

**Tender Document for Goods  
(Two Envelope Tendering Process)**

**Procurement of:**

PSC-02: Manufacture and Supply of Pre-Stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project.

**Tender No:** HORC/HRIDC/PSC- 02/2024

**Project:** Haryana Orbital Rail Corridor (HORC) Project

**Purchaser:** Haryana Orbital Rail Corridor Limited (HORCL)

**Country:** INDIA

**Issued on:** 19.02.2024

# Summary

## Notice Inviting Tender (NIT)

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- Section II - Tender Data Sheet (TDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Tender Forms
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**PART 1 – Tendering Procedures**

## Section I - Instructions to Tenderers

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## Section I. Instructions to Tenderers

### A. General

- 1. Scope of Tender**
- 1.1 In connection with the Notice Inviting Tender (NIT) indicated in the **Tender Data Sheet (TDS)**, the Purchaser, as specified in the **TDS**, issues this Tender Document for the supply of Goods and, if applicable, any Related Services incidental thereto, as specified in Section VII, Schedule of Requirements. The name, identification and number of lots (contracts) of this tender are specified in the **TDS**.
- 1.2 Throughout this Tender Document:
- (a) the term “in writing” means communicated in written form (e.g., by mail, e-mail, fax, including if specified in the **TDS**, distributed or received through the electronic procurement system used by the Purchaser) with proof of receipt;
  - (b) if the context so requires, “singular” means “plural” and vice versa;
  - (c) “Day” means calendar day, unless otherwise specified as “Business Day.” A Business Day is any day that is an official working day of the Recipient. It excludes the Recipient’s official public holidays; and
  - (d) the word “tender” is synonymous with “bid” and “tenderer” with “bidder”, and the words “tender documents” with “bidding documents.”
- 2. Source of Funds**
- 2.1 The Recipient specified in the **TDS** has applied for or received financing (hereinafter called “funds”) from the Asian Infrastructure Investment Bank (hereinafter called “AIIB” or “the Bank”) in an amount specified in the **TDS**, toward the project named in the **TDS**. The Recipient intends to apply a portion of the funds to eligible payments under the contract for which this Tender Document is issued.
- 2.2 Payment by the Bank will be made only at the request of the Recipient and upon approval by the Bank in accordance with the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from the Loan account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import is prohibited by decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Recipient shall derive any rights from the

Loan (or other financing) Agreement or have any claim to the proceeds of the Loan (or other financing).

### **3. Prohibited Practices**

3.1 The Purchaser requires compliance with Policy on Prohibited Practices as set forth in Section VI.

3.2 In further pursuance of this policy, Tenderers shall permit and shall cause their agents (whether declared or not), subcontractors, subconsultants, service providers, suppliers and their personnel, to permit the Purchaser to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission and contract performance (in the case of award), and to have them audited by auditors appointed by the Purchaser.

### **4. Eligible Tenderers**

4.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 4.6, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a JV, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. Unless specified in the **TDS**, there is no limit on the number of members in a JV.

4.2 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:

- (a) directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
- (b) receives or has received any direct or indirect subsidy from another Tenderer; or
- (c) has the same legal representative as another Tenderer; or
- (d) has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Purchaser regarding this tendering process; or
- (e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Goods that are the subject of the Tender; or



- (f) or any of its affiliates has been hired (or is proposed to be hired) by the Purchaser or Recipient for the Contract implementation; or
  - (g) would be providing goods, works or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
  - (h) has a close business or family relationship with a professional staff of the Purchaser who: (i) are directly or indirectly involved in the preparation of the Tender Document or specifications of the Contract, and/or the tender evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such Contract, unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Purchaser throughout the tendering process and execution of the Contract; or
  - (i) is an affiliate of the Purchaser, or of a procurement agent engaged by the Purchaser, unless the Recipient demonstrates to the satisfaction of the Purchaser that there is no significant degree of common ownership, influence or control between the Recipient on the one hand, and the Recipient's agent and the affiliate on the other.
- 4.3 A firm that is a Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. However, this does not limit: (a) the inclusion of the same Subcontractor in more than one Tender for the same contract; or (b) the ability of one Tenderer to be a Subcontractor in another Tender for the same contract.
- 4.4 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or subconsultants for any part of the Contract including related Services.

- 4.5 A Tenderer that has been declared, and remains, as at the relevant date, ineligible pursuant to the Purchaser's Policy on Prohibited Practices as described in Section VI, shall be ineligible to be prequalified for, initially selected for, tender for, propose for, or be awarded a Purchaser-financed contract, or benefit from a Purchaser-financed contract, financially or otherwise, during such period of time as the Purchaser shall have determined.
- 4.6 Tenderers that are state-owned enterprises or institutions in the Purchaser's Country may be eligible to compete and be awarded a Contract(s) only if they can establish, that they (i) are carrying out or are established for a business purpose, and are operating on a commercial basis; (ii) are financially and managerially autonomous; (iii) are not controlled by the government on day-to-day management and (iv) are not under the supervision of the Purchaser or its procuring agency.
- 4.7 A Tenderer shall not be under suspension from tendering by the Purchaser as the result of the operation of a Tender-Securing Declaration or Proposal-Securing Declaration.
- 4.8 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Recipient's country prohibits commercial relations with the firm or individual's country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Recipient's country prohibits any import of goods or contracting of works or services from the firm or individual's country, or any payments to any country, person or entity in that country.
- 4.9 A Tenderer shall provide such documentary evidence of eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 4.10 A firm that is under a sanction of debarment by the Recipient from being awarded a contract is eligible to participate in this procurement, unless the Bank, at the Recipient's request, is satisfied that the debarment:
- (a) relates to fraud or corruption or prohibited practices; and
  - (b) followed a judicial or administrative proceeding that afforded the firm adequate due process.

- 5. Eligible Goods and Related Services**
- 5.1 All the Goods and Related Services to be supplied under the Contract and financed by the Purchaser may have their origin in any country subject to the restrictions specified in Section V, Eligible Countries.
- 5.2 For purposes of this ITT, the term “goods” includes commodities, raw material, machinery, equipment and industrial plants; and “related services” includes services such as insurance, installation, training and initial operation and maintenance.
- 5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing or assembly, another commercially recognized article result that differs substantially in its basic characteristics from its components.

### **B. Contents of Tender Document**

- 6. Sections of Tender Document**
- 6.1 The Tender Document consists of Parts 1, 2 and 3, includes all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT 8.

#### **PART 1 Tendering Procedures**

- Section I - Instructions to Tenderers (ITT)
- Section II - Tender Data Sheet (TDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Tender Forms
- Section V - Eligible Countries
- Section VI - Prohibited Practices

#### **PART 2 Supply Requirements**

- Section VII - Schedule of Requirements

#### **PART 3 Conditions of Contract and Contract Forms**

- Section VIII - General Conditions of Contract (GCC)
- Section IX - Special Conditions of Contract (SCC)
- Section X - Contract Forms

- 6.2 The Notice Inviting Tender(NIT) issued by the Purchaser is not part of this Tender Document.
- 6.3 Unless obtained directly from the Purchaser, the Purchaser is not responsible for the completeness of the Tender Document, responses to requests for clarification, the Minutes of the pre-tender meeting (if any), or Addenda to the Tender Document in

accordance with ITT 8. In case of any contradiction, documents obtained directly from the Purchaser shall prevail.

- 6.4 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tender Document and to furnish with its Tender all information or documentation as is required by the Tender Document.
- 7. Clarification of Tender Document**
- 7.1 A Tenderer requiring any clarification of the Tender Document shall contact the Purchaser in writing at the Purchaser's address specified in the **TDS**. The Purchaser will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of Tenders within a period specified in the **TDS**. The Purchaser shall forward copies of its response to all Tenderers who have acquired the Tender Document in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Purchaser shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Document, the Purchaser shall amend the Tender Document following the procedure under ITT 8 and ITT 22.2.
- 8. Amendment of Tender Document**
- 8.1 At any time prior to the deadline for submission of Tenders, the Purchaser may amend the Tender Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Tender Document and shall be communicated in writing to all who have obtained the Tender Document from the Purchaser in accordance with ITT 6.3. The Purchaser shall also promptly publish the addendum on the Purchaser's web page in accordance with ITT 7.1.
- 8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Purchaser may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 22.2.

### **C. Preparation of Tenders**

- 9. Cost of Tendering**
- 9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 10. Language of Tender**
- 10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Purchaser, shall be written in the language specified in the **TDS**. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language

specified in the **TDS**, in which case, for purposes of interpretation of the Tender, such translation shall govern.

## 11. Documents Comprising the Tender

- 11.1 The Tender shall comprise the following:
- (a) **Letter of Tender:** prepared in accordance with ITT 12.
  - (b) **Price Schedules:** completed in accordance with ITT 12 and ITT 14.
  - (c) **Tender Security or Tender-Securing Declaration:** in accordance with ITT 19.1.
  - (d) **Alternative Tender:** if permissible, in accordance with ITT 13.
  - (e) **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 20.3.
  - (f) **Qualifications:** documentary evidence in accordance with ITT 17 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted.
  - (g) **Tenderer's Eligibility:** documentary evidence in accordance with ITT 17 establishing the Tenderer's eligibility to tender.
  - (h) **Eligibility of Goods and Related Services:** documentary evidence in accordance with ITT 16, establishing the eligibility of the Goods and Related Services to be supplied by the Tenderer.
  - (i) **Conformity:** documentary evidence in accordance with ITT 16 and ITT 30, that the Goods and Related Services conform to the Tender Document.
  - (j) Any other document required in the **TDS**.
- 11.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the JV Agreement entered into by all members. Alternatively, a letter of intent to execute a JV Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement.
- 11.3 The Tenderer shall furnish in the Letter of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

- 12. Letter of Tender and Price Schedules**
- 12.1. The Letter of Tender and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Tender Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested.
- 13. Alternative Tenders**
- 13.1. Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.
- 14. Tender Prices and Discounts**
- 14.1 The prices and discounts quoted by the Tenderer in the Letter of Tender and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Letter of Tender in accordance with ITT 12.1 shall be the total price of the Tender, excluding any discounts offered.
- 14.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the Letter of Tender, in accordance with ITT 12.1.
- 14.5 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to variation on any account, unless otherwise specified in the **TDS**. A Tender submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITT 29. However, if in accordance with the **TDS**, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract, a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.6 If so specified in ITT 1.1, Tenders are being invited for individual lots (contracts) or for any combination of lots (packages). Unless otherwise specified in the **TDS**, prices quoted shall correspond to 100 percent of the items specified for each lot and to 100 percent of the quantities specified for each item of a lot. Tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 14.4 provided the Tenders for all lots (contracts) are opened at the same time.
- 14.7 The terms EXW, CIP and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms,

published by the International Chamber of Commerce, as specified in the **TDS**.

14.8 Prices shall be quoted as specified in each Price Schedule included in Section IV, Tender Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered. In quoting prices, the Tenderer shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V, Eligible Countries. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. Prices shall be entered in the following manner:

- (a) For Goods manufactured in the Purchaser's Country:
  - (i) the price of the Goods quoted EXW (ex-works, ex-factory, ex-warehouse, ex-showroom or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
  - (ii) any Purchaser's Country sales tax and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and
  - (iii) the price for inland transportation, insurance and other local services required to convey the Goods to their final destination (Project Site) specified in the **TDS**.
- (b) For Goods manufactured outside the Purchaser's Country, to be imported:
  - (i) the price of the Goods, quoted CIP named place of destination, in the Purchaser's Country, as specified in the **TDS**; and
  - (ii) the price for inland transportation, insurance and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **TDS**.
- (c) For Goods manufactured outside the Purchaser's Country, already imported:
  - (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and

- other import taxes already paid or to be paid on the Goods already imported;
- (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
  - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
  - (iv) any Purchaser's Country sales and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and
  - (v) the price for inland transportation, insurance and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **TDS**.
- (d) For Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements, the price of each item comprising the Related Services (inclusive of any applicable taxes).
- 15. Currencies of Tender and Payment**
- 15.1 The currency(ies) of the Tender and the currency(ies) of payments shall be the same and shall be as specified in the **TDS**.
- 16. Documents Establishing the Eligibility and Conformity of the Goods and Related Services**
- 16.1 To establish the eligibility of the Goods and Related Services in accordance with ITT 5, Tenderers shall complete the country-of-origin declarations in the Price Schedule Forms, included in Section IV, Tender Forms.
- 16.2 To establish the conformity of the Goods and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.
- 16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 16.4 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts,



special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the **TDS** following commencement of the use of the Goods by the Purchaser.

16.5 Standards for workmanship, process, material and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

**17. Documents  
Establishing the  
Eligibility and  
Qualifications of  
the Tenderer**

17.1 To establish Tenderer's eligibility in accordance with ITT 4, Tenderers shall complete the Letter of Tender, included in Section IV, Tender Forms.

17.2 The documentary evidence of the Tenderer's qualifications to perform the Contract if its Tender is accepted shall establish to the Purchaser's satisfaction:

- (a) that, if required in the **TDS**, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tender Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's Country;
- (b) that, if required in the **TDS**, in case of a Tenderer not doing business within the Purchaser's Country, the Tenderer is or will be (if awarded the Contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- (c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

**18. Period of Validity  
of Tenders**

18.1. Tenders shall remain valid for the Tender validity period specified in the **TDS**. The Tender validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Purchaser in accordance with ITT 22). A Tender valid for a shorter period shall be rejected by the Purchaser as nonresponsive.

