligation to disclose any situation of actual conflict that impacts their capacity to serve the best interest of the Employer. Failure to disclose such situations may lead to termination of contract.

The Consultant shall also not engage any employee of the Employer directly or indirectly for period of two years after leaving the service of the Employer.

On receipt of notice of conflict of interest, the Employer may decide upon the action to be initiated. Employer reserves the right to suspend the services of Consultant or to proceed to termination, as necessary.

#### **24.0 Corruption and Fraud**

The consultant shall neither give, provide, or offer nor shall receive, ask or accept, any loan, fee, reward, gift or any emolument or advantage whatsoever beyond the provisions of this agreement.

Wherever possible, any issues relating to conduct, competence and behavior should be identified and resolved internally by the Consultant but the Employer should keep informed of such occurrences.

In order to prevent and detect fraud, the Employer may at any time:

- a) Share information about the consultant with other organizations including the police, vigilance, etc.
- b) Conduct/allow the Law Enforcement officials to conduct searches of the consultants' premises.
- c) Check and share details with fraud prevention and detection agencies, as may be necessary.

In the event of any breach of this condition, the Consultant shall be deemed to have breached the contract and the Employer shall, without prejudice to any other rights the consultant, it may possess, be at liberty forthwith to terminate this contract and to recover from the consultant any loss or damage resulting from such termination.

However, should the employer consider that the Consultants conduct or behaviour may be in breach of code of conduct, or that the Consultant's professional competence has been called into question, Notice may be issued to the Consultant requiring explanation in this regard but the consultant will be liable to pay compensation to the Employer if the breach is established.

In the event of termination on such grounds, the Employer is also entitled to recovery of any additional expenses incurred for preceding the work till completion.

#### **25.0 Publication**

Consultant, either alone, or jointly with others, cannot publish, disclose or divulge, any material relating to the Services to any third party without the written permission from the Employer. The Consultant shall implement appropriate technical and organisational measures to protect the data/ information regarding the project against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure.

## **26.0 Obligations of Consultant**

### **26.1 Scope of Services**

- i. Consultant shall perform Services relating to the Project. The Scope of the Services is stated in Part-II-Employers Requirements of the bid documents
- ii. Consultant shall exercise reasonable skill, care and diligence in the performance of his obligations under the Agreement and shall adopt best design practices for the performance of services.
- iii. The Employer has endeavoured to delineate the scope of services to be performed by the Consultant. Such descriptions are not intended to be comprehensive.
- iv. The Consultant shall be required, without adjustment to the accepted contract value, to provide any services that are within the scope of its field of professional practice and that are reasonably inferable as being necessary or that would be customarily furnished by other providers of professional services of the type and nature provided for in this agreement, to accomplish the Services set out in this contract.
- v. The Consultant shall always act in respect of any matter relating to this contract or to the services as a faithful advisor to the employer and shall at all times support and safeguard the employer's legitimate interests paramount.
- vi. The Consultant shall provide professional objective and impartial advice and at all times hold the Employers interest paramount.

### **26.2 Interface**

Where the Services include the co-ordination between the Consultant and other Consultants/Contractors/Experts employed on the Project, the Consultant shall provide such co-ordination. The Consultant shall obtain, co-ordinate and submit to the Employer's Representative for his information and approval all details, drawings, quantities, specifications arising from such co-ordination with others. Such co-ordination will take place throughout the period of the Services and it shall be the responsibility of the Consultant to document the same.

### **26.3 Value Engineering**

The Consultant shall propose and provide innovative solutions for design optimization, which in the Consultant'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, (iv) otherwise be benefit to the Employer

The value engineering proposals shall be prepared at the cost of the Consultant; the proposed concepts after suitable iterations and fair exchange of technical information based on their past experience in design of similar systems substantiated with the latest codes & standards and design practices, should be presented to the design teams of the Employer, before commencement of relevant works.

The Consultant is entrusted with the prime responsibility and accountability for the improvement of the design solutions as the case may be after dragonizing any flaws in their

design and should substantiate in writing any quality and safety aspects found missing /un-addressed at any stage of design and construction work at any point of time at their own cost.

## **27.0 Representatives**

For the administration of the Agreement the Consultant shall designate the officials or individuals to be his representatives as Team Leader as proposed by him in its bid. The above team leader shall attend all meetings with the Employer. The above team leader will be responsible for planning, organising and securing resources for ensuring the successful completion of the project by co-ordinating with different teams to develop a coherent output through the coordination of various interfaces. All communication from the Employer shall be addressed to the Team Leader. All communications from the Consultant to the Employer or any other authority shall be done by the Team Leader only. Similarly, all design/drawings/reports/documents from the Consultant shall be issued by the Team Leader only and only under exceptional circumstances, such communications shall be done by any other person of the Consultant who shall be duly authorised for the same.

## **28.0 Deployment/ Replacement of personnel**

**28.1** All persons employed by the Consultant shall be the employees of Consultant and not of HRIDC. The Consultant shall be solely responsible for any workers' compensation obligations, withholding taxes, unemployment insurance, all statutory obligations and any other Employer obligations with respect to all employees working for the Consultant.

All the proposed Key Persons including Expatriate persons, as finalised after the negotiations, if any, shall be deployed within the time stated in the Letter of Acceptance and as per the agreed deployment schedule. These persons shall be physically available in the office of the Consultant exclusively set up for the execution of the contract as per the work requirement during the entire period of implementation of the contract. In case of failure of the Consultant to deploy the above key persons as per the agreed deployment schedule, penalty as stated in the Special Conditions of Contract shall be imposed on the Consultant.

The employer will not normally consider request of the selected bidder for substitution of Key Persons except under exceptional circumstances. However, such substitution shall be limited to once in each category for whole contract period, with equally or better person/expert than the replaced one. Such substitution shall be subject to levy of penalty as stated in Special Conditions of contract.

**28.2** Substitution of the Team Leader will not normally be considered and may lead to disqualification of the bidder or termination of the Agreement, except in case of long term disability or loss of life. In such cases, substitution may be permitted by the Employer on the merit of the case and availability of sufficient evidence, at the sole discretion of the Employer; subject to equally or better qualified person is provided by the Bidder/Consultant. Such substitution shall attract imposition of penalty as stated in Special Conditions of Contract.

## **28.3 Replacement of Personnel as per the requirements of employer**

In case the Employer is not satisfied with the performance of any personal of the Consultant, such person shall be replaced on Employers request with a person acceptable to the Employer.