18.2. In exceptional circumstances, prior to the expiration of the Tender validity period, the Purchaser may request Tenderers to extend the period of validity of their Tenders. The request and the responses

shall be made in writing. If a Tender Security is requested in accordance with ITT 19, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 18.3.

- 18.3. If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Tender validity period, the Contract price shall be determined as follows:
- (a) In the case of fixed price contracts, the Contract price shall be the Tender price adjusted by the factor specified in the **TDS**.
  - (b) In the case of adjustable price contracts, no adjustment shall be made.
  - (c) In any case, Tender evaluation shall be based on the Tender price without taking into consideration the applicable correction from those indicated above.

## **19. Tender Security**

- 19.1. The Tenderer shall furnish as part of its Tender, either a Tender Security or a Tender-Securing Declaration, as specified in the **TDS**, in original form and, in the case of a Tender Security, in the amount and currency, or in the case of a Tender-Securing Declaration, for the period of ineligibility, as specified in the **TDS**.
- 19.2. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms.
- 19.3. If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:
- (a) an unconditional guarantee issued by a bank,
  - (b) an irrevocable letter of credit,
  - (c) a cashier's or certified check or
  - (d) another security specified in the **TDS**, from a reputable source from an eligible country.

In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tender Forms, or in another substantially similar format approved by the Purchaser prior to Tender submission. The Tender Security shall be valid for twenty-eight (28) days beyond

the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.

- 19.4. If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Purchaser as non-responsive.
- 19.5. If a Tender Security is specified pursuant to ITT 19.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security pursuant to ITT 46.
- 19.6. The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security.
- 19.7. The Tender Security may be forfeited, or the Tender-Securing Declaration executed:
  - (a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Letter of Tender, or any extension thereto provided by the Tenderer; or
  - (b) if the successful Tenderer fails to:
    - (i) sign the Contract in accordance with ITT 45; or
    - (ii) furnish a Performance Security in accordance with ITT 46.
- 19.8. The Tender Security or Tender-Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.

## **20. Format and Signing of Tender**

- 20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 13, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include

proprietary information, trade secrets or commercial or financially sensitive information.

- 20.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 20.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 20.5 Any inter-lineation, erasures or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

## D. Submission and Opening of Tenders

### 21. Sealing and Marking of Tenders

21.1. Tenderers may always submit their Tenders by mail or by hand. If so specified in the **TDS**, tenderers shall have the option of submitting their Tenders electronically. Procedures for submission, sealing and marking are as follows:

- (a) Tenderers submitting Tenders by mail or by hand shall enclose the original and copies of the Tender, including Alternative Tenders if permitted in accordance with ITT 13, in separate sealed envelopes. The envelopes shall be duly marked as "ORIGINAL", "COPY", "ALTERNATIVE-ORIGINAL" and "ALTERNATIVE-COPY". These envelopes shall then be enclosed in one single package. The rest of the procedure shall be in accordance with ITT 21.2 and 21.3.
- (b) Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.

21.2. The inner and outer envelopes, shall:

- (a) bear the name and address of the Tenderer,
- (b) be addressed to the Purchaser in accordance with ITT 22.1,
- (c) bear the specific identification of this tendering process indicated in ITT 1.1 and
- (d) bear a warning not to open before the time and date for Tender opening.

21.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Tender.

### 22. Deadline for Submission of Tenders

22.1. Tenders must be received by the Purchaser at the address and no later than the date and time specified in the **TDS**.

22.2. The Purchaser may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Document in accordance with ITT 8, in which case all rights and obligations of the Purchaser and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

### 23. Late Tenders

23.1. The Purchaser shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 22. Any Tender received by the Purchaser after the deadline for submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer.

**24. Withdrawal, Substitution and Modification of Tenders**

24.1. A Tenderer may withdraw, substitute or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 20.3 (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with ITT 20 and ITT 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION” or “MODIFICATION;” and
- (b) received by the Purchaser prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.

24.2. Tenders requested to be withdrawn in accordance with ITT 24.1 shall be returned unopened to the Tenderers.

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

**25. Tender Opening**

25.1. Except as in the cases specified in ITT 23 and ITT 24.2, the Purchaser shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified in the **TDS** in the presence of Tenderers’ designated representatives and anyone who chooses to attend. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 21.1, shall be as specified in the **TDS**.

25.2. First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding Tender shall not be opened but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

25.3. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

- 25.4. Next, envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 25.5. Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required and any other details as the Purchaser may consider appropriate.
- 25.6. Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further in the evaluation. The Letter of Tender and the Price Schedules are to be initialed by representatives of the Purchaser attending Tender opening in the manner specified in the **TDS**.
- 25.7. The Purchaser shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 23.1).
- 25.8. The Purchaser shall prepare a record of the Tender opening that shall include, as a minimum:
- (a) the name of the Tenderer and whether there is a withdrawal, substitution or modification;
  - (b) the Tender Price, per lot (contract) if applicable, including any discounts;
  - (c) any alternative Tenders and
  - (d) the presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.
- 25.9. The Tenderers’ representatives who are present shall be requested to sign the record. The omission of a Tenderer’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Tenderers who submitted Tenders in time, and posted online when electronic Tendering is permitted.

#### **E. Evaluation and Comparison of Tenders**

##### **26. Confidentiality**

- 26.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until the information on Intention to Award the

Contract is transmitted to all Tenderers in accordance with ITT 40.

26.2 Any attempt by a Tenderer to influence the Purchaser in the evaluation or contract award decisions may result in the rejection of its Tender.

26.3 Notwithstanding ITT 26.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Purchaser on any matter related to the Tendering process, it should do so in writing.

**27. Clarification of Tenders**

27.1 To assist in the examination, evaluation, comparison of the Tenders and qualification of the Tenderers, the Purchaser may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Tenders, in accordance with ITT 31.

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

**28. Deviations, Reservations and Omissions**

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

(a) "Deviation" is a departure from the requirements specified in the Tender Document.

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

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

**29. Determination of Responsiveness**

29.1 The Purchaser's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 11.

29.2 A substantially responsive Tender is one that meets the requirements of the Tender 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 Goods and Related Services specified in the Contract; or
  - (ii) limit in any substantial way, inconsistent with the Tender Document, the Purchaser's rights or the Tenderer's obligations under the Contract; or
- (b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

29.3 The Purchaser shall examine the technical aspects of the Tender submitted in accordance with ITT 16 and ITT 17, in particular, to confirm that all requirements of Section VII, Schedule of Requirements, have been met without any material deviation, reservation or omission.

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

### **30. Nonmaterial Nonconformities**

30.1 Provided that a Tender is substantially responsive, the Purchaser may waive any nonconformities in the Tender.

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

30.3 Provided that a Tender is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or nonconforming item or component in the manner specified in the **TDS**.

### **31. Correction of Arithmetical Errors**

31.1 Provided that the Tender is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:

- (a) If there is a discrepancy between the unit price and the line-item total that is obtained by multiplying the unit price and the quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the

unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.

- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected.
- (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.2 Tenderers shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITT 31.1, shall result in the rejection of the Tender.

**32. Conversion to Single Currency**

32.1 For evaluation and comparison purposes, the currencies of the Tender shall be converted into a single currency as specified in the **TDS**.

**33. Provisions for Development of Domestic Industry**

33.1 Unless otherwise specified in the **TDS**, provisions for development of domestic industry shall not apply.

**34. Evaluation of Tenders**

34.1 The Purchaser shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Purchaser shall determine the Most Advantageous Tender in accordance with ITT 41.

34.2 To evaluate a Tender, the Purchaser shall consider the following:

- (a) evaluation will be done for Items or Lots (contracts), as specified in the **TDS**; and the Tender Price as quoted in accordance with ITT 14;
- (b) price adjustment for correction of arithmetical errors in accordance with ITT 31.1;
- (c) price adjustment due to discounts offered in accordance with ITT 14.4;
- (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITT 30.3;
- (e) price adjustment due to application of the additional evaluation factors specified in Section III, Evaluation and Qualification Criteria; and

- (f) converting the amount resulting from applying (a) to (e) above, if relevant, to a single currency in accordance with ITT 32;
- 34.3 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 tender evaluation.
- 34.4 If the Tender Document allows Tenderers to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Letter of Tender, is specified in Section III, Evaluation and Qualification Criteria.
- 34.5 The Purchaser's evaluation of a Tender will exclude, and not take into account:
- (a) In the case of Goods manufactured in the Purchaser's Country, all sales and other similar taxes, applicable in the Purchaser's Country and payable on the goods if a contract is awarded to the Tenderer.
  - (b) In the case of Goods manufactured outside the Purchaser's Country, already imported or to be imported, all customs duties and other import taxes levied on the imported Goods, sales and other similar taxes, applicable in the Purchaser's Country and payable on the Goods if the contract is awarded to the Tenderer.
  - (c) Any allowance for price adjustment during the period of execution of the contract, if provided in the Tender.
- 34.6 The Purchaser's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT 14. These factors may be related to the characteristics, performance and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in the **TDS** from among those set out in Section III, Evaluation and Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITT 34.2(e).

### **35. Comparison of Tenders**

- 35.1 The Purchaser shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 34.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of CIP (place of final destination) prices for imported goods and EXW prices, plus cost of inland transportation and insurance to place of final destination, for goods manufactured within the Purchaser's country, together with prices for any required installation, training, commissioning

and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported goods quoted CIP and sales and similar taxes levied in connection with the sale or delivery of goods.

**36. Abnormally Low-  
Priced Tenders**

36.1 An Abnormally Low-Priced Tender is one where the Tender price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that it raises material concerns with the Purchaser as to the capability of the Tenderer to perform the Contract for the offered Tender price.

36.2 In the event of identification of a potentially Abnormally Low-Priced Tender, the Purchaser shall seek written clarifications from the Tenderer, including a detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the Tender Document.

36.3 After examining the clarifications given and the detailed price analyses presented by the Tenderer, the Purchaser may:

- (a) accept the Tender, if the evidence provided satisfactorily accounts for the low price and costs, in which case the Tender is not considered abnormally low;
- (b) accept the Tender but require that the amount of the Performance Security be increased at the expense of the Tenderer to a level sufficient to protect the Purchaser against financial loss in the event of default of the successful Tenderer under the contract. The amount of the Performance Security shall generally not be more than 20 percent of the Contract Price; or
- (c) reject the Tender if the evidence provided does not satisfactorily account for the low tender price, and make a similar determination for the next lowest evaluated Tender, if required.

**37. Post-  
Qualification of  
the Tenderer**

37.1 The Purchaser shall determine, to its satisfaction, whether the Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

37.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 17. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted

in the Tender Document), or any other firm(s) different from the Tenderer.

- 37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Purchaser shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated cost to make a similar determination of that Tenderer's qualifications to perform satisfactorily.
- 38. Purchaser's Right to Accept Any Tender, and to Reject Any or All Tenders** 38.1 The Purchaser reserves the right to accept or reject any Tender, and to annul the tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, tender securities, shall be promptly returned to the Tenderers.
- 39. Standstill Period** 39.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Business Days unless extended in accordance with ITT 44. The Standstill Period commences the day after the date the Purchaser has transmitted to each Tenderer the Notification of Intention to Award the Contract. Where only one Tender is submitted, or if this contract is in response to an emergency situation recognized by the Purchaser, the Standstill Period shall not apply.
- 40. Notification of Intention to Award** 40.1 The Purchaser shall send to each Tenderer the Notification of Intention to Award the Contract to the successful Tenderer. The Notification of Intention to Award shall contain, at a minimum, the following information:
- (a) the name and address of the Tenderer submitting the successful Tender;
  - (b) the Contract price of the successful Tender;
  - (c) the names of all Tenderers who submitted Tenders, and their tender prices as readout, and as evaluated;
  - (d) a statement of the reason(s) the Tender (of the unsuccessful Tenderer to whom the notification is addressed) was unsuccessful, unless the price information in (c) above already reveals the reason;
  - (e) the expiry date of the Standstill Period; and
  - (f) instructions on how to request a debriefing and/or submit a complaint during the standstill period.

## F. Award of Contract

- 41. Award Criteria**
- 41.1 Subject to ITT 38, the Purchaser shall award the Contract to the Tenderer offering the Most Advantageous Tender. The Most Advantageous Tender is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:
- (a) substantially responsive to the Tender Document; and
  - (b) the lowest evaluated cost tender that provides Value-for-Money.
- 42. Purchaser’s Right to Vary Quantities at Time of Award**
- 42.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VII, Schedule of Requirements, provided this does not exceed the percentages specified in the **TDS**, and without any change in the unit prices or other terms and conditions of the Tender and the Tender Document.
- 43. Notification of Award**
- 43.1 Prior to the expiration of the Tender Validity Period and upon expiry of the Standstill Period, specified in ITT39.1 or any extension thereof, and upon satisfactorily addressing any complaint that has been filed within the Standstill Period, the Purchaser shall notify the successful Tenderer, in writing, that its Tender has been accepted. The notification of award (hereinafter and in the Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Purchaser will pay the Supplier in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”).
- 43.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the Purchaser shall publish the Contract Award Notice which shall contain, at a minimum, the following information:
- (a) name and address of the Purchaser;
  - (b) name and reference number of the contract being awarded, and the procurement method used;
  - (c) names of all Tenderers that submitted Tenders, and their tender prices as read out at tender opening, and as evaluated;
  - (d) names of all Tenderers whose Tenders were rejected either as nonresponsive or as not meeting qualification criteria, or were not evaluated, with the reasons therefor;
  - (e) the name of the successful Tenderer, the final total contract price, the contract duration and a summary of its scope and

- (f) successful Tenderer's Beneficial Ownership Disclosure Form, if specified in TDS ITT 45.1.

43.3 The Contract Award Notice shall be published on the Purchaser's website with free access if available, or in at least one newspaper of national circulation in the Purchaser's Country, or in the official gazette. The Purchaser shall also publish the contract award notice in United Nations Development Business online and AIIB's website.

43.4 Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

#### **44. Debriefing by the Purchaser**

44.1 On receipt of the Purchaser's Notification of Intention to Award referred to in ITT 40.1, an unsuccessful Tenderer has three (3) Business Days to make a written request to the Purchaser for a debriefing. The Purchaser shall provide a debriefing to all unsuccessful Tenderers whose request is received within this deadline.

44.2 Where a request for debriefing is received within the deadline, the Purchaser shall provide a debriefing within five (5) Business Days, unless the Purchaser decides, for justifiable reasons, to provide the debriefing outside this timeframe. In that case, the standstill period shall automatically be extended until five (5) Business Days after such debriefing is provided. If more than one debriefing is so delayed, the standstill period shall not end earlier than five (5) Business Days after the last debriefing takes place. The Purchaser shall promptly inform, by the quickest means available, all Tenderers of the extended standstill period

44.3 Where a request for debriefing is received by the Purchaser later than the three (3)-Business Day deadline, the Purchaser should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice. Requests for debriefing received outside the three (3)-day deadline shall not lead to extension of the standstill period.

44.4 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderers shall bear their own costs of attending such a debriefing meeting.

#### **45. Signing of Contract**

45.1 The Purchaser shall send to the successful Tenderer the Letter of Acceptance including the Contract Agreement, and, if specified in the TDS, a request to submit the Beneficial Ownership Disclosure Form providing additional information on its beneficial ownership. The Beneficial Ownership Disclosure

Form, if so requested, shall be submitted within eight (8) Business Days of receiving this request.

45.2 The successful Tenderer shall sign, date and return to the Purchaser, the Contract Agreement within twenty-eight (28) days of its receipt.

45.3 Notwithstanding ITT 45.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Tenderer shall not be bound by its Tender, always provided however, that the Tenderer can demonstrate to the satisfaction of the Purchaser and of the Bank that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Tenderer in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

**46. Performance  
Security**

46.1 Within twenty-eight (28) days of the receipt of Letter of Acceptance from the Purchaser, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 18, using for that purpose the Performance Security Form included in Section X, Contract Forms or another Form acceptable to the Purchaser.

46.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Purchaser may award the Contract to the Tenderer offering the next Most Advantageous Tender.

**47. Procurement-  
Related Complaint**

47.1 The procedures for making a Procurement-Related Complaint are as specified in the **TDS**.



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**Section II - Tender Data Sheet (TDS)**

The following specific data for the goods to be procured shall complement, supplement or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

ITT Reference	A. General
<b>ITT 1.1</b>	<p>The reference number of the NIT/Tender is: <b>HORC/HRIDC/PSC 02/2024</b></p> <p>The Purchaser is: <b>Haryana Orbital Rail Corridor Limited (HORCL) &amp; Haryana Rail Infrastructure Development Corporation Limited (HRIDC)</b></p> <p>The name of the Tender is: <b>PSC-02: Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project.</b></p> <p>The number and identification of this Tender is: <b>HORC/HRIDC/PSC-02/2024</b></p>
<b>ITT 1.2(a)</b>	<p><b>Electronic Procurement System</b></p> <p>The Purchaser shall use the following electronic procurement system to manage this Tendering process:</p> <p><b>E-procurement portal of Govt. of Haryana (<a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>)</b></p>
<b>ITT 2</b>	<p><b>Replace the entire Sub-Clause 2 with the following:</b></p> <p>Funds will be sourced from HORCL/HRIDC.</p>
<b>ITT 4.1</b>	<p>Joint venture is not permitted to take part in above Tender.</p>
<b>ITT 4.4</b>	<p>Only firm that are registered or incorporated in India are eligible to take part in above tender.</p>
<b>ITT 4.5</b>	<p>Not applicable</p>
<b>ITT 6.3</b>	<p><b>Replace ITT 6.3 with the following:</b></p> <p>The complete Tender Document can be viewed/ downloaded by the Tenderer from eProcurement portal of Govt. of Haryana <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>. The Purchaser is not responsible for the completeness of the Tender Document and their addenda, if they were not obtained directly from eProcurement portal of Govt. of Haryana <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>.</p>

	<b>B. Contents of Tender Document</b>																								
<b>ITT 7.1</b>	<p><b>Replace the entire Sub-Clause 7.1 with the following:</b></p> <p>No Pre-Tender Meeting will be conducted for this tender. However, the prospective Tenderers can send their Queries regarding any clarification of tender through email along with an editable soft copy (MS Word) of the queries raised by them on the email <b>id (i.e.horc.etendering@gmail.com)</b>. The Tenderers should use the following format for any queries:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Query No.</th> <th style="text-align: center;">Reference to Tender Document (Clause/ Para No. &amp; Page No.)</th> <th style="text-align: center;">Brief Description of Clause/ Para No.</th> <th style="text-align: center;">Query Raised</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">2.</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">3.</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">4.</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">etc.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>For <b>Clarification of Tender purposes</b> only, the Purchaser's address is:  <b>Attention:</b> GM (IP&amp;IT)  <b>Street address:</b> Haryana Rail Infrastructure Development Corporation Limited (HRIDC), IRCON International Tower-2,  Plot No. 16,  Sector-32,  <b>City:</b> Gurugram  <b>ZIP code:</b> 122003  <b>Country:</b> India  <b>Telephone:</b> +91 7011056770  <b>E-mail:</b> horc.etendering@gmail.com</p>	Query No.	Reference to Tender Document (Clause/ Para No. & Page No.)	Brief Description of Clause/ Para No.	Query Raised	1.				2.				3.				4.				etc.			
Query No.	Reference to Tender Document (Clause/ Para No. & Page No.)	Brief Description of Clause/ Para No.	Query Raised																						
1.																									
2.																									
3.																									
4.																									
etc.																									
	<b>C. Preparation of Tenders</b>																								
<b>ITT 10.1</b>	<p>The language of the Tender is: <i>English</i></p> <p>All correspondence exchange shall be in <b>English</b> language.</p>																								

<b>ITT 11.1</b>	<p><b>Replace ITT 11.1 with the following:</b></p> <p><b>11.1.1</b> The Tenderer shall submit their Tender online on eProcurement portal <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a> as mentioned in para ITT 21.</p> <p>The Tender shall comprise two parts submitted simultaneously, one called the Technical Part containing the documents listed in ITT 11.1.2 and the other the Financial Part containing the documents listed in ITT 11.1.3.</p> <p>The Tenderer shall upload only the above mentioned documents in its submission on eProcurement portal. Tenderer is not required to upload Part 1, Part 2 and Part 3 of the Tender document issued by the Purchaser. The master copy of Tender Document published on eProcurement portal shall be available with HRIDC which shall be final and binding.</p> <p><b>11.1.2</b> The Tenderer shall submit all the documents in its Technical Part as per the Checklist CL (A. Technical Part) given in Section III: Evaluation and Qualification Criteria.</p> <p><b>11.1.3</b> The Tenderer shall submit all the documents in its Financial Part as per the Checklist CL (B. Financial Part) given in Section III: Evaluation and Qualification Criteria</p>
<b>ITT 11.2</b>	<b>Deleted</b>
<b>ITT 13.1</b>	Alternative Tenders <b>shall not be</b> considered.
<b>ITT 14.2</b>	<p><b>Replace ITT 14.2 with the following: -</b></p> <p>The Tenderer shall quote single percentage (%) Excess (+) or Less (-) on the estimated amount for Schedule 'A' in the prescribed place of Price Schedule in MS-Excel file.</p>
<b>ITT 14.4</b>	<p><b>Replace ITT 14.4 with the following: -</b></p> <p>As there is no lot in this Contract Package, no discounts shall be quoted by the Tenderers.</p>
<b>ITT 14.5</b>	The prices quoted by the Tenderer <i>shall</i> be subject to adjustment during the performance of the Contract as per pre-defined price adjustment formula detailed in Sub-Clause 15.1 of Section IX- Special Conditions of Contract (SCC).
<b>ITT 14.7</b>	The Incoterms edition is: 2020 latest updated.
<b>ITT 14.8</b>	<p><b>Replace ITT 14.8 with the following:</b></p> <p>14.8 Prices shall be quoted as specified in Price Schedule included in Section IV, Tender Forms. In quoting prices, the Tenderer shall be free to use</p>

	<p>transportation through carriers registered in any eligible country, in accordance with Section V, Eligible Countries. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. The quoted price shall be inclusive of the following:</p> <p>(a) For Goods manufactured in the Purchaser’s Country:</p> <p>(i) the price of the Goods quoted EXW (ex-works, ex-factory, ex-warehouse, ex-showroom or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;</p> <p>(ii) any Purchaser’s Country sales tax and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and</p> <p>(iii) the price for inland transportation, insurance and other local services required to convey the Goods to their final destination (Project Site) specified in the TDS.</p> <p>(b) For Goods manufactured outside the Purchaser’s Country, to be imported:</p> <p>(i) the price of the Goods, quoted CIP named place of destination, in the Purchaser’s Country, as specified in the TDS; and</p> <p>(ii) the price for inland transportation, insurance and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the TDS.</p> <p>(c) For Goods manufactured outside the Purchaser’s Country, already imported:</p> <p>(i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported;</p> <p>(ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;</p> <p>(iii) the price of the Goods, obtained as the difference between (i) and (ii) above;</p> <p>(iv) any Purchaser’s Country sales and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and</p> <p>(v) the price for inland transportation, insurance and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the TDS.</p> <p>(d) For Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements, the price of each item comprising the Related Services (inclusive of any applicable taxes).</p>
<b>ITT 15.1</b>	The currency of the Tender shall be in <b>Indian Rupees (INR)</b> only. The Tender price shall be quoted in <b>INR</b> only.
<b>ITT 16.4</b>	<i>Not Applicable</i>

<b>ITT 17.2 (b)</b>	After sales services is not required
<b>ITT 18.1</b>	The Tender validity period shall be <b>90 days after</b> the Tender submission deadline date.
<b>ITT 19.1</b>	<p>19.1.1 The Tenderer shall furnish a Tender Security for an amount of <b>INR 2,000,000.00 (INR Twenty Lakhs only)</b>.</p> <p>19.1.2 There shall be no exemption from Submission of Earnest Money for any tender or by any tenderer except following:</p> <ol style="list-style-type: none"> <li>a. Micro &amp; Small Enterprises (MSEs) registered having valid UDYAM (UDYAM Registration Certificate) for the tendered or similar item.</li> <li>b. Other Railways and Government Departments.</li> <li>c. Indian Ordinance Factories.</li> <li>d. PSUs owned by the Ministry of Railways and PSUs for the group of items that are manufactured by them.</li> <li>e. Vendors registered with Northern Railways for the trade group of the item tendered.</li> <li>f. Vendors appearing on the approved vendor list of RDSO/PUs/CORE, subject to approval status being valid on the date of tender closing.</li> <li>g. Vendors registered with Railway Board/HRIDC for tendered item shall be exempted from submission of EMD for these items.</li> <li>h. In tender issued against PAC, OEM in whose favor PAC has been issued shall be exempted from submitting EMD. KVIC shall be exempted from EMD for items supplied by them.</li> </ol> <p><b><i>(NB: If authorized agent participate on behalf of OEM/Vendors appearing on the approved vendor list of RDSO/PUs/CORE, such authorized agent can't claim EMD exemption based on its own or its OEM /Approved vendors MSE certificate).</i></b></p>
<b>ITT 19.2</b>	Not Applicable
<b>ITT 19.3</b>	<p><b>Replace the ITT 19.3 with the following:</b></p> <p>The amount for Tender Security specified in ITT 19.1 above can be paid online by Tenderers on eProcurement Portal in INR in favour of Haryana Rail Infrastructure Development Corporation Limited using the electronic payment gateway service or</p>