### **29.0 Assignment and Sub-Contracts**

- (i) The Consultant shall not, without the written consent of the Employer, assign the benefits from the Agreement other than money.
- (ii) The Consultant shall not assign obligations under the Agreement (to Sub-Consultant / Sub-Consultants) without the written consent of the Employer.
- (iii) The Consultant shall not without the written consent of the Employer initiate or terminate any sub-Consultant for performance of all or part of the Services

### **30.0 Performance Security**

As stated in the 'Instruction to Bidders' the Consultant shall provide to the Employer with a Performance Security in the form stipulated therein. In case the performance security is submitted in the form of a Bank Guarantee, it shall be issued from a bank as stipulated in Instructions to Bidders. Such bank guarantee shall be valid for period stated in the Special Conditions of Contract and in case of extension of time the validity of the same shall be extended for further period. The Employer reserves the right to forfeit the performance guarantee amount, in the event of termination of the Contract in accordance with Clause 56.

In the event of any defect coming to the notice of the Employer within the duration of liability period as stipulated in clause 21 of GCC and clause 13 of SCC and in the eventuality of the Consultant failing to rectify the same, despite written advice from the Employer, the Employer will forfeit the amount of the Performance Security. The Scheduled Bank issuing the Bank Guarantee preferably on "Structure Financial Messaging System (SFMS)" platform. A separate advice of the BG shall invariable be sent by the issuing bank to the Employer's Bank through SFMS.

The Issuing Bank shall send the SFMS to:

Beneficiary:

Bank Name:

Account No.

IFSC Code:

### **31.0 Change in Constitution**

The Consultant shall promptly notify and obtain the approval of the Employer for any changes in the constitution of the Consultant. It shall be open for the Employer to terminate the Agreement upon change in the constitution of the Consultant. It shall be also open for the Employer to terminate the Agreement, upon loss of life, retirement, insanity or insolvency of any person being the proprietor/partner in the Consultant, or on the addition or introduction of a new partner managing the Project for the Consultant without the prior approval in writing of the Employer.

But in absence of and until its termination by the Employer as aforesaid, this Agreement shall be in full force and effect, notwithstanding any changes in the constitution of the firm

by loss of life, retirement, insanity or insolvency of any of its proprietors/partners or addition or introduction of any new partners. In case of loss of life or retirement, the surviving or remaining partners of the firm shall be jointly and severally liable for the due and satisfactory performance of all terms and conditions of the Agreement, and likewise on the addition of a new partner, the latter will also become jointly and severally liable.

### **32.0 Modification and Variations**

The Contract can be modified including modification in Contract Amount and Scope, in writing by employer. In the event of any additional services to be performed by consultant, the consultant shall obtain prior written approval from the Employer, on the time and cost involved in performance of the additional services.

The agreement scope may be subject to variations including omissions, alternations and additions. If a variation to the scope of works results in a change in the agreement value (positive or negative changes), the financial implications will be calculated by the consultant, subjected to the acceptance by the Employer using the original project specification, schedule of payments and scope of works as a basis.

If the Employer requests for variation, consultant has to submit the proposal.

Consultant may be entitled for extension of time or additional payments on the basis of merits of the variations proposal in accordance with determination by Employer in this regard.

### **33.0 Copyright**

The copyright (including future copyright) of all documents and drawings prepared by the Consultant in performance of the Services under the Agreement shall be vested with the Employer. All design documents prepared by the Consultant, the design depicted in them, and any presentation material, shall become upon their creation the property of the Employer whether the project for which they are made is executed or not. Without limitation to the foregoing, the Employer shall hold and the Consultant shall be deemed to have irrevocably assigned to the Employer in perpetuity with no reserved or retained rights in any other persons or entities, all copyrights or other intellectual property rights relating to the design documents. The Consultant may retain copies of the documentation prepared by them and may use and adapt the contents of such documentation for his own use.

### **34.0 Consultant's Warranty of Design**

- (i) The Consultant shall be fully responsible, for the suitability, adequacy, integrity, durability and practicality of the Consultant's proposal.
- (ii) The Consultant warrants that the Consultant's Proposals meet the Employer's Requirements and are fit for the purpose thereof. Where there is any inadequacy, insufficiency, impracticality or unsuitability in or of the Employer's Requirements or any part thereof, the Consultant's Proposal shall take into account, address or rectify such inadequacy, insufficiency, impracticality or unsuitability at Consultant's own cost.
- (iii) The Consultant warrants that the Works have been or will be designed to the highest standards available using proven up-to-date good practice.

(iv) The Consultant shall indemnify the Employer against any damage, expense, liability, loss or claim, which the Employer might incur, sustain or be subject to arising from any breach of the Consultant's design responsibility and/ or warranty set out in this Clause.

(v) The Consultant further specifies and is deemed to have checked and accepted full responsibility for the Consultant's proposals and warrants absolutely that the same meets the Employer's Requirements:

a) Notwithstanding that such design may be or have been prepared, developed or issued by the Employer, any of Consultant's Consultants, his sub Consultants and/or his qualified personnel/persons or cause to be prepared, developed or issued by others.

b) Notwithstanding any warranties, guaranties and/or indemnities that may be or may have been submitted by any other person.

c) Notwithstanding that the same have been accepted by the Engineer.

The Consultant shall be fully responsible for the drawings, designs etc. & preparing, developing and coordinating all design Works to enable that part of the Works to be constructed and/or to be fully operational in accordance with the Contract's requirements.

Should a Consultant be deemed liable to the Employer, by way of indemnity or by reason of breach of contract or otherwise, the Consultant's liability shall be in aggregate equal to the total contract value.

### **35 Payment to the Consultant.**

- i. The employer shall make payment to the Consultant in accordance with the accepted rates/cost and as per the stipulated stage payment schedule.
- ii. Goods and Services Tax will be paid extra as per the prevailing tariff, on submission of certified GST invoices as per the prevailing rules.
- iii. Statutory deduction shall be made from the payments for which necessary TDS certificates shall be issued
- iv. Payment shall be made by RTGS in the bank account of the consultant as per the details provided by the consultant.
- v. In case the Consultant is a Joint Venture, the payment shall be made only in the name of Joint Venture.
- vi. In case the Consultant is a Consortium, if requested by the consultant, direct payment to the individual members of the consortium can be made; on joint certification by the authorized representatives of individual constituent member, after making requisite recoveries /deduction from the gross payment. In this case, a notarized Memorandum of Understanding/Agreement jointly signed by authorized representatives of all the constituent members of the Consortium to this effect need to be submitted to the employer on commencement of the Work.

### **36.0 Time for Payment**

Payment to the Consultant shall be made on monthly basis. Generally, the payment shall be made within 14 days of receipt of an acceptable invoice from the Consultant. In case the



invoice is not acceptable to the employer, the employer shall promptly return the invoice to the consultant advising the deficiencies in the invoice.

### **37.0 Currency of Payment**

All payments shall be made in Indian Rupees.

### **38.0 Disputed Invoices**

If any item or part of an item in an invoice submitted by the Consultant is contested by the Employer, then the Employer shall give prompt notice with reasons and shall not delay payment on the balance of the invoice.

Maximum amount withheld on account of disputed item in any invoices shall not exceed 100% of the value of the disputed item.