<p>Tender Security can be submitted in the form of Demand Draft in favor of 'Haryana Rail Infrastructure Development Corporation Limited' payable at Chandigarh or</p> <p>Tender Security can be submitted in the form of unconditional and irrevocable Bank Guarantee in INR from the specified banks using the Tender Security Form included in Section IV, Tender Forms. The Bank Guarantee shall be issued from:</p> <ul style="list-style-type: none"><li>(i) a scheduled bank (excluding co-operative banks) in India, or</li><li>(ii) a Foreign Bank having arrangement with a nationalized bank or scheduled banks (excluding co-operative banks) in India;</li></ul> <p>The scheduled bank issuing the bank guarantee shall be on "Structure Financial Messaging System (SFMS)" platform. A separate advice of the Bank Guarantee shall invariably be sent by the issuing bank to the Purchaser's Bank through SFMS and only after receipt of the same by the Purchaser's Bank, the bank guarantee shall become operative and acceptable to the Purchaser. Further, the bank guarantee in original form along with a copy of "MT760COV (in case of bank guarantee message)/ MT767COV (in case of bank guarantee amendment message) Report" sent by the concerned issuing bank sealed in an envelope shall be submitted to the Purchaser within ten (10) days of deadline of submission of Tender.</p> <p>The Issuing Bank shall send the SFMS to: Beneficiary: Haryana Rail Infrastructure Development Corporation Limited</p> <p>Bank Name: State Bank of India Account Number: 38848977231 Branch: SME Branch, Sector 8, Chandigarh IFSC Code: SBIN0011705</p> <p>The Tender Security shall be valid for twenty-eight (28) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.</p> <p>In case the Tenderer has opted for Tender Security in the form of an Demand Draft/unconditional Bank guarantee, the Tenderer shall upload the scanned copy of Demand Draft/Bank Guarantee with the Tender. The original Demand Draft/Bank Guarantee shall be delivered either by Registered Post/Speed Post/Courier or by hand within ten (10) days of deadline of submission of Tender at the address given below:</p>
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	<p>General Manager/IP &amp; IT Haryana Rail Infrastructure Development Corporation Limited, IRCON International Tower-2, Plot No. 16, Sector-32, Gurugram, Haryana- 122003</p> <p>Non submission of scanned copy of Bank Guarantee with the Tender on eProcurement portal and/or no submission of original Bank Guarantee within the specified period shall lead to summary rejection of Tender. The details of the Original Bank Guarantee should match with the details available in the scanned copy and the data entered during Tender submission time, failing which the Tender shall be rejected.</p> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. In case SFMS for the Bank Guarantee is not received by the Purchaser's Bank through SFMS, original copy of BG received in such a manner will be sent to the concerned Bank for its verification and only after its confirmation from the Bank, BG shall be acceptable by the Purchaser and Tender shall be evaluated.</li> <li>2. Option of Exemption from payment of EMD mentioned in the module of eProcurement portal is only for exemption of online payment of Tender Security to the Tenderers who wish to submit Tender Security in the form of Bank Guarantee or are claiming exemptions as per Para ITT 19.1.2.</li> </ol>
<b>ITT 20.1</b>	<p><b>Replace ITT 20.1 with the following:</b></p> <p>The Technical Part (comprising of documents specified in ITT 11.1.2 above) and Financial Part (comprising of documents specified in ITT 11.1.3 above) shall be submitted online on eProcurement portal of Government of Haryana (<a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>) only in accordance with the requirements of the Tender Document.</p>
<b>ITT 20.3</b>	<p>The written confirmation of authorization to sign on behalf of the Tenderer shall consist of:</p> <ol style="list-style-type: none"> <li>(a) In case of Private/Public Companies, a Power of Attorney 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. In case of Foreign Members, Power of Attorney(s) and Board Resolution confirming authority on the persons issuing the Power of Attorney for such actions shall be</li> </ol>



	<p>submitted duly translated by licensed translator and duly notarized by the notary public of country of origin.</p> <p>(b) Where the Successful Tenderer is a Foreign Entity , such Foreign entity shall be required to submit all the documents either duly stamped by Indian Embassy/High Commission or Member Countries of Hague convention may submit these document with “Apostille” stamp before signing the Contract.(b) In case of Proprietary Tenderers, Power of Attorney by the Proprietor.</p> <p>(c) In case of Partnership firms, Power of Attorney duly signed by all the Partners.</p> <p>(d) In case of Limited Liability Partnership (LLP) firms, a Power of Attorney issued by the LLP in favour of the individual to sign the tender on behalf of the LLP and create liability against the LLP.</p> <p>(e) 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.</p>
<b>ITT 20.4</b>	Deleted
	<b>D. Submission and Opening of Tenders</b>
<b>ITT 21</b>	<p><b>Replace ITT 21 with the following:</b></p> <p>21.1 Tenderers shall upload their tender submission online on eProcurement portal (i.e. <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>) within the stipulated date and time as mentioned in ITT 22.1. The Tenderer shall ensure that they retain a copy of the receipt/ acknowledgement of their Tender submission which is generated by the system upon successful submission of Tender online.</p> <p>21.2 Tenders sent telegraphically or through any other means of transmission except as mentioned above shall be treated as invalid and shall stand rejected.</p> <p>21.3 No details about Financial Part shall be submitted/ disclosed directly or indirectly in the Technical Part failing which the Purchaser has the right to reject the Tender.</p> <p><b>21.4 Instructions for Online Tender Submission</b></p> <p>The Tenderers are required to submit soft copies of their Tenders electronically on the eProcurement portal of Government of Haryana</p>

i.e. <https://etenders.hry.nic.in>, using valid Digital Signature Certificates. The instructions given below are meant to assist the Tenderers in registering on the eProcurement Portal, prepare their Tenders in accordance with the requirements and submitting their Tenders online on the eProcurement Portal.

**Registration:**

- i) Tenderers are required to enroll on the above-mentioned eProcurement portal by clicking on the link “**Online Bidder Enrollment**” on the Portal which is free of charge.
- ii) As part of the enrolment process, the Tenderers will be required to choose a unique username and assign a password for their accounts.
- iii) Tenderers are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the eProcurement Portal.

**A. Obtaining a Digital Certificate:**

- i. The Tenders submitted online should be encrypted and signed electronically with a Digital Certificate to establish the identity of the Tenderer online. These Digital Certificates are issued by an Approved Certifying Authority, by the Controller of Certifying Authorities, Government of India.
- ii. 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 / Postmaster / 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>
- iii. The Tenderers 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, application format and documents required for the issue of digital certificate.
- iv. The Tenderer 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.

For any queries related to e-tendering process (registration, online e-bid submission/withdrawal, uploading of documents), Tenderer may contact the below representative of NIC:

**Mr. Anuj Mahajan****E - mail:** [amahajan@nic.in](mailto:amahajan@nic.in), [eprocnichry@yahoo.com](mailto:eprocnichry@yahoo.com)**Help Desk:** 0120-4001002, 0120-4200462, 0120-4001005, 0120-6277787, 0172-2700275.

- v. Tender 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 Tender 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 Tender 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).

- vi. In case of online tendering, if the digital certificate issued to the authorized user of a firm is used for signing and submitting a Tender, it will be considered equivalent to a no-objection certificate/power of attorney/lawful authorization to that User only for accessing eProcurement portal for online Tender submission on the portal. 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 Tender 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. This shall in no way relieve the Tenderer from the requirement of submission of Power of Attorney by the Tenderer in terms of ITT 20.3 and ITT 20.4 of Tender Document.
- vii. 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.
- viii. 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.

**B. Opening of an Electronic Payment Account: (Purchase of Tender Document - Online)**

For purchasing the Tender Document online, Tenderers are required to pay the Tender Document fee online using the electronic payment gateway service through their Debit Cards & Internet Banking accounts. For online payments guidelines, please refer to the Home page under tab “**Guidelines for hassle free Bid Submission**” of the eProcurement Portal of Government of Haryana, <https://etenders.hry.nic.in>

**C. Pre-requisites for online Tendering:**

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 eProcurement Portal.

**D. Online Viewing Notice Inviting Tender (NIT):**

The Tenderers can view the NIT and the time schedule (Key Dates) through the single portal eProcurement system on the Home Page at <https://etenders.hry.nic.in>

**E. Downloading of Tender Documents:**

The detailed Tender Document can be downloaded free of cost from the eProcurement portal <https://etenders.hry.nic.in> from **19.02.2024 (17:00 Hrs. IST) to 06.03.2024 (15:00 Hrs. IST)**. However, Tenderers have to submit the tender document fee as per NIT before submission of his offer.

**F. Key Dates:**

The Tenderers are strictly advised to follow dates and times as indicated in the online Specific Procurement Notice. The date and time shall be binding on all Tenderers. 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 Specific Procurement Notice.

### **G. Online Payment of E-Service Fee & Tender Security:**

The online payment for E-Service Fee and Tender Security in INR shall be made using the secure electronic payment gateway by Tenderers online directly through Debit Cards & Internet Banking accounts.

The secure electronic payments gateway is an online interface between Suppliers/Contractors and Debit card/online payment authorization networks.

### **H. Offline Payment of Tender Security or claiming exemption**

For submission of the Tender Security in the form of BG (Tender Security offline Payment) or claiming exemption from Tender security, System will direct Tenderer to the EMD details page (EMD Payment offline). Following Steps are to be followed:

**Step 1:** Select 'Yes' option where system asks "Are you submitting EMD through BG/ST or Exempted from EMD payment".

**Step2:** Select 'Percentage' option to choose EMD exemption type and insert 100% as exemption.

**Step 3:** Tenderer must upload scanned copy of Bank Guarantee as EMD exemption document or copy of relevant document for claiming exemption on eProcurement Portal. After uploading the document, Tenderer must sign the document digitally.

**Step 4:** After confirming the details of payment, Tenderer must Select option "Confirm to pay"

**Step 5:** Tenderer must enter the details of BG/Exempted as EMD fee detail on EMD offline payment page

**Note:** Option of Exemption from payment of EMD mentioned in the module of eProcurement portal is only for exemption of online payment of Tender Security to the Tenderers who wish to submit Tender Security in the form of Bank Guarantee or claiming exemption under ITT Para 19.1.2.

### **I. Preparation & Submission of online Applications/Tenders:**

- i. Tender shall mandatorily be submitted online following the instruction appearing on the screen.
- ii. **Scan copy of Documents to be submitted/uploaded for Technical Part under online PQQ/ Technical Envelope:**

All documents shall be prepared and scanned in file formats PDF /JPEG/MS WORD format such that file size does not exceed 10

	<p>MB) and uploaded during the online submission of PQQ or Technical Envelope.</p> <p><b>iii. FINANCIAL PART (MS-Excel File for quoting price and Pdf file for Letter of Tender-Financial Part and Appendix A to Letter of Tender- Financial Part) shall be submitted mandatorily online under Commercial Envelope and original not to be submitted manually.</b></p> <p><b>NOTES:</b>  <i>(A) Tenderers participating in online tenders shall check the validity of his/her Digital Signature Certificate before participating in the online Tenders at the portal <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>.</i></p> <p><i>For help manual, please refer to the ‘Home Page’ of the eProcurement website at <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>.</i></p>
ITT 22.1	<p><b>Replace ITT 22.1 with the following:</b></p> <p>The Tender submission is through the eProcurement portal only (i.e. <a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>) as specified in ITT 21.1</p> <p>The Tenderer shall submit its Tender before expiry of the date and time for tender submission as specified herein.</p> <p><b>The start date for Tender submission is:</b>  Date: <b>27.02.2024</b>  Time: <b>1100 hrs. IST</b></p> <p><b>The deadline for Tender submission is:</b>  Date: <b>06.03.2024</b>  Time: <b>1500 hrs. IST</b></p>
ITT 23.1	<p><b>Replace ITT 23.1 with the following:</b></p> <p>Submission of Tenders shall be closed on eProcurement portal on the date &amp; time of submission as prescribed in ITT 22.1 after which no tender can be uploaded.</p>
ITT 24	<p><b>Replace ITT 24 with the following:</b></p> <p>24.1 The Tenderer may modify, substitute or withdraw its e-Tender after submission prior to the deadline for submission of Tenders. For modification of e-Tender, Tenderer has to detach its old Tender from eProcurement portal</p>

	<p>(<a href="https://etenders.hry.nic.in">https://etenders.hry.nic.in</a>) and upload/ resubmit digitally signed modified tender. For withdrawal of tender, Tenderer has to click on withdrawal icon at e- procurement portal and can withdraw its e-tender. Before withdrawal of a tender, it may specifically be noted that after withdrawal of a tender for any reason, Tenderer cannot re-submit e-tender again.</p> <p>24.2 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified on the Letter of Tender or any extension thereof.</p>
<p><b>ITT 25</b></p>	<p><b>Replace ITT 25 with the following:</b></p> <p><b>25.1</b> The Purchaser shall conduct the electronic opening of Technical Part on eProcurement portal on the date, time and place as specified below:  <b>Street Address:</b> Haryana Rail Infrastructure Development Corporation Limited (HRIDC), IRCON International Tower-2, Plot No. 16, Sector-32  <b>City:</b> Gurugram  <b>Zip code:</b> 122003  <b>Country:</b> INDIA  <b>Date:</b> 06.03.2024</p> <p>Time: <b>1530 hrs IST</b></p> <p>The opening of the Technical Part and subsequent details can be viewed by the Tenderers by logging on the eProcurement portal. Alternatively, any Tenderer who wish to attend the Technical Part opening can be present during the opening. The Tenderer’s representatives who are present shall be requested to mark their attendance on the format available with the Purchaser.</p> <p>25.2 The Financial Part submitted online on eProcurement portal will remain unopened in the eProcurement portal until the date and time of opening of Financial Part. The date and time of the opening of the Financial Part will be notified to all the Tenderers on eProcurement portal whose tender is found to be substantially responsive and qualified in technical evaluation as specified in ITT 34.2.</p> <p>25.3 At the time of opening of Technical Part, the following shall be read out and recorded:</p>

	<p>(a) the name of the Tenderer;</p> <p>(b) the presence of a Tender Security; and</p> <p>(c) any other details as the Purchaser may consider appropriate.</p> <p>Only Technical Part read out and recorded at Tender opening shall be considered for evaluation.</p> <p>25.4 The Purchaser shall prepare a record of the opening of Technical Part that shall include, as a minimum, the name of the Tenderer and the presence or absence of Tender Security. The Tenderer’s representatives who are present shall be requested to sign the record available with the HRIDC. The omission of a Tenderer’s signature on the record shall not invalidate the contents and effect of the record.</p> <p>25.5 At the Tender opening the Purchaser shall neither discuss the merits of any Tender nor reject any Tender.</p> <p>25.6 Following the completion of the evaluation of the Technical Parts of the Tenders, the Purchaser shall notify in writing those Tenderers whose Tenders were considered non-responsive to the Tender Document or failed to meet the Qualification Criteria, advising them of the following information:</p> <p>(a) the grounds on which their Technical Part of Tender failed to meet the requirements of the Tender Document;</p> <p>(b) their “FINANCIAL PART” shall remain unopened on the eProcurement portal;</p> <p>(c) notify them of the date, time and location of the public opening of “FINANCIAL PART” on the eProcurement portal;</p> <p>25.7 The Purchaser shall, simultaneously, notify in writing those Tenderers whose Tenders - Technical Parts have been evaluated as substantially responsive to the Tender Document and met all Qualifying Criteria, advising them of the following information:</p> <p>(a) their Tender has been evaluated as substantially responsive to the Tender Document requirements and met the Qualification Criteria;</p> <p>(b) their “FINANCIAL PART” on eProcurement portal will be opened at the public opening of the Financial Parts; and</p>
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	<p>(c) notify them of the date, time and location of the public opening of the “FINANCIAL PART” as specified below:</p> <ol style="list-style-type: none"> <li>i. The Purchaser shall publish a notice of the public opening of the Financial Parts on eProcurement portal.</li> <li>ii. Any interested party who wishes to attend this public opening may contact: <ul style="list-style-type: none"> <li><b>For the attention:</b> GM/IP&amp;IT</li> <li>Haryana Rail Infrastructure Development Corporation Limited</li> <li><b>Email address:</b> horc.etendering@gmail.com</li> </ul> </li> </ol> <p>25.8 The “FINANCIAL PART” of Tenderers who met the Qualification Criteria and whose Tenders were evaluated as substantially responsive, will be opened on eProcurement portal. The Purchaser shall read out the names of each Tenderer, and the total Tender prices, including any discounts and any other details as the Purchaser may consider appropriate.</p> <p>25.9 The Purchaser shall neither discuss with Tenderer’s representative present, if any, the merits of any Tender nor reject any “FINANCIAL PART”.</p> <p>25.10 The Purchaser shall prepare a record of the Financial Part of the Tender opening that shall include, as a minimum:</p> <ol style="list-style-type: none"> <li>(a) the name of the Tenderer whose Financial Part was opened; and</li> <li>(b) the Tender price</li> </ol> <p>25.11 The Tenderer’s representatives who are present at the time of opening of Financial Part shall be requested to sign the record. The omission of a Tenderer’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record (i.e. summary of rates quoted) can be viewed by all eligible Tenderers after opening of the Financial Part.</p>
<b>E. Evaluation and Comparison of Tenders</b>	
<b>ITT 27</b>	<p><b>Replace ITT 27 with the following:</b></p> <p>27.1 To assist in the examination, evaluation and comparison of the Tenders, the Purchaser may, at its discretion, ask any Tenderer for a clarification of its Tender in accordance with ITT Clause 30. Any clarification submitted by a Tenderer that is not in response to a request by the Purchaser shall not be considered. The Purchaser’s request for clarification and the response shall be in writing and delivered to concerned Tenderers (by courier or e-mail through PDF attachment).</p>

	<p>The due date and time to respond to these queries will also be communicated. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of errors discovered by the Purchaser in the evaluation of the Financial Part, in accordance with ITT Clause 35.</p> <p>27.2 If a Tenderer does not provide clarifications of its Tender by the date and time set in the Purchaser’s request for clarification, their Tender shall be evaluated as per the available information in the submitted Tender.</p>
<b>ITT 30.3</b>	Not Applicable
<b>ITT 32.1</b>	The currency that shall be used for Tender evaluation and comparison purposes is Indian Rupees ( <b>INR</b> ) only.
<b>ITT 33.1</b>	<p><b>Replace ITT 33.1 with the following:</b></p> <p><b>33.1 Purchase preference for Make in India:</b></p> <p><b>33.1.1</b> The purchaser shall take due consideration of Public Procurement (Preference to Make in India) Order, dated 15.06.2017. In this regard, Railway Board letter No. 2015/RS(G)/779/5 dated 03.08.2017 which is revised vide Railway Board letter No. 2020/RS(G)/779/5 dated 12.06.2020, which is further revised vide Public Procurement (Preference to Make in India) Order, dated 16.09.2020 circulated vide Railway Board letter No. 2015/RS(G)/779/5 (Vol. III) dated 25.09.2020 may be downloaded from Railway Board’s website under the link of circulars of Stores Dte.</p> <p><b>33.1.2</b> Local content: For the purpose of above policy, the minimum local content for Class I supplier shall be 50% and ‘margin of purchase preference’ shall be 20%.</p> <p><b>33.1.3</b> As para 9(b) of Make in Indian Policy letter dt.16.09.2020, as procurement value is in excess of Rs. 10 Crore. The Class-I local supplier/Class-II local supplier are required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accounts (in respect of suppliers other than companies) giving the percentage of local content.</p> <p><b>33.1.4</b> Procurement under this tender shall comply with the Clause 10(d) (ii) of Public Procurement (Preference to Make in India) Order, dated 16.09.2020 which states “Entities of countries which have been identified by the nodal ministry/department as not allowing Indian Companies to participate in their Government procurement for any item related to that nodal ministry shall not be allowed in Government procurement in India for all item related to that nodal Ministry, except for the list of the item published by the permitting their</p>

	<p>participation.</p> <p><b>33.1.5</b> In pursuance of the public procurement policy on MSE(Micro &amp; Small Enterprises) vide notification of Government of India dated 23.03.2012 (as notified in the Gazetted of India Notification No. 503 dated 26.03.2012 (clarified vide Office of Development (Commissioner), MSME's OM dated 15.02.2016 as amended on 04.10.2019 by Ministry of MSME), the following conditions are applicable for eligible MSEs :</p> <p>(a) Participating MSEs quoting a price within price band of L1 +15% shall be allowed to supply a portion of the requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSEs can be together ordered up to 25% of the total tendered value.</p> <p>(b) The sub-target for procurement from MSEs owned by SC/ST shall remain at 4% and MSEs owned by women the sub-target shall be 3%, out of the total 25%.</p> <p>(c) MSEs who are interested in availing themselves of the above benefits will enclose with their offer the proof of their being registered with MSE for tendered item or similar items with any of the following agencies:  (i) UDYAM (UDYAM Registration Certificate)</p> <p>(d) All MSE's shall be eligible for benefits of public procurement policy irrespective of product category under with MSEs are registered.</p> <p>(e) Failing (a) to (c) above, such offers will not be eligible for consideration of benefits detailed in MSE notification of Government of India dated 23.03.2012 (as amended by the Ministry of MSME on 04.10.2019).</p>
<p><b>ITT 34. 1</b></p>	<p><b>Replace ITT 34.1 with the following:</b></p> <p><b>Evaluation of Technical Part of Tender</b></p> <p><b>34.1.1</b> The Purchaser shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria.</p> <p><b>34.1.2</b> The Purchaser shall determine, to its satisfaction that whether Eligible Tenderers that have submitted substantially responsive Tender-Technical Part meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.</p> <p><b>34.1.3</b> The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 17. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the Tender Document), or any other firm(s) different from the Tenderer.</p>

	<b>34.1.4</b> Only Tenders that are both substantially responsive to the Tender Document, and meet all Qualification Criteria, shall be notified on eProcurement portal for the public opening of “FINANCIAL PART”.
<b>ITT 34.2</b>	<p><b>Replace ITT 34.2 with the following:</b></p> <p><b>Evaluation of Financial Part of Tender</b></p> <p>34.2 To evaluate a Financial Part of the Tender, the Purchaser shall consider the following:</p> <ul style="list-style-type: none"> <li>(a) Financial Part submission in accordance with ITT 11.1.3;</li> <li>(b) the Tender Price as quoted in accordance with ITT 14;</li> <li>(c) price adjustment for correction of arithmetical errors in accordance with ITT 31.1;</li> <li>(d) converting the amount resulting from applying (b) to (c) above, if relevant, to a single currency in accordance with ITT 32;</li> </ul>
<b>ITT 34.4</b>	Not Applicable
<b>ITT 34.5</b>	Not Applicable
<b>ITT 34.6</b>	Not Applicable
<b>ITT 35.1</b>	<p><b>Replace ITT 35.1 with the following:</b></p> <p>The Purchaser shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 34.2 to determine the Tender that has the lowest evaluated cost.</p>
<b>ITT 37</b>	Deleted
	<b>F. Award of Contract</b>
<b>ITT 42</b>	<p><b>A. Quantity Distribution Methodology:</b></p> <p><b>This tender is issued with pre-decided splitting clause. The quantity distribution will be done as per splitting criteria defined as under:</b></p> <ol style="list-style-type: none"> <li>1. The Purchaser reserves the right to distribute the procurable quantity on one or more than one of the eligible tenderers. Zone of consideration of such eligible tenderers will be the right of the Purchaser. The zone of consideration will be a dynamic mix of inter-se position of firms, supply performance of the firms, quantity being procured, criticality of and lead time of supply of the item, number of established suppliers, their capacity etc.</li> <li>2. Whenever such splitting of the procurable quantity is made, the</li> </ol>

quantity distribution will depend (in an inverse manner) upon the differential of rates quoted by the tenderers (other aspects i.e. adequate capacity-cum-capability, satisfactory past performance of the tenderers, outstanding orders load for the Railway making the procurement, quoted delivery schedule vis-à-vis the delivery schedule incorporated in the tender enquiry etc. being same/similar) in the manner detailed in the table below:

<b>Price differential between L1 and L2</b>	<b>Quantity distribution ratio between L1 and L2</b>
Upto 3%	60:40
More than 3% and upto 5%	65:35
More than 5%	At least 65% on the L1 tenderer. For the quantity to be ordered on the L-2 tenderer, TC/TAA shall decide.

i)If splitting of quantity is required to be done by ordering on tenderers higher than the L-2 tenderer, then the quantity distribution proportion amongst the tenderers will be decided by transparent/logical/equity based extrapolation of the model as indicated in the above Para.

ii)In cases of pre-decided splitting, if the purchaser decides not to split the ordered quantity, the reason for the same shall be recorded in TC minutes/acceptance in direct acceptance cases.

iii)In the cases of inadequate capacity-cum-capability, dissatisfactory past performance, large quantity of outstanding orders (liquidation of which will take very long time) etc, the Purchaser shall have the right to distribute the procurable quantity amongst tenderers with due consideration to these constraints and in such a manner that would ensure timely supply of material in requisite quantity to meet the needs of operation, maintenance, safety etc. of the Railways, regardless of inter-se ranking of the tenderers and in a fair and transparent manner with due conformity to the Principles of Natural Justice and Equity.

3.For quantity distribution/allocation counter offer of regular L-1 rate will be given to all CSPs under consideration.

4. Purchaser reserves the right to allot lesser quantity than the quantity quoted by the tenderer at the same rate, terms and conditions which shall be binding on the tenderer.

5. In case, full requirement of a HRIDC/HORC is not allotted as per distribution methodology stipulated above, then leftover quantity (un allotted quantity) of such HRIDC/HORC will be re-distributed amongst

	<p>the eligible CSPs in proportion to the quantity already allotted subject to quoted quantity and production capacity.</p> <p><b>B. Quantity Variation Clause:</b></p> <p>i) The purchaser, at its sole discretion, reserves the right to vary the contract quantity by <math>\pm</math> 30% without assigning any reason at price, terms and conditions of the initial orders during the currency of the contract.</p> <p>ii) Any increase in quantity beyond (+) 30% shall only be with the mutual consent of the supplier and purchaser. In case of default by any other contractor in the form of shortfall in supplies by defaulting CSP/s, HRIDC/HORC, at its sole discretion may cancel the quantity of defaulting CSP/s and may approve commensurate increase in the contract quantity of performing CSPs (i.e. those performing satisfactorily in contract) at price, terms and conditions of the initial orders during the currency of the contract. This clause shall be operated with the concurrence of associate finance. This increase would be in addition to 30% quantity referred to in above Para B (i) and would be limited to further 30% of the ordered quantity.</p> <p><b>C. Supply Tolerance Clause:</b> If unsupplied quantities at the expiry of DP/extended DP are within 5% of the contracted quantity, then the same will be treated as cancelled without financial repercussion on either side”.</p>
<b>ITT 43.1</b>	<p><b>Add the following to ITT 43.1</b></p> <p>The Accepted Contract Amount shall be in <b>INR</b> only.</p>
<b>ITT 45.1</b>	<p>The successful Tenderer <i>shall not</i> submit the Beneficial Ownership Disclosure Form.</p>
<b>ITT 47.1</b>	<p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, such as by email or fax), to:</p> <p><b>For the attention:</b> GM (IP&amp;IT)  <b>Purchaser:</b> Haryana Rail Infrastructure Development Corporation Limited (HRIDC)  <b>Email address:</b> <a href="mailto:horc.etendering@gmail.com">horc.etendering@gmail.com</a></p> <p><b>In summary, a Procurement related Complaint may challenge any of the following:</b></p> <p>1. the terms of the Tender Documents; and</p>

	2. the Purchaser's decision to award the contract.
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## Section III - Evaluation and Qualification Criteria

### 1. General Provisions

#### 1.1 Evaluation Sequence

- (a) Tenders will be evaluated through the following three stages:
  - (i) Stage 1: Evaluation of Administrative Requirements
  - (ii) Stage 2: Evaluation of Compliance with the Qualification Requirements
  - (iii) Stage 3: Financial Evaluation

#### 1.2 Deleted

#### 1.3 Tender Forms

- (a) Tenderers should note that the information required to be inserted into the Tender Forms shall be comprehensive and detailed. The technical information shall be furnished in line with the requirements of Part 1, Part 2 and Part 3 of the Tender Documents.
- (b) All Forms contained in the Tender Documents must be fully and properly completed and all the forms must be returned duly signed by Authorized Representative of the Tenderer, as they will be reviewed exactly as submitted and errors or omissions may count against the Tenderer.
- (c) Any Tenderer who is found to have intentionally submitted false or inaccurate statements/information is liable to be disqualified from the Tendering process.