The Consultant shall promptly perform against any Consultancy Service or item thereof certified as not being in accordance with the Contract, without raising additional claims to the Employer.

The Consultant will not be entitled to make any claim for payment in relation to such services disputed in any invoice until the Employer has certified that the re-performed services are in accordance with the Contract.

### **39.0 Audit Requirement**

The Employer reserves the right to carry out a audits and/or examination of the books, and the account, including all supporting vouchers, abstracts, etc. and to make a claim on the consultant for the refund of any excess amount paid to him, if as a result of such examination, any over-payment to him is discovered to have been made in respect of any work done or alleged to have been done by the Consultant, under the Contract. If any under-payment is discovered, the same shall be paid by the Employer to the consultant. Such payments or recoveries, however, shall not be subject to any interest.

The consultant shall provide full and timely access for such Audit by the Employer, including inspection of records and documentation. Such access shall include direct access to the work areas, storage facilities, consultant's project offices, and similar areas and facilities where any work is being conducted for this project.

### **40.0 Claims for Loss or Damage**

Subject to Clause 23, any claim for loss or damage arising out of breach or termination of the Agreement shall be agreed between HRIDC and the Consultant, failing which the same shall be referred to arbitration in accordance with Clause 60.

Except in the event of the Employer's failure to make undisputed payment of the compensation due to consultant, notwithstanding any disputes between Employer and consultant hereunder or in connection with the Project, the consultant and the Employer shall each continue to perform their respective obligations hereunder; including the obligation of the consultant to continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

### **41.0 Employers Claim**

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 Duration of Professional Liability, the Employer shall give notice along with particulars to the consultant. The particulars shall specify the basis of the claim and shall include details of the amount which the Employer considers him-self to be entitled in connection with the contract. Consultant shall respond to the notice within 21 days failing which the Employer's claim shall be final and binding on the consultant and construed to be settled.

#### **42.0 Limit of Employers Liability**

The Employer shall have no liability in respect of any claim made or any award of compensation in respect of redundancy or unfair or wrongful dismissal to any employee of the Consultant in respect of his or her service with the Consultant or arising from the operation of the Employer's policies/security measures.

#### **43.0 Force Majeure**

If, at any time during the currency of the 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, hostilities, invasion, acts of public or foreign enemies, rebellion, revolution, insurrection, civil commotion, sabotage, large scale arson, floods, earthquake, large scale epidemics, nuclear accidents, any other catastrophic unforeseeable circumstances, quarantine restrictions, any statutory rules, regulations, orders or requisitions issued by a Government department or competent authority or acts of God (hereinafter referred to as "event") then, provided notice of the happening of such an event is given by either party to the other within 21 days of the occurrence thereof.

a. Neither party shall by reason of such event be entitled to terminate the Contract or have claim for damages against the other in respect of such non-performance or delay in performance.

b. The obligations under the Contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.

c. If the performance in whole or part of any obligation under the Contract is prevented or delayed by reason of the event beyond a period mutually agreed to if any, or 90 days, whichever is more, either party may at its option terminate the Contract.

d. In case of doubt, or dispute, whether a particular occurrence should be considered an "event" as defined under this clause, the decision of the Engineer shall be final and binding.

e. Works that have already been measured shall be paid for by the Employer even if the same is subsequently destroyed or damaged as a result of the event. The cost of rebuilding or replacing any work that has been measured shall be borne by the Employer.

f. If the Contract is terminated under this Clause, the Consultant shall be paid fully for the work done which has been destroyed or damaged before its measurement. The Employer shall have the option to take over any plant and material lying at site, at rates provided for in the Contract, failing that, as per rates, which are determined to be fair and reasonable by the Engineer.

If neither party issues notice regarding the event within 21 days of its occurrence, the said event shall be deemed not to have occurred and the Contract will continue to have effect as such.

#### **44.0. Delays and Liquidated Damages**

**44.1** Time is the essence of the Contract. It shall be the bounden duty of the Consultant to strictly adhere to the time for performance of various services indicated in the Contract. The contract key dates for various activities in relation to this contract are as given in the Special Conditions of Contract. The above dates shall be referred for the imposition of liquidated damages on the Consultant for any delays.

**44.2** In case of delays without valid reason, Liquidated damages shall be imposed on the Consultants described in Special Conditions of Contract.

#### **45.0 Extension of time**

**45.1** The Consultant may apply for an extension of the Time for Completion if the Work is or will be delayed either before or after the Time for Completion by any of the following causes:

- a. "Force Majeure" referred to in Clause 47
- b. The Consultant's work held up for not being given the details to be provided by the employer in accordance with the Contract
- c. Instruction of the Engineer to suspend the Works and the Consultant not being in default as to reasons of suspension.
- d. Acts or omissions of other agencies involved in the project not forming part of this Contract and on whose performance, the performance of the Consultant necessarily depends, as stipulated in the contract.
- e. Any act of prevention or Breach of Contract by the Employer and not mentioned in this Clause
- f. Any order of Court restraining the performance of the Contract in full or in any part thereof
- g. Any other event or occurrence which, according to the Employer is not due to the Consultant's failure or fault and is beyond his control without Employer being responsible for the same.
- h. An Employer's Variation

However, the Consultant shall not be entitled to any extension of time where the instructions or acts of the Employer or the Engineer are necessitated by or intended to cure any default of or breach of Contract by the Consultant or where any delay is due to

- i. the failure of Consultant, to commence or to carry out work in due time,
- j. non-availability of inputs by the Consultant including its personnel
- k. the Consultant not fulfilling his obligations under the contract

If the Consultant considers himself to be entitled to an extension of time for Completion, he shall give notice to the Engineer of such intention as soon as possible and in any event within 28 days of the start of the event giving rise to the delay and full and final supporting details of his application within 21 days of the last day of delay, together with any notice required by the Contract and relevant to such Clause.

The Engineer shall proceed in accordance with the contract conditions to agree or determine either prospectively or retrospectively such extension of the Time for Completion as may be due. The Engineer shall notify the Consultant accordingly.

#### **45.2 Extension of time for completion for other reasons**

The Consultant shall not be entitled to an extension of time by reason of any delay to any activity in carrying out of the Works unless in the opinion of the Engineer such delay results in or may be expected to result in a delay to completion of the Works, or achievement of any Stage by the relevant Key Date. Whether or not the Consultant fails to achieve any key date by reason of any delay shall not by itself be material to the Consultant's entitlement to an extension of time.

Any extension to a Key Date shall not by itself entitle the Consultant to an extension to any other Key Date.

#### **45.3 Extension of time for delays due to Consultant**

If the delay in the completion of the whole Works or a portion of the Works, for which an earlier completion period is stipulated, is due to the Consultant's failure or fault, and the Engineer is of the view that the remaining Works or the portions of Works can be completed by the Consultant in a reasonable and acceptable short time, then, the Engineer may allow the Consultant extension or further extension of time at its discretion with or without liquidated damages, for completion, as he may decide.