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## **2. Stages of Evaluation**

### **2.1 Stage 1: Evaluation of Administrative Requirements**

#### **A. General**

- (a) The Stage 1 Evaluation will consist of checking the Tenders to confirm whether they are substantially responsive to the administrative requirements of the Tender Documents.
- (b) The following administrative items will be checked:
  - (i) Whether the Tender submission is in accordance with ITT 11.1.2;
  - (ii) Whether the Power of Attorney (POA) for the Tender signatory is in the correct form [Ref. ITT 20.3]. If during technical evaluation stage, POA submitted by the Tenderer is not found in the correct format, Purchaser will send written (Courier/email with PDF attachment) request to the Authorized Representative for rectification of POA in accordance with format prescribed in Section IV, Tender Forms, specifying the deadline for receipt of Power of Attorney in correct form. If a tenderer does not provide the Power of Attorney in correct form within the stated date and time set in the Purchaser's request for correction of Power of Attorney, its Tender is liable to be rejected.

## **2.2 Stage 2: Evaluation of Compliance with the Qualification Requirements**

### **B. General**

Tenders will be reviewed to ascertain whether the Tender complies with all of the minimum requirements as stipulated in the Clause 3. Qualification Criteria.

### **C. Check Items**

The following requirements of the Instruction to Tenderers, Clauses 4, 11 & 17 will be checked to ensure compliance to the requirements of criteria given below:

#### **(a) Eligibility**

- (i) Conflict Interest: Letter of Tender-Technical Part

#### **(b) Technical Qualification**

- (i) RDSO Registration: Form EXP-3.4.1
- (ii) Minimum quoted Quantity EXP-3.4.2

### 3. Qualification Criteria

If the Tenderer fails to comply with any item of Qualification Criteria given below, the Tenderer shall be disqualified.

No.	Subject	Requirement	Single Entity	Submission Requirements
3.1.1	<b>Conflict of Interest</b>	No conflicts of interest in accordance with ITT 4.2	Must meet requirement	Letter of Tender-Technical Part
3.1.2	<b>Share of JV members</b>	JV Not Permitted	N/A	-
3.2.1		Deleted		
3.2.2		Deleted		
3.2.3		Deleted		
3.2.4		Deleted		
3.3.1		Deleted		
3.4.1	<b>RDSO certifications of Concrete Sleeper Plants (CSPs) Plant/Production facility</b>	<p>The tenderer (Concrete Sleeper Plant i.e CSP) must, fulfill all the following conditions to be eligible for placement of regular orders against this tender:</p> <p>(i) Concrete Sleeper Plants (CSPs) certified by RDSO for undertaking production of PSC Main Line sleepers or any other category PSC sleepers for IR will be considered eligible for placement of orders (regular as per status of RDSO approval/certification) against this tender.</p>	Must meet requirement	Form Exp 3.4.1

No.	Subject	Requirement	Single Entity	Submission Requirements
3.4.2	<b>Minimum Quoted Quantity</b>	Minimum Quoted quantity by a tenderer for a plant should not be less than 50% of RDSO certified rated production capacity for period of 4 months under consideration i.e minimum quantity to be quoted by a tenderer should not be less than or equal to = (0.5 X4 X monthly certified production capacity by RDSO). Offers quoting for less than specified Minimum quantity or tendered quantity (whichever is lower) will be summarily rejected.	Must meet requirement	Form Exp 3.4.2

**Notes:**

- Existing manufacturers quoting for supply from a new location after shifting their existing plant should have prior approval for supply from new location as per instructions of Railway Board vide letter No. 2004/Tk-II/22/11/5 dated 22.02.2006.

Plants, which have already been permitted for shifting of location but have not shifted/started production from new location, even after lapse of one year or more from date of issue of permission letter, shall not be eligible to quote from old location. They will be eligible to quote from new location only if they have already obtained the RDSO certification of Plant at new location, before the date of tender opening.

- Those plants will be considered “closed”, which have not manufactured any type of sleepers (mainline, Turnout, special sleepers) for more than five years reckoning from the date of tender opening. Such plants will not be eligible for tender until and unless fresh RDSO certification/approvalis obtained and placed on record.

**Checklist-CL****Checklist of submission of Documents/Forms online, duly filled**

(Reference to TDS-ITT 11.1.2 &amp; 11.1.3, Section II, Part 1)

**A. TECHNICAL PART**

S. No.	Requirement of Tender Document	Ref. Clause of Tender documents	Tenderer's Name:	
			Whether information submitted (Yes/No/N.A.)	Ref. Pg No. in the Technical Submittal
1.	Letter of Tender-Technical Part	ITT 11.2 (a) and Section IV		
2.	Technical Part signed by authorized representative of Single Entity/Joint Venture	ITT 20.3		
3.	Tender Security- Online Receipt	ITT 19.1, ITT 19.3 and Appendix E of Section IV		
4.	Form ELI – 1.1: Tenderer Information Form (Single Entity)	ITT 17.1 and Appendix D of Section IV		
5.	Form ELI-1.2: Power of Attorney (POA) for Submitting Tender	ITT 20.3 and Appendix D of Section IV		
6.	Board Resolution in case of a Public/Private limited company/LLP	TDS ITT 20.3		
7.	Incorporation Certificate and Memorandum and Articles of Association (MOA & AOA) (in case of Private/Public Limited Company)	Note (iii) (d) of Form ELI 1.2		
8.	Incorporation Certificate and Limited Liability Membership Agreement in case of Limited Liability Membership firms.	Note (iii) (e) of Form ELI 1.2		
9.	Proprietorship Affidavit (in case the Tenderer is Proprietorship Tenderer)	Note (iii) (a) of Form ELI 1.2		
10.	Partnership Deed (in case the Tenderer is Partnership Firm)	Note (iii) (b) of Form ELI 1.2		
11.	Form EXP – 3.4.1: RDSO certifications of Concrete Sleeper Plants (CSPs) Plant/Production facility	ITT 17.2 and Appendix D of Section IV		
12.	Form EXP – 3.4.2: Minimum Quoted Quantity	ITT 17.2 and Appendix D of Section IV		

S. No.	Requirement of Tender Document	Ref. Clause of Tender documents	Tenderer's Name:	
			Whether information submitted (Yes/No/N.A.)	Ref. Pg No. in the Technical Submittal
<b>Note:</b>				
(i) <b>The check list is indicative and not exhaustive. The Tenderer must go through the complete tender documents and submit the required documents accordingly.</b>				
(ii) <b>If any of the above form or criteria is not applicable to the Tenderer, then they can simply indicate N.A. against the relevant column</b>				
(iii) <b>All Tender Forms contained in the Tender Documents must be fully and properly completed and all the forms must be returned signed by Authorized Representative of the Tenderer.</b>				

## B. FINANCIAL PART

The Financial Part is provided in the Tender Documents in the form of MS-EXCEL file and PDF file. The Contract Price for the Works shall be quoted in the MS-EXCEL file provided in the eProcurement portal. The Tenderer shall download the MS-EXCEL file and after quoting their Contract Price, upload the same along with other PDF documents of Financial Part mentioned in (a) below as a ZIP file on eProcurement portal. The quoted Contract Price shall not be offered/quoted elsewhere in the Technical Part submission/ Tender submission. These prices shall include all costs associated with the contract including GST. The Tenderer shall complete the Financial Part in accordance with the instructions given in the Financial Part.

Following information are required to be submitted by Tenderers in their Financial Part:

**(a) In PDF File**

1. Letter of Tender – Financial Part
2. Appendix A to Financial Part: Schedule of Adjustment Data
3. Appendix B to Financial Part: Bill of Quantities

Contract Price comprises of the following Schedule:

Schedule	Description	Remarks
Bill of Quantities	Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project	Quoted single percentage (%) Excess (+) or Less (-) on the estimated amount in the prescribed place of Price Schedule in MS-Excel file of Financial Part.

**(b) In MS-Excel File**

Bill of Quantities for quoting rates for the supply.

I hereby confirm that:

- (i) I have checked the above list with our submittal. I am also aware that if our tender is not containing the above documents, the Purchaser has the right to reject our tender.
- (ii) All the pages of tender submission are properly indexed and numbered.

Seal:

Date:

(Signature of Authorized representative of Tenderer)



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**Section IV - Tender Forms****Forms**

<b>Letter of Tender-Technical Part.....</b>	<b>67</b>
<b>Form ELI-1.1 .....</b>	<b>70</b>
<b>Form ELI-1.2 .....</b>	<b>71</b>
<b>Form CON-1 .....</b>	<b>73</b>
<b>Form EXP-3.4.1 .....</b>	<b>74</b>
<b>Form EXP-3.4.2.....</b>	<b>76</b>
<b>Tender Security .....</b>	<b>78</b>
<b>Tender-Securing Declaration .....</b>	<b>81</b>
<b>Deleted .....</b>	<b>81</b>
<b>Manufacturer’s Authorization.....</b>	<b>82</b>
<b>Deleted .....</b>	<b>82</b>
<b>Country of Origin Declaration Form.....</b>	<b>83</b>
<b>Letter of Tender – Financial Part.....</b>	<b>84</b>
<b>Appendix B to Financial part: Bill of Quantities.....</b>	<b>90</b>

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**Letter of Tender-Technical Part**

*INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT*

*The Tenderer must prepare this Letter of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*

*Note: All italicized text is to help Tenderers in preparing this form.*

**Date of this Tender submission:** *[insert date (as day, month and year) of tender submission]*

**Tender No.:** *HORC/HRIDC/PSC-02/2024*

**Tender Name:** *[insert the tender name]*

To:

**GM/IP&IT,**

Haryana Rail Infrastructure Development Corporation Limited (HRIDC),

IRCON International Tower-2,

Plot No. 16, Sector-32,

Gurugram, Haryana- 122003

Tel: +91 7011056770

We, the undersigned, hereby submit our Tender, in two parts sealed separately, namely: (a) the Technical Part; and (b) the Financial Part.

In submitting our Tender, we declare that:

- (a) **No Reservations:** We have examined and have no reservations to the Tender Document, including Addenda/Corrigenda issued in accordance with Instructions to Tenderers (ITT 8).
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4.
- (c) **Tender-Securing Declaration:** We have not been suspended nor declared ineligible by the Purchaser based on execution of a Tender-Securing Declaration or Proposal-Securing Declaration in the Purchaser's Country in accordance with ITT 4.7.
- (d) **Conformity:** We offer to supply in conformity with the Tender Document and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: *[insert a brief description of the Goods and Related Services]*.

- (e) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) after the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (f) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tender Document.
- (g) **One Tender per Tenderer:** We are not participating, as a Tenderer, either individually or as a Joint Venture member, in more than one Tender in this tendering process, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 13.
- (h) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment or any ineligibility imposed or recognized by the Purchaser. Further, we are not ineligible under the Purchaser's Country laws or official regulations or pursuant to a decision of the United Nations Security Council.
- (i) **State-Owned Enterprise or Institution:** *[select the appropriate option and delete the other]* *[We are not a state-owned enterprise or institution]* / *[We are a state-owned enterprise or institution but meet the requirements of ITT 4.6].*
- (j) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (k) **Purchaser Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive.
- (l) **Prohibited Practice:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Prohibited Practice.
- (m) **Inspection and Audit:** We agree to permit the Purchaser or its representative to inspect our accounts and records and other documents relating to the tender submission and to have them audited by auditors appointed by the Purchaser.
- (n) 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.
- (o) We declare that the information and documents submitted along with the tender by us are correct and we are fully responsible for the correctness of the information and documents, submitted by us.
- (p) *[select the appropriate option and delete whichever is not applicable]* *[We declare and certify that financial data as per the balance sheets for last three financial years including*

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

- (q) I/we have downloaded the Tender Document/addenda/corrigenda/ clarifications along with the set of enclosures hosted on eProcurement portal as mentioned in Tender Document. I/We verified the content of the document from the website and there is no addition, no deletion or no alteration to the content of the Tender Document. In case of any discrepancy noticed at any stage i.e. evaluation of Tenders, execution of work or final payment of the Contract, the master copy of Tender Document available with HRIDC shall be final and binding upon me/us.