#### **46.0 Issue of Notice**

The Notice shall be given as soon as practicable after the Employer/consultant became aware of the event or circumstances giving rise to the claim.

A notice relating to any extension of the Duration of Professional Liability shall be given before the expiry of such period.

#### **47.0 Rights and liabilities of the Parties**

The Employer has the right to notify the Consultant that it wishes to modify its requirements in relation to the Project.

Should a party be deemed liable to the other party, by way of indemnity or by reason of breach of contract or otherwise, the Consultant's liability shall be in aggregate equal to the total contract value.

No dispute arising gives either Party the right to suspend their obligations under the terms of this Agreement.

All parties that form part of the consultant shall be jointly and severally liable to the Employer and/or third parties for the execution of the contract.

#### **47.0 Organization of the Consultant**

Promptly after the award of work, the Consultant shall set up an office in Delhi/NCR for the execution of works in this agreement.

#### **48.0 Priority of Documents**

The documents forming the Contract are to be taken as mutually explanatory of one another. The priority of documents shall be as stated in Special Conditions of Contract. If there is an ambiguity or discrepancy in the documents, the Engineer shall issue any necessary clarification or instruction to the Consultant.

#### **49. Abandonment and Suspension**

(i) The Employer may suspend all or part of the Services or terminate the Agreement by notice of at least 30 days to Consultant who shall immediately make arrangements to stop the Services and minimize expenditure.

(ii) If the Employer considers that Consultant is not discharging his obligations, the Employer can inform the Consultant by notice stating grounds for the notice. If a satisfactory reply is not received within 07 days of receipt of the notice by Consultant. The Employer can by further notice terminate the Agreement provided that such further notice is given within 30 days of the former notice.

(iii) If Consultant is adjudged a bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a breach of the Agreement, then the Employer may terminate the Services of the Consultant as per the procedure given in Clause 56 below. The Employer may complete the project by whatever method may be deemed expedient and the Consultant shall not be entitled to receive any further payment.

#### **50.0 Consequences of Suspension**

In circumstances where the Services or part of the Services have to be suspended or delayed, the Consultant will be allowed extra time to complete the Services and such extra time should be determined as reasonable in the circumstances. For events of delay on account of the consultant, all costs for the extended period and consequential impact on other services including defect liability period, duration of liability, etc., shall be borne by the consultant.

In the event that the suspension continues for more than 6 months, then this Agreement may be terminated by the Consultant after issuing Notice to the Employer.

#### **51.0 Termination**

**51.1** The Employer shall notify by issuing Notice to Correct (NTC) to the consultant when certain breach of terms like delay, slow progress, etc. are foreseen or has occurred. The consultant shall respond to the NTC within 14 days by stating corrective actions to be taken to address the same failing which the Employer may terminate by issuing a 14 days' notice of termination.

The merits of the corrective actions by the Consultant against NTC shall be reviewed by the Employer. The consultant shall within 28 days show significant and verifiable effort to correct its performance and provide concrete evidence to the employer of consultant's willingness and ability to execute the services under this contract. If consultant fails to achieve the above the Employer reserves the right to terminate by issuing a notice of termination.

### **51.2 Termination by Employer**

The Employer shall be entitled to terminate the contract at any time, by giving Consultant a rectification period of not more than 30 days prior to invoking this clause, if the consultant:

- i. Fails to comply with any of the contractual requirements;
- ii. Abandons work;
- iii. Fails to proceed with work in accordance with the provisions of the contract;
- iv. Become bankrupt or insolvent;
- v. Commits fraud or tries to obtain undue advantage;
- vi. Failure to adhere to key dates.

On termination, the consultant will be paid in accordance with the provisions of the contract for works executed till the date of issue of Notice of termination, provided that official documents are submitted as proof.

The Employer reserves the right to forfeit the performance guarantee amount, in the event of termination of the Contract in accordance with Clause 56.1 & 56.2.

### **51.3 Termination by the Consultant**

The consultant is entitled to terminate the contract 45 days after issue of Notice under the following conditions:

- i. Prolonged suspension of work without due compensation being paid as mutually agreed;
- ii. When the Employer becomes bankrupt/insolvent;
- iii. Delay of 56 days occurred after the specified period for payment due in accordance with contract except for disputed items in any Invoice/Interim Payment Certificate.

### **52.0 Liability of Consultant to the Employer**

Consultant shall only be liable to pay compensation to the Employer arising out of or in connection with the Agreement if a breach of Contract is established against him.

Should a Consultant be deemed liable to the Employer, by way of indemnity or by reason of breach of contract or otherwise, the Consultant's liability shall be in aggregate equal to the total contract value.

### **53.0 Exceptional Circumstances**

If circumstances arise for which the Consultant is not responsible and which make it impossible for him to perform in whole or in part the Services in accordance with the Contract, he shall promptly dispatch a notice to the Employer.

In these circumstances if certain Services have to be suspended, the time for their completion shall be extended until circumstances no longer apply plus a reasonable period not exceeding 07 days for resumption of them.

#### **54.0 Rights and Liabilities of the Parties**

Termination of the Agreement shall not prejudice or affect the accrued rights or claims and liabilities of either party.

#### **55.0 Claims, Disputes, Conciliation and Arbitration**

**55.1** Procedure for claims -If the Consultant intends to claim any additional payment under any clause of these Conditions or otherwise, the Consultant shall give notice to the Engineer as soon as possible and in any event within 28 days of the start of the event giving rise to the claim.

The Consultant shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at any other location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer shall, on receipt of such notice, inspect such records and may instruct the Consultant to keep further contemporary records. The Consultant shall permit the Engineer to inspect all such records and shall (if instructed) submit copies to the Engineer.

Within 28 days of such notice, or such other time as may be agreed by the Engineer, the Consultant shall send to the Engineer an account, giving detailed particulars of the amount and basis of the claim. Where the event giving rise to the claim has a continuing effect, such amount shall be considered as interim. The Consultant shall then, at such intervals as the Engineer may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further particulars. Where interim accounts are sent to the Engineer, the Consultant shall send a final account within 28 days of the end of the effects resulting from the event. If the Consultant fails to comply with this sub-clause, he shall not be entitled to claim any additional payment.

**55.2** Payment for claims- The Consultant shall be entitled to have included in any Interim Payment Certificate such amount for any claim as the Engineer considers due, after taking approval from the Employer. If the particulars supplied are insufficient to substantiate the whole of the claim, the Consultant shall be entitled to payment for such part of the claim as has been substantiated.

**55.3** No legal action till dispute settlement procedure is exhausted- Any and all Disputes shall be settled in accordance with the provisions of Clause 60. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Clause 60 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.

**55.4** Notice of Dispute - For the purpose of Sub-Clause 60.5, a Dispute shall be deemed to arise when one party serves on the other party a notice in writing (hereinafter called a "Notice of Dispute") stating the nature of the Dispute provided that no such notice shall be served later than 28 days after the date of issue of Performance Certificate by the Engineer.

**55.5** Two stages for Dispute Resolution- Disputes shall be settled through two stages: Conciliation procedures as established by “The Arbitration and Conciliation Act-1996” (as amended from time to time) and in accordance with this Clause. In the event this procedure fails to resolve the Dispute then;

a. Arbitration procedures undertaken as provided by “The Arbitration and Conciliation Act - 1996” (as amended from time to time) and in accordance with this Clause.

**55.6 Conciliation –**

Within 60 days of receipt of Notice of Dispute, either party shall refer the matter in dispute to conciliation.

Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted then Conciliation shall not take place. If the party initiating conciliation does not receive a reply within 30 days from the date on which he sends the invitation he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly.

The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner.

**55.7 Conciliation Procedure**

Disputes shall be referred to conciliator for decision The Parties shall appoint a Conciliator by the date stipulated in special conditions of contract.

The Conciliator shall comprise, as stated in special conditions of contract, either one or three suitably qualified persons (“the members”), each of whom shall be fluent in the language for communication defined in the Contract and shall be a professional experienced in the type of construction involved in the Works and with the interpretation of contractual documents. If the number is not so stated and the Parties do not agree otherwise, the Conciliator shall comprise three persons.

If the Parties have not jointly appointed the Conciliator 21 days before the date stated in the Contract and the Conciliator is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman.

However, if a list of potential members has been agreed by the Parties and is included in the Contract, the members shall be selected from those on the list, other than anyone who is unable or unwilling to accept appointment to the Conciliator.

If a member declines to act or is unable to act as a result of loss of life, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Clause.

The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Consultant acting alone. Unless otherwise agreed by both



Parties, the appointment of the Conciliator (including each member) shall expire when the discharge shall have become effective.

If any of the following conditions apply, namely:

- (a) the Parties fail to agree upon the appointment of the sole member of the Conciliator by the date stated in the first paragraph of this Clause,
- (b) either Party fails to nominate a member (for approval by the other Party), or fails to approve a member nominated by the other Party, of a Conciliator of three persons by such date,
- (c) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the Conciliator by such date, or
- (d) the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the sole member or one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,

then the appointing entity or official named in the Contract Data shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the Conciliator. This appointment shall be final and conclusive.

The Employer and the Consultant shall in good faith co-operate with the Conciliator and, in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings. Each party may, on his own initiative or at the invitation of the Conciliator, submit to the Conciliator suggestions for the settlement of the dispute.

When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations.

If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Conciliator may draw up, or assist the parties in drawing up, the settlement agreement.

When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

As far as possible, the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

### **55.8 Termination of Conciliation Proceedings**

The conciliation proceedings shall be terminated:

- a. by the signing of the settlement agreement by the parties on the date of agreement; or

- b. by written declaration of the conciliator, after consultation with the parties, to the effect further efforts at conciliation are no longer justified, on the date of declaration; or
- c. by a written declaration of the parties to the conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or
- d. by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. The costs shall be borne equally by the parties unless settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

### **55.9 Arbitration**

If the efforts to resolve all or any of the disputes through conciliation fails, then such disputes or differences, whatsoever arising between the parties, arising out of touching or relating to construction/ manufacture, measuring operation or effect of the Contract or the breach thereof shall be referred to Arbitration in accordance with the following provisions:

- a. Matters to be arbitrated upon shall be referred to a sole Arbitrator if the total value of the claim is upto Rs.5 million and to a panel of three Arbitrators if total value of claims is more than Rs.5 million. The Employer shall provide a panel of three arbitrators which may also include HRIDC officers for the claims upto Rs.5 million and a panel of five Arbitrators which may also include HRIDC officers for claims of more than Rs.5 million. The Consultant shall have to choose the sole Arbitrator from the panel of three and/or one Arbitrator from the panel of five in case three Arbitrators are to be appointed. The Employer shall also choose one Arbitrator from this panel of five and the two so chosen will choose the third arbitrator from the panel only. . The Arbitrator (s) shall be appointed within a period of 30 days from the date of receipt of written notice/ demand of appointment of Arbitrator from either party. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before the Engineer for the purpose of obtaining his decision. No decision given by the Engineer in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. The arbitration proceedings shall be held in Delhi only. The language of proceedings, that of documents and communication shall be English.
- b. The employer at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrator nominated in the panel along with their professional experience, phone nos and addresses to the Consultant.
- c. The award of the sole arbitrator or the award by majority of three Arbitrators as the case may be shall be binding on all parties.

**55.10** Interest on Arbitrator Award - 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.

**55.11** Cost of Arbitration - The cost of arbitration shall be borne by the respective parties. The cost shall, inter alia, include the fees of the arbitrator (s) as agreed by both the parties or provided under the International Arbitration Rules.

**55.12** Jurisdiction of Courts- Where recourse to a Court is to be made in respect of any matter, the court at Chandigarh shall have the exclusive jurisdiction to try all disputes between the parties

**55.13** Suspension of work on account of Arbitration-The reference to Conciliation / Arbitration shall proceed notwithstanding that the Works shall not then be or be alleged to be complete, provided always that the obligations of the Employer, Engineer and the Consultant shall not be altered by reasons of arbitration being conducted during the progress of the Works. Neither party shall be entitled to suspend the work or part of the work to which the dispute relates on account of arbitration and payments to the Consultant shall continue to be made in terms of the Contract.

## 7. SPECIAL CONDITIONS OF CONTRACT (SCC)

**NAME OF WORK:** Hiring of 7 No. AC vehicle i.e. One No. Honda City (Petrol) or similar, Two no. Ciaz (VXI) or similar, One no. Innova or similar and Three no. Swift Dzire (VDI) or similar to HRIDC, Chandigarh for a period of 24 months.

1. The contract shall be valid for a period of 24 months which can also be further extended at the discretion of Competent Authority. Contractor shall be bound to execute the contract for the extended period as per existing terms & conditions of the contract.

2. The vehicle is required at Chandigarh for local journeys mostly in Punjab, Haryana, Delhi & Chandigarh area both on Kachha/Pucca roads as well as per requirement of HRIDC. The contractor in this regard shall arrange the necessary permits/permission etc. The contractor is bound to provide the vehicle as and when required by the HRIDC at S.No.4&5

3. The hired vehicle is normally required to run 12 hrs per day for six days in a week and when the driver goes for rest the contractor will make alternative arrangement of driver on the rest day. However, in emergencies, vehicle can be required to run at any time and during night also. The payment will be made as given in the schedule of rates and quantities. Vehicles deployed shall display a board "ON GOVT. DUTY" and cost will be borne by the contractor. If the driver avail rest, leave, contractor will make alternative arrangement of driver.