**Name of the Tenderer:** \*[insert complete name of the Tenderer]

**Name of the person duly authorized to sign the Tender on behalf of the Tenderer:** \*\*[insert complete name of person duly authorized to sign the Tender]

**Title of the person signing the Tender:** [insert complete title of the person signing the Tender]

**Signature of the person named above:** [insert signature of person whose name and capacity are shown above]

**Date signed** [insert date of signing] **day of** [insert month], [insert year]

\*\* : Person signing the Tender shall have the power of attorney given by the Tenderer. The power of attorney shall be attached with the Letter of Tender-Technical Part.

## Form ELI-1.1

**Tenderer Information Form (Single Entity)**

[Ref. ITT Sub-Clause 17.1]

Date: \_\_\_\_\_  
 Tender No. and title: \_\_\_\_\_  
 Page \_\_\_\_\_ of \_\_\_\_\_ pages

Tenderer's name
Tenderer's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Mobile number: _____ Telephone/Fax numbers: _____ E-mail address: _____
<p>1. Attached are copies of original documents of</p> <p><input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4</p> <p><input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.6, documents establishing:</p> <ul style="list-style-type: none"> <li>• Operation on a commercial basis;</li> <li>• Financial and managerial autonomy;</li> <li>• Day-to-day management not controlled by the government; and Not under the supervision of the Purchaser or its procuring agency.</li> </ul>

Tenderer's Authorized Representative

Signature: .....  
 Date: .....  
 Company stamp: .....

**Form ELI-1.2**

[Ref. ITT Sub-Clause 20.3]

**Power of Attorney (POA) for Submitting Tender  
(For Single Entity/Sole Tenderer only)**

*(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the Power of Attorney)*

Know all men by these presents, we..... (name and address of the registered office) do hereby constitute, appoint and authorise 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 tender for the supply of **PSC-02: Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project** including signing and submission of all documents and providing information/ responses to Haryana Rail Infrastructure Development Corporation Ltd (HRIDC), representing us in all matters before HRIDC, and generally dealing with HRIDC in all matters in connection with our tender for the said 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 and 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**

*Notes:*

- i. The tenderer should submit the notarised Power of Attorney. In case of Foreign Members, 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 Indian Embassy/High Commission or Member Countries of Hague convention may submit these document 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 tenderer should submit following additional document in support of the POA as case to case basis:

- a) Proprietorship Affidavit in case of Proprietary Tenderer.
- b) Partnership Deed in case of Partnership Firms.
- c) Board Resolution in case of a Public/Private limited company/LLP.
- d) Incorporation Certificate and Memorandum & Article of Association in case of a Public/Private limited company.
- e) Incorporation Certificate and Limited Liability Membership Agreement in case of Limited Liability Membership firms.

**Form CON-1**

**Deleted**

**Form EXP-3.4.1**

## RDSO certifications of Concrete Sleeper Plants (CSPs) Plant/Production facility

[Ref. ITT Sub-Clause 17.2 and Section III, Evaluation and Qualification Criteria, Sub-Clause 3.4.1]

*[The following table shall be filled in for the Tenderer]*

Tender No.: HORC/HRIDC/PSC-02/2024

Tenderer's Name: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

### ***1. Details of Concrete Sleeper Plant***

Name of Product to be Supplied			
Manufacturer/Supplier			
Address of Manufacturer/Supplier: Telephone/fax number E-mail:			
Authorised Representative of Manufacturer/Supplier			
<b><i>Details of Concrete Sleeper Plant</i></b>			
Concrete Sleeper Plant	<b>Address</b>	<b>Year of RDSO Certification &amp; validity</b>	<b><i>Copy of RDSO Approval Certificate Attached (Yes/No)</i></b>
CSP 1			

**Tenderer's Authorized Representative**

Signature: .....

Date: .....

Company stamp: .....

*Note:*

- (i) *The Tenderer shall submit copy of RDSO approval/certification for Concrete Sleeper Plants (CSPs) with their Tender clearly indicating the date of certification and production Capacity of the Plants. **Tender submitted without this documentary proof shall not be evaluated.***

## Form EXP-3.4.2

**Minimum Quoted Quantity**

[Ref. ITT Sub-Clause 17.2 and Section III, Evaluation and Qualification Criteria, Sub-Clause 3.4.2]

*[The following table shall be filled in for the Tenderer]*

Tender No.: HORC/HRIDC/PSC-02/2024

Tenderer's Name: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

***1.Details of Production Facility available with the Tenderer***

Name of Product to be Supplied				
Manufacturer/Supplier				
Address of Manufacturer/Supplier: Telephone/fax number E-mail:				
Authorised Representative of Manufacturer/Supplier				
<b><i>Details of Production Facility</i></b>				
<b>Production Facility</b> Concrete Sleeper Plant (A)	<b>Address</b> (B)	<b>Year of Certification &amp; validity</b> (C)	<b>Capacity Per Month</b> (D)	<b>Capacity for 4 months</b> (E) <b><i>E=4XD</i></b>
CSP 1				
CSP 2				
CSP 3				
<b>Total Capacity for 4 months , (F)</b>				

The offer of the firm is valid for ----- Nos which is equal to or more than the minimum of 50 % of production capacity of 4 months or the tendered quantity whichever is lower.

**Tenderer’s Authorized Representative**

Signature: .....

Date: .....

Company stamp: .....

*Note:*

*The Tender must submit RDSO approval/certification for each of the Production Facility mentioned in above.*

### **Tender Security**

The amount for Tender Security will only be paid online by eligible Tenderers on eProcurement Portal of Government of Haryana (<https://etenders.hry.nic.in>).

**OR**

Tender Security can be submitted in the form of Demand Draft in favor of ‘Haryana Rail Infrastructure Development Corporation Limited’ payable at Chandigarh

**OR**

Tender Security can be submitted in the form of unconditional and irrevocable Bank Guarantee<sup>1</sup> in INR from the banks specified in Sub-Clause ITT 19.3, Section II- TDS using the Tender Security Form given below.

---

<sup>1</sup> Refer Sub-Clause ITT 1.3 H and Sub-Clause 19.3, Section II, TDS for submission of the Tender Security in the form of BG. Option of Exemption from payment of EMD mentioned in the module of eProcurement portal is only for exemption of online payment of Tender Security to the Tenderers who wish to submit Tender Security in the form of Bank Guarantee.

## Tender Security Form of Demand Guarantee

**Beneficiary:**

Haryana Rail Infrastructure Development Corporation Limited,  
IRCON International Tower-2, Plot No. 16,  
Sector-32, Gurugram, Haryana- 122003

**Tender No:** HORC/HRIDC/PSC-02/2024**Date:** \_\_\_\_\_ *[Insert date of issue of Demand Guarantee]***TENDER SECURITY GUARANTEE No.:** \_\_\_\_\_**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that \_\_\_\_\_ (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (hereinafter called "the Tender") for the execution of **“PSC-02: Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project.”**.

Furthermore, we understand that, according to the Beneficiary’s conditions, Tenders must be supported by a Tender guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (\_\_\_\_\_) upon receipt by us of the Beneficiary’s complying demand, supported by the Beneficiary’s statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:



- (a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant’s Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance Security in accordance with the Instructions to Tenderers (“ITT”) of the Beneficiary’s Tender Document.

This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security issued to the Beneficiary in relation to such contract agreement; or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary’s notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.

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*[signature(s)]*

**Tender-Securing Declaration**

**Deleted**

**Manufacturer's Authorization**

**Deleted**

**Country of Origin Declaration Form****Name of Tenderer:****Tender No.:**

S. No.	Description	Country of Origin

**Tenderer's Authorized Representative**

Signature: .....

Date: .....

Company stamp: .....

**Letter of Tender – Financial Part**

***INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT***

*The Tenderer must prepare this Letter of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*

*Note: All italicized text is to help Tenderers in preparing this form.*

**Date of this Tender submission:** *[insert date (as day, month and year) of Tender submission]*

**Tender No.:** HORC/HRIDC/PSC-02/2024

To:

**GM/IP&IT,**

Haryana Rail Infrastructure Development Corporation Limited (HRIDC),  
IRCON International Tower-2,  
Plot No. 16, Sector-32,  
Gurugram, Haryana- 122003  
Tel: +91 7011056770

We, the undersigned, hereby submit the second part of our Tender, the Tender Price and Price Schedule. This accompanies the Letter of Tender – Technical Part.

In submitting our Tender, we declare that:

- (a) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) after the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) **\*\*Tender Price:** The total price of our Tender is: *[insert the total price of the Tender in words and figures in INR]*;
- (c) **Commissions, Gratuities, Fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

*(If none has been paid or is to be paid, indicate “none.”)*

**Name of the Tenderer:** *[insert complete name of the Tenderer]*

**Name of the person duly authorized to sign the Tender on behalf of the Tenderer:**

*\*[insert complete name of person duly authorized to sign the Tender]*

**Title of the person signing the Tender:** *[insert complete title of the person signing the Tender]*

**Signature of the person named above:** *[insert signature of person whose name and capacity are shown above]*

**Date signed** *[insert date of signing]* **day of** *[insert month]*, *[insert year]*

\*: Person signing the Tender shall have the power of attorney given by the Tenderer. The power of attorney shall be attached with the Letter of Tender.

## Appendix A to Financial Part: Schedule of Adjustment Data

### 1. Price adjustment

- 1.1 The amounts payable to the Supplier for Works shall be adjusted in accordance with the provisions of this Clause 1.0, Sub-Clause 13.7 of GCC and Sub-Clause 13.7, Specific Provision, Part B, Section IX-PCC.
- 1.2 The Contract price shall include all duties (including Customs duties), taxes including Goods and Services Taxes (GST), insurances, transportation cost to the final destination (Project site), Inspection charges, Freight Charges, royalties, fees, cess, octroi/Entry tax, other levies payable by the Supplier under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders shall be included in the rates, prices and the total Tender Price submitted by the Tenderer.
- 1.3 The prices charged for the Goods supplied and the related Services performed shall be adjustable.

### Price Adjustment Formula

The following method shall be used to calculate the price adjustment:

$$P_1 = (P_0 / 100) (10 + 23 I_1 / I_0 + 11 L_1 / L_0 + 21 S_1 / S_0 + 26 C_1 / C_0 + 9 W_1 / W_0)$$

Where,

<b>P<sub>1</sub></b>	Updated Rate of sleeper
<b>P<sub>0</sub></b>	Accepted Rate of sleeper
<b>I<sub>1</sub></b>	WPI for Pig Iron during production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http:// eaindustry.nic.in</a>
<b>I<sub>0</sub></b>	WPI of Pig Iron for one month before tender opening month as per Economic Advisor, Ministry of Industry Web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
<b>L<sub>1</sub></b>	All India Consumer Price Index of Industrial Labour during production Month, as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a>
<b>L<sub>0</sub></b>	All India Consumer Price Index for Industrial Labour for one month before tender opening month as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a>

<b>S<sub>1</sub></b>	WPI for alloy steel wire rods during Production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http:// eaindustry.nic. in</a>
<b>S<sub>0</sub></b>	WPI for alloy steel wire rods for one month before tender opening month as per Economic Advisor, Ministry of Industry web site <a href="http:// eaindustry.nic. in">http:// eaindustry.nic. in</a>
<b>C<sub>1</sub></b>	WPI for “Ordinary Portland Cement” during production month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
<b>C<sub>0</sub></b>	WPI for “Ordinary Portland Cement” one month before tender opening month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
<b>W<sub>1</sub></b>	WPI for all commodities during production Month as per Economic Advisor, Ministry of Industry web site <a href="http:// eaindustry.nic. in">http:// eaindustry.nic. in</a>
<b>W<sub>0</sub></b>	WPI for all commodities for one month before tender opening month, as per Economic Advisor, Ministry of Industry web site <a href="http:// eaindustry.nic. in">http:// eaindustry.nic. in</a>

1.4 In order to avoid blockage of funds till final escalation is worked out and paid on the basis of indices for the month of production, the accepted price will be updated every six months as per the above formula for escalation. First updating shall be done on the basis of indices for the month of acceptance of tender as soon as confirmed indices for the month of acceptance are available. Payment for the supplies made shall be done at the latest updated price.

1.5 No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.



**Table A. Foreign Currency (FC)**

Not applicable as Tenderers are required to quote rates and prices only in INR.

**Table B. Summary of Payment Currencies**

Not applicable as Tenderers are required to quote rates and prices only in INR.  
Accordingly payment will be made in INR only.

## Appendix B to Financial part: Bill of Quantities

### 1. Preamble

- 1.1. The Bill of Quantities shall be read in conjunction with the Instructions to Tenderers, the General Conditions, the Special Conditions and the Supply Requirements and the Addenda/Corrigenda (if any).
- 1.2. The quantities given in the Bills of Quantities are estimated and provisional and are given to provide a common basis for tendering. The basis of payment will be the actual quantities ordered and supply carried out, as measured by the Supplier and verified by the Engineer and valued at the rates and prices in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
- 1.3. The supply of sleepers in accordance with the terms and conditions of this contract shall be at the accepted unit rate, subject to price adjustment in terms of SCC Para 15.1. In addition to the accepted rate the Supplier will also retain GST input credits available on input materials on the date of opening of the tender. GST input credit shall be covered under Clause 15.1.3 of Section IX-Special Conditions of Contract.”
- 1.4. The **quoted** rate shall be inclusive of the cost of all labour and all-inclusive cost of input materials (including cost of input freight if any) like HTS Wire, Inserts, Cement and coarse and fine aggregates, Fuel and Power etc., GST, including all handling charge and duties thereon.
  - 1.4.1. The **quoted** rate would also include loading of PSC sleepers into the road vehicles, transportation, unloading & stacking at nominated location and all other incidental charges for delivery up to consignee destination as per Schedule of Requirement in Section VII-Schedule of Requirements.
  - 1.4.2. The quoted rates shall be exclusive of inspection charges to be charged by inspecting Railway which will be paid by the HRIDC directly to inspecting Railway. However, third party inspection of all input materials required as per IRS Specification T-39 shall be arranged by the tenderer on the advice of inspecting Railway and inspection charges to be borne by the tenderer.
- 1.5. The supply of sleepers in accordance with the terms and conditions of this contract shall be at the accepted unit rate, subject to price variation in terms of Appendix A to Financial Part: Schedule of Adjustment Data.
- 1.6. Statutory variation in GST will be applicable. The purchaser will, however, not be responsible for the reimbursement of any Taxes/Levies paid by the Supplier under misapprehension of law.