4. The quoted rates will be all exclusive GST and other charges will be paid extra such as the parking charges/toll tax/Municipal corporation tax etc.

- Night charges @200/- will be paid extra for the return of vehicle after 08:30 PM.
- Sunday will remain off however in case of urgent works vehicle needs to be provided.

5. The vehicle provided should be commercially registered and comprehensively insured along with staff travelling with the vehicle and insurance policy of the vehicle made available by the owner of the vehicle as and when asked for. Original/Photocopy of the vehicle documents shall always be available with the vehicle.

6. The contractor should verify the credentials of the driver reporting for duty. Competent Authority may ask to change the driver if he is found careless, unfit or insincere on the job and the contractor shall within 3 days deploy any other suitable driver. The period when suitable driver is not available shall be treated as vehicle out of order. Driver should have valid driving license holder. Driver of the vehicle shall be well mannered, properly dressed and acquainted with, Punjab, Haryana, Delhi, Chandigarh area including nearby area also. The contractor shall be responsible for discipline and behavior of driver deployed by contractor.

- Driver is not to leave their duty unless permitted to do so by officer using the vehicle.
- Driver once deployed can only be changed after the approval of competent Authority.

7. The contractor should give a contact number for proper communication. Drivers of the vehicles should have a mobile phone, number of which should be provided to the office of the Competent Authority.

8. The age of hired vehicle should not be more than 2 year since date of opening of this tender. The model and should be in mechanically sound and decently maintained condition with neat and clean seat covers. The interiors of vehicle shall be maintained in neat and tidy condition.
9. The firm shall be responsible for providing the required vehicle at any time, even at short notice. The service should be available generally from 08.30 hrs. to 20.30 hrs.
10. Generally the vehicle will, remain at the office of the officer, otherwise the kilometer age for the purpose of “vehicle run” and “hours of duty” shall be reckoned from the point of reporting for duty to the point of vehicle released, but in no case the supplied vehicle will be used by the contractor for any other purpose, as a taxi or any other commercial purpose.
11. The average running of vehicle and duty hours may, at times exceed the prescribed limit of kilometers in a day/month.
12. The firm will ensure that the tank of vehicle supplied is duly filled up with diesel/petrol before this is sent for duty.
13. By virtue of this agreement, no relationship will be created between the Driver & HRIDC.
14. No mileage will be allowed to Drivers for lunch/ break-fast or for drawl of petrol/ diesel etc.
15. Penalty/ Termination of Contract for not providing satisfactory services.
  - a) If the vehicle goes out of order for whatsoever reason, the contractor shall provide an alternate arrangement within two hours failing which a minimum penalty of Rs. 500/- in first instance, Rs.1000/- in second instance and Rs. 1500/- in third instance and thereafter shall be imposed in addition to deduction of rental charges on proportionate basis.
  - b) Any tampering found with the meter of the vehicle shall result in imposition of heavy penalty, which shall be equivalent to Rs. 500/- in first instance Rs. 1000/- in second instance and Rs.1500/- in third instance and thereafter shall be imposed on every occasion. Notwithstanding anything stated above, decision of such a mistake may lead to discharge/termination of services at the discretion of Competent Authority along with forfeiture of security deposit.
  - c) Vehicle supplied by the firm will be regularly inspected by nominated officer for the purpose and in case of non-compliances of any of the conditions if brought to the notice by the user or the inspecting officer, a penalty of Rs. 500/- on each fault will be imposed.
  - d) In case of abnormal delay in reporting of vehicle, a penalty of Rs. 500/- per day will be imposed in addition to the reduction of charges on pro rata basis.
  - e) Vehicle Supplied shall be mechanically sound in condition, with neat and tidy seat covers and interiors with desired fragrance. The decision of Competent Authority regarding the condition of vehicle for its sound condition and neatness shall be final and binding on the contractor.
  - f) If the contractor fails to improve upon its services as discussed above even after communications either verbally or in writing, the contract shall be terminated unilaterally by the Competent Authority at his sole discretion without assigning any reason.
  - g) Whenever Competent Authority exercises his authority to terminate the contract under these conditions, he may complete the contract by any means at the

contractor's risk and cost. The security deposit and any other dues of the contractor shall be at the absolute disposal of Competent Authority to make good the loss suffered by Railway or extra expenditure incurred for hiring vehicle due to contractor's failure.

16. The driver of the vehicle shall maintain logbook in which day-to-day movement of the vehicle is to be noted and authorized to sign the logbook daily on contractor's behalf. Entries of journey should be got signed /attested by the users and will have to be sent along with the bill.

17. The driver should have all the time at least Rs. 1000/- (Rs. one thousand only) in his pocket as an imprest money for any traffic violation/challans etc, if required.

18.

a) In circumstances when the hired vehicle is involved in any violation of traffic rules or an accident resulting in loss or damages to property and life with respect to the vehicle, driver, passenger or any third party, theft or loss, the responsibility for any legal or financial implication shall rest solely with the contractor. HRIDC administration shall have no liability whatsoever in this regard.

b) The contractor shall fulfill all obligations under various labour laws in force regarding deployment of contract workers in respect of services provided under this contract.

19. Terms and Condition for Payment

a) The bill on monthly basis shall be submitted in triplicate along with logbook. Kilometers logged from the contractor's premises to competent authority office and from competent authority office to contractor's premises shall not be payable under the hiring agreement.

b) No advance payment shall be made to the contractor. The payment however, shall be made to the contractor on receipt of bill duly checked and verified by the concerned officer after reasonable time as per departmental rules but not more than one month in any case. The contractor shall not claim any interest on the delayed payment.

20. The payment shall be subject to deduction of income tax and other tax levied by the Government.

21. The firm will have to submit details of vehicle supplied by them indicating its make, registration number, model and type of fuel consumed by vehicle immediately after issue of Letter of Acceptance.

22. The service provider/firm shall also be responsible for compliance of the legal provision in respect of the vehicle and shall indemnify HRIDC for any loss of this account.

23. RISK AND EXPENSES:

In the event of theft, loss or accident any dispute with any private/semi govt/Government Authority, HRIDC will not be responsible and vehicle owner will settle the claim himself. In the event of the failure of the contractor to supply the vehicle as requisitioned under the contract, HRIDC shall hire similar type of vehicle at its discretion from other sources at the risk and expenses of the contractor or the prevailing market rate. Since the requirement are on day to day basis normal procedure for risk and expense hiring cannot be adhered to, and hence Competent Authority shall unilaterally decide about hiring of vehicle when vehicle is not supplied by the contractor. Due to shortage of time, no prior information can be given

to the contractor for such hiring expense incurred on risk and expense hiring shall be recovered from the next running bill/security deposit against this contract.

24. If at any later stage it is detected that the contractor has been paid in excess, whatsoever reasons may be, HRIDC shall have full authority to recover the excess payment/cost of the damage caused by him from the pending bill/ security deposit etc.

25. Cancellation of contract:

The Competent Authority without prejudice can cancel the contract in any of the following cases on the part of the contractor.

- a) The contractor or any partner in the contracting from becoming insolvent or have a receiving order for administration of estate made against him or shall take any proceeding for liquidation or compensation under any insolvency act for the time being in force or make any conveyance or assignment of this effects or composition or arrangement for the benefit of his creditors or purpose to do so or if application be made under any insolvency act for the time being in force the sequestration of his estate or if a trust deed be granted by him on behalf of his creditors.
- b) Assign, transfer, sublets or attempts to assign or sublet whole or any portion of the contract without written permission of Competent Authority.
- c) Whenever Competent Authority exercises his authority to cancel the contract under these conditions, he may complete the contract by any means The security deposit and any other dues of the contractor shall be at the absolute disposal of Competent Authority to make good the loss suffered by HRIDC or extra expenditure incurred for hiring vehicle due to contractor failure.

26. Compliance of all statutory obligations and rules shall be ensured by the agency and claims against any liability falling on HRIDC due to non-compliance of statutory obligations by the contractor or any of its agents/servants/driver or for any reason whatsoever would be borne by the contractor.

27. In case nodal officer desires, the firm shall provide roof carriers on the vehicle.

28. In case of any dispute of the interpretation on any clause in the terms and conditions of the contract, decision of Competent Authority will be final and binding on the contractor.

29. Preferably billing of contractor will be made on monthly basis. Contractor has to run 2000 km per month for vehicle at s.no.1 and 2500 km on average basis for vehicle at S.No. 2&3. Vehicles at S.No.4&5 shall be provided by contractor on daily basis as per requirement of HRIDC. For vehicles at S.No. 2&3 ,the average kilometrage run by each vehicle under same category shall be taken. For example, for vehicles under s.no.3, if vehicle make dezire no.1 runs for 2000kms and vehicle dezire no.2 runs for 2800km then payment shall be done for average of both vehicles i.e 2400 kms i.e. no extra kms payment shall be done for vehicle Dezire no.2 beyond 2500 km in this case. Vehicles at S.No. 1,2 and 3 shall be deployed by agency as per instruction/requirement of HRIDC.

30. Approval of extension of time up to 3 months beyond the duration of the contract shall be given by the tender accepting authority.

31. In case of any dispute jurisdiction of the court will be at Chandigarh area only shall be applicable.

## 8. CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Contract Agreement, 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.

### Contract Agreement (Form COF/2)

THIS AGREEMENT made the . . . . .day of . . . . , between . . . . [Name of the Employer... . . . (hereinafter “the Employer”), of the one part, and . . . . [name of the Consultant]. .1. . . (hereinafter “the Consultant”), of the other part:

WHEREAS the Employer desires that the Works known as . . . . [name of the Contract] . . . . should be executed by the Consultant, and has accepted a Bid by the Consultant for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Consultant agree as follows:

2. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

3. 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]. . . .
- Invitation for Bid
- Instructions to Bidders with Bid Data Sheet, Evaluation & Qualification Criteria and Bidding Forms
- the Special Conditions of Contract
- the General Conditions of Contract
- Contract Forms
- the Specification
- the Drawings;
- the Employer’s Requirements
- the completed Schedules including (priced Bill of Quantities)
- Any other documents

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<sup>1</sup> In case Consultant is a Joint Venture the ‘name of the Consultant’ shall be inserted as under : “the Joint Venture under the name and title of . . . . ., comprising of ...[Lead Partner] ;.....; and .....”



4. 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 execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

5. 4. The Employer hereby covenants to pay the Consultant 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.

The Contract Price shall be INR \_\_\_\_\_

The above amount includes all taxes, royalties, duties, fees, cess, octroi, other levies etc. and any tax to be deducted at source except Goods and Services Tax (GST) which shall be paid as per the rules and guidelines of Govt. of India.

The Consultant shall complete the Works within \_\_\_\_\_ months from the date as stipulated in in the Letter of Acceptance or Notice to Proceed, issued by the Employer.

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 .....  
for and on behalf of the Employer

Signed by .....  
for and on behalf the Consultant

in the presence of  
Witness, Name, Signature, Address, Date

In the presence of  
Witness, Name, Signature,Address, Date

**Contract Performance Security (Form COF/3)**

(BANK GUARANTEE)

(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:

Deputy General Manager (Projects)

Haryana Rail Infrastructure Development Corporation Ltd.,

SCO 17-18-19, 3rd Floor,

Sector-17A, Chandigarh

WHEREAS, Haryana Rail Infrastructure Development Corporation Ltd., 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 Consultant], hereinafter called the Consultant, for the work of [Insert Name of Work], vide Notification of Award No. [Insert Notification of Award No.].

AND

WHEREAS, the Consultant 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 authorized person of the Bank], have, at the request of the [Insert name of the Consultant], 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 Consultant and without the Employer being required to show grounds or give reasons for its demand or the amount demanded.

5. This Bank Guarantee is 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 Consultant.

**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 Consultant, 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 [Date to be filled as mentioned in SCC]. 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 Consultant 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.

## 9. SCOPE OF WORK

### Background and purpose

Haryana Rail Infrastructure Development Corporation Ltd. is a 51:49 joint venture by the state government of Haryana and Ministry of Railways under the provisions of Section 2(45) of Company's Act 2013. It is mandated to undertake project development, mobilization of financial resources and implement projects primarily in the state of Haryana.

Currently, HRIDC is planning and/or implementing various rail corridors in the state of Haryana. Out of which detailed project report (DPR) of four rail projects have been prepared and approved by Government of Haryana and submitted to Ministry of Railways for approval. The work of elimination of 5 nos. level crossings by providing elevated track at Kurukshetra has been undertaken by HRIDC. The Haryana Orbital Rail Corridor project (HORC) 140 Km new BG double line project from Palwal to Sonipat is under CCEA approval. Also, feasibility studies of eight projects have been completed by HRIDC. Keeping in view the quantum of work, official vehicles are required for officers of HRIDC. Accordingly the work of hiring of 7 nos. of vehicle have been planned i.e. One No. Honda City (Petrol) or similar, Two no. Ciaz (VXI) or similar, One no. Innova Crysta or similar and Three no. Swift Dzire (VDI) or similar to HRIDC, Chandigarh for a period of 24 months.

### ANNEXURE - INSTRUCTIONS REGARDING ELECTRONIC TENDERING SYSTEM

These conditions will over-rule the conditions stated in the tender documents, wherever relevant and applicable.

Registration of bidders on e-tendering Portal - All the bidders intending to participate in the tenders process online are required to get registered on the centralized e-tendering Portal i.e. <https://etenders.hry.nic.in> Please visit the website for more details.