1.7. In the event of 'GST' input credit being extended by the Government of India to more items than those already covered on date of tender opening, the firm should advise the purchaser about the additional benefits accrued or any variation thereof, through a letter containing the following certificate.

“We hereby declare that additional set-offs/Input tax credit to the tune of Rs..... has accrued and accordingly the same is being passed on to the purchaser and to that effect the payable amount may be adjusted.”

1.8. The Payment shall be made as per Clause 16 [Terms of Payment] of the General Conditions and Special Conditions of Contract.

1.9. The Purchaser shall make interim payments to the Supplier in accordance with the provisions of Sub-Clause 16.1 [Terms of Payment] of the General Conditions and Special Conditions of Contract, as certified by the Engineer.

1.10. The Supplier shall base its claim for interim payment in accordance with Sub-Clause 16.1 [Terms of Payment] of the General Conditions and Special Conditions for supplies completed till the end of the month, supported with documents and updated programme in accordance with the Supply Requirements.

1.11. Format for the Supplier's application for payment shall be agreed between the Engineer and the Supplier.

1.12. All necessary supplementary details to support delivery at destination, Railways test reports, input materials test reports, consignee receipt certificate etc. shall accompany an application for payment to be substantiated and certified by the Engineer and submitted to the Purchaser.

1.13 The Contract will remain current and valid for a stipulated delivery period including extensions if any, with effect from the date of acceptance of tender/counter offer, as the case may be.

**2.0 Bill of Quantities**

<b><u>Bill of Quantities</u></b>						
<b>NAME OF WORK</b>	PSC-02: Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project.					
<b>Item No.</b>	<b>Item of Work</b>	<b>Unit</b>	<b>Purchaser with GST No</b>	<b>Quantity</b>	<b>Rate (Rs)</b>	<b>Amount (Rs)</b>
<b>1</b>	Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project & Railway Yard at Maruti Suzuki India Ltd. Manesar. ( The <b>quoted</b> rate would also include GST and other duties, loading of PSC sleepers into the road vehicles, transportation, unloading & stacking at nominated location and all other incidental charges for delivery up to consignee destination)	Nos.	<b>Haryana Orbital Rail Corridor Limited (HORCL) GST No:- 06AAFC H1537H1 ZS</b>	22,500	4015.54	90,349,650
			<b>Haryana Rail Infrastructure Development Corporation Limited (HRIDC) GST No:- 06AAEC H5312B1 Z8</b>	12500	4015.54	50,194,250
	<b>Total Estimated Amount (INR)</b>					<b>140,543,900</b>

### Bill of Quantities

(Please refer Bill of Quantities uploaded on eProcurement portal for quoting percentage rate)

[Validate](#)   [Print](#)   [Help](#)   **Item Rate BoQ**

Tender Inviting Authority: Haryana Rail Infrastructure Development Corporation Ltd

Name of Work: PSC-02: Manufacture and Supply of Pre-Stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Rail Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project.

Contract No: HORC/HRIDC/PSC-02/2024

Name of the Bidder/ Bidding Firm / Company :

**Bill of Quantities**  
 (This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant details. Bidder is liable to be rejected for this tender. Tenderers are allowed to enter the Tenderer Name and Logo in the designated space.)

NUMBER #	TEXT #	NUMBER	NUMBER #	NUMBER #	TEXT #
Sl. No.	Item Description	Estimate	PERCENTAGE RATE (%) to be entered by the Bidder	TOTAL AMOUNT With Taxes	TOTAL AMOUNT In Words
1	Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Rail Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project. & Railway Yard at Maruti Suzuki India Pvt. Ltd. The quoted rate would also include transportation, unloading of PSC sleepers into the storage area, and other incidental charges at the project location and consignee's location.	14,05,43,900.00	Select	-	INR Zero Only
Total in Figures				-	INR Zero Only
Quoted Rate in Words				INR Zero Only	

  \*Tenderer is only required to fill the information in the boxes highlighted with cyan colour in Price Schedule (Excel sheet)

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**Section V - Eligible Countries**

**Deleted**



### Section VI –Prohibited Practices

1. The Purchaser requires that tenderers, suppliers, contractors to observe the highest standard of transparency and integrity during the procurement, execution and implementation of such contracts.
2. Definitions. In pursuance of this policy, the Purchaser defines:
  - i. the terms set forth below as Prohibited Practices:
    - (a) “**Coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party.
    - (b) “**Collusive practice**” means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.
    - (c) “**Corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
    - (d) “**Fraudulent practice**” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
    - (e) “**Misuse of resources**” means improper use of the Purchasers’s resources, carried out either intentionally or through reckless disregard.
    - (f) “**Obstructive practice**” means any of the following practices: (i) deliberately destroying, falsifying, altering or concealing of evidence material to a Purchaser investigation; (ii) making false statements to investigators in order to materially impede a Purchaser investigation into allegations of a Prohibited Practice; (iii) failing to comply with requests to provide information, documents or records in connection with a Purchaser investigation; (iv) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Purchaser investigation or from pursuing the investigation; or (v) materially impeding the exercise of the Purchaser’s contractual rights of audit or inspection or access to information.
    - (g) “**Theft**” means the misappropriation of property belonging to another party.
  - ii. will reject a Bid for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract; and
  - iii. will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Employer’s activities, if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the employer.

3. The Purchaser requires that tenderers, suppliers, contractors to observe the highest standard of transparency and integrity during the procurement, execution and implementation of such contracts.
4. Definitions. In pursuance of this policy, the Purchaser defines:
  - iv. the terms set forth below as Prohibited Practices:
    - (h) “**Coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party.
    - (i) “**Collusive practice**” means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.
    - (j) “**Corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
    - (k) “**Fraudulent practice**” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
    - (l) “**Misuse of resources**” means improper use of the Purchaser’s resources, carried out either intentionally or through reckless disregard.
    - (m) “**Obstructive practice**” means any of the following practices: (i) deliberately destroying, falsifying, altering or concealing of evidence material to a Purchaser investigation; (ii) making false statements to investigators in order to materially impede a Purchaser investigation into allegations of a Prohibited Practice; (iii) failing to comply with requests to provide information, documents or records in connection with a Purchaser investigation; (iv) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Purchaser investigation or from pursuing the investigation; or (v) materially impeding the exercise of the Purchaser’s contractual rights of audit or inspection or access to information.
    - (n) “**Theft**” means the misappropriation of property belonging to another party.
  - v. will reject a Bid for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract; and
  - vi. will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Employer’s activities, if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the employer.

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## **Summary**

### **Notice Inviting Tender (NIT)**

#### **PART 1 – TENDERING PROCEDURES**

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Section III - Evaluation and Qualification Criteria

Section IV - Tender Forms

Section V - Eligible Countries

Section VI - Prohibited Practices

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- 2. Dispatch**
- 3. Technical Specifications**
- 4. Drawings**
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- 6. Modification to Design**

### 1. List of Goods and Delivery Schedule

The supply of sleepers shall commence within one months from the date of unconditional acceptance of offer/issue of acceptance. Thereafter, the ordered quantity shall be supplied during the delivery period (D.P) of 120 days as detailed below:

S. No.	Description of Goods	Tentative Delivery Destination	Approx Qty	Unit	Delivery Month
1	Manufacture and Supply of Pre-stressed Mono Block Concrete Line Sleepers conforming to RDSO Drg. No. T-8746 in connection with laying of New BG Double Railway Line for C-1 Section of Haryana Orbital Rail Corridor (HORC) Project & Railway Yard at Maruti Suzuki India Ltd. Manesar. ( The quoted rate would also include GST and other duties, loading of PSC sleepers into the road vehicles, transportation, unloading & stacking at nominated location and all other incidental charges for delivery up to consignee destination)	Railway Yard in Maruti Suzuki India Limited Plant at Manesar	12500	Nos.	D+2
2		Manesar Yard of HORC	15000	Nos.	D+3
3		Near Bridge No 134 at NH-352 W	3500	Nos.	D+4
4		At approximate HORC Chainage of 50 km near Manesar	4000	Nos	D+4
<b>Total</b>			<b>35000</b>	Nos.	

Note: 'D' is the date of issue of Letter of Acceptance.

### 2. Dispatch

- 2.1. The Consignee to receive material will be Senior Track Expert/General Consultant/HORC or any other personnel nominated by HRIDC.
- 2.2. The Supplier shall be responsible for delivery of sleepers to consignee/destination indicated by the Purchaser during the execution of contract. Unloading and stacking at Consignee's destination will also have to be arranged by the Supplier.

### 3. Technical Specifications

#### 3.1 Technical Specifications. The Goods and Related Services shall comply with following Technical Specifications and Standards:

Name of Goods or Related Service	Technical Specifications and Standards
Pre-stressed Mono-Block Concrete line Sleepers confirming to RDSO specification RT-8746	Indian Railway Standard Specification No T-39(6 the revision, March 2021 or latest as on date of tender opening)  Current specifications has been attached as <b>Annexure-1</b>
	Schedule of Technical Requirement (STR) for PSC Sleepers-June 2023 or latest as on date of tender opening  Current STR has been attached as <b>Annexure-2</b>

#### 3.2 Deleted

#### 3.3 Raw Material, Machinery and Plant

- 3.3.1 The responsibility for procurement of all raw materials, machinery and plants required for the manufacture of goods shall rest entirely with the supplier.
- 3.3.2 53-S grade Ordinary Portland Cement confirming to BIS Specifications IS:269:2015 as amended up to date of tender opening shall be procured by the Supplier at his own from the from the Cement manufacturers having valid Bureau of Indian Standards license for manufacturing of 53-S grade Ordinary Portland Cement
- 3.3.3 HTS Wires shall be procured from the firms who are approved for manufacture of HTS Wire by Bureau of Indian Standards and possess a current valid BIS License for manufacture of the particular type of wire i.e. 3 x 3 mm strand, 7/7.5 mm plain wire or 9.5 mm dia strand as the case may be.
- 3.3.4 SGCI Inserts shall be procured from the firms, who are approved by RDSO for the manufacture of SGCI inserts and whose approval is current and valid. SGCI Inserts can also be procured from ISO certified firms as per guidelines issued vide RDSO's letter No. QA/CT/INSP/CI/Policy dated 25.08.2008.
- 3.3.5 Aggregates shall be procured by the Supplier from the sources approved at the time of approval of concrete mix design. If crushed sand is being used as fine aggregate in design mix concrete, then it should not be by-product of any other manufacturing process and should be in conformity to the provisions provided for crushed sand in IRS-T-39.
- 3.3.6 The cement content in the concrete mix shall not be more than 450 Kg/cum. This may necessitate use of plasticizer, which shall be procured by Supplier as per requirements laid in IRS-T-39. Quoted rate shall be inclusive of cost of plasticizer/admixture.

#### 4. Drawings

This Tender Document includes the following drawings.

<b>S. No.</b>	<b>Drawing No.</b>	<b>Description</b>
1	Pre-stressed Mono-Block Concrete line Sleepers confirming to RDSO specification RT-8746	As per Indian Railway Standard Specification No T-39 (6 <sup>th</sup> revision, March 2021 or latest as on date of tender opening) and Schedule of Technical Requirement (STR) for PSC Sleepers-June 2023 or latest as on date of tender opening.

Note\* A copy of relevant specification and drawing can be obtained on payment by the Tenderers from the Director General (Track), RDSO, Manak Nagar, Lucknow.



## 5. Inspections and Tests

- 5.1 Inspection of finished sleepers will be carried out by the Railway, in whose jurisdiction CSP of Supplier situated, at Supplier's premises as per procedure and frequency decided by the HRIDC/Railway. The inspection charges for inspection of sleepers by Railway/RDSO shall be borne by HRIDC. Inspection charges for all input materials like SGCI inserts etc. by RITES or any other third party inspection as per advise of Engineer/Railway/HRIDC or as per IRS Specification T-39 shall be borne by the Supplier.
- 5.2 Necessary coordination with the nominated inspecting staff at the factory will have to be done by the Supplier to facilitate prescribed inspection.
- 5.3 The Supplier shall be required to install and operate all necessary testing equipment required for testing the sleepers, test cubes, briskets etc. as stipulated in the IRS Specification for pre-stressed concrete sleepers (Pretension type). The testing equipment for the same must be available at the factory site. In addition, the Supplier shall arrange at his own cost for any further tests on materials, as may be indicated by the Engineer/Inspecting Officer, to be carried out at recognized Material Testing Centers/Institutes during the progress of manufacture of sleepers