#### Obtaining a Digital Certificate:

The Bids submitted online should be encrypted and signed electronically with a Digital Certificate to establish the identity of the bidder bidding online. These Digital Certificates are issued by an Approved Certifying Authority, by the Controller of Certifying Authorities, Government of India.

A Digital Certificate is issued upon receipt of mandatory identity (i.e. Applicant's PAN Card) and Address proofs and verification form duly attested by the Bank Manager / Post Master/Gazetted Officer. Only upon the receipt of the required documents, a digital certificate can be issued. For more details please visit the website – <https://etenders.hry.nic.in>

The bidders may obtain Class-II or III digital signature certificate from any Certifying Authority or Sub-certifying Authority authorized by the Controller of Certifying Authorities

or may obtain information and application format and documents required for the issue of digital certificate from.

The bidder must ensure that he/she comply by the online available important guidelines at the portal <https://etenders.hry.nic.in> for Digital Signature Certificate (DSC) including the e-Token carrying DSCs.

Contact Person: Ms Manju Aggarwal, Technical Director, Scientist-E, NIC, Panchkula.

E-mail: [a.manju@nic.in](mailto:a.manju@nic.in)

Help Desk: 0172 – 584257, 94170-69017

Bid for a particular tender must be submitted online using the digital certificate (Encryption & Signing), which is used to encrypt and sign the data during the stage of bid preparation. In case, during the process of a particular tender, the user loses his digital certificate (due to virus attack, hardware problem, operating system or any other problem) he will not be able to submit the bid online. Hence, the users are advised to keep a backup of the certificate and also keep the copies at safe place under proper security (for its use in case of emergencies). In case of online tendering, if the digital certificate issued to the authorized user of a firm is used for signing and submitting a bid, it will be considered equivalent to a no-objection certificate/ power of attorney / lawful authorization to that User. The firm has to authorize a specific individual through an authorization certificate signed by all partners to use the digital certificate as per Indian Information Technology Act 2000. Unless the certificates are revoked, it will be assumed to represent adequate authority of the user to bid on behalf of the firm in the department tenders as per Information Technology Act 2000. The digital signature of this authorized user will be binding on the firm.

In case of any change in the authorization, it shall be the responsibility of management/ partners of the firm to inform the certifying authority about the change and to obtain the digital signatures of the new person / user on behalf of the firm / company. The procedure for application of a digital certificate however will remain the same for the new user.

The same procedure holds true for the authorized users in a Private/Public limited company. In this case, the authorization certificate will have to be signed by the directors of the company.

Opening of an Electronic Payment Account: For purchasing the tender documents online, bidders are required to pay the tender documents fees online using the electronic payments gateway service shall be integrated with the system very soon till then it will be submitted manually. For online payments guidelines, please refer to the Home page of the e-tendering Portal <https://etenders.hry.nic.in>

Pre-requisites for online bidding: In order to operate on the electronic tender management system, a user's machine is required to be set up. A help file on system setup/ Pre-requisite can be obtained from National Informatics Center or downloaded from the home page of the website - <https://etenders.hry.nic.in> the link for downloading required java applet & DC setup are also available on the Home page of the e-tendering Portal.

Online Viewing of Detailed Notice Inviting Tenders: The bidders can view the detailed N.I.T and the time schedule (Key Dates) for all the tenders floated through the single portal e-tendering system on the Home Page at <https://etenders.hry.nic.in>

Download of Tender Documents: The tender documents can be downloaded free of cost from the e-tendering portal <https://etenders.hry.nic.in>

Key Dates: The bidders are strictly advised to follow dates and times as indicated in the online Notice Inviting Tenders. The date and time shall be binding on all bidders. All online activities are time tracked and the system enforces time locks that ensure that no activity or transaction can take place outside the start and end dates and the time of the stage as defined in the online Notice Inviting Tenders.

Online Payment of Tender Document Fee, eService fee & EMD fees & Bid Preparation & Submission (PQQ/ Technical & Commercial/Price Bid):

Online Payment of Tender Document Fee + e-Service fee: The online payment for Tender document fee, eService Fee & EMD can be done using the secure electronic payment gateway. The Payment for Tender Document Fee and eService Fee shall be made by bidders/ Vendors online directly through Debit Cards & Internet Banking Accounts and the Payment for EMD shall be made online directly through RTGS / NEFT & OTC. The secure electronic payments gateway is an online interface between contractors and Debit card/ online payment authorization networks.

Preparation & Submission of Online Applications/Bids:

Detailed Tender documents may be downloaded from e-tendering website (<https://etenders.hry.nic.in>) as per details given in IFB and tender mandatorily be submitted online following the instruction appearing on the screen.

ii. Scan copy of Documents to be submitted/uploaded for Prequalification or Bid under online PQQ/ Technical Envelope: The require documents (refer to DNIT) shall be prepared and scanned in different file formats (in PDF /JPEG/MS WORD format such that file size is not exceed more than 10 MB) and uploaded during the on-line submission of PQQ or Technical Envelope.

Only Electronic Form (Refer Tender document).

FINANCIAL or Price Bid PROPOSAL shall be submitted mandatorily online under Commercial Envelope and original not to be submitted manually)

NOTE:

Bidders participating in online tenders shall check the validity of his/her Digital Signature Certificate before participating in the online Tenders at the portal <https://etenders.hry.nic.in>. For help manual please refer to the 'Home Page' of the e-tendering website at <https://etenders.hry.nic.in> and click on the available link 'How to...?' to download the file.

In the first instance, the online payment details of tender document fee+e-Service and EMD & PQQ/Technical Envelope shall be opened. Henceforth financial bid quoted against each of the item by the shortlisted bidder/ Agency wherever required shall be opened online in the presence of such bidders/ agency who either themselves or through their representatives choose to be present. The bidder can submit online their bids as per the dates mentioned in the schedule/Key Dates above.

Instruction to Contractor on Electronic Tendering (Applicable only for contract(s) amounting to more than Rs.5.00 lacs). These conditions will over-rule the conditions stated in the tender documents, wherever relevant and applicable.

Other Information:

The intending Contractors shall fill in the item rate in the online templates of the tender.

Duly accepted power of Attorney in original along with its two certified copies in the name of tenderer or authorized representative to act on behalf of the agency.

Bidder must strictly abide by the stipulations set forth in detailed notice inviting tenders while tendering for the work.

In case any tender does not comply with procedure given in the DNIT, it will be presumed that the contractor is not interested in work and the work shall not be let out to him. Further he may be de-barred without further notice to him for failing to abide by the approved terms of detailed notice inviting tenders for this work.

The tenders which are not accompanied by the earnest money or do not strictly follow the technical requirement, are liable to be rejected summarily without arising any reason and no claim what so ever on their account will be considered.

Tenders quotations which are dependent upon the quotations of another tender shall be summarily rejected.

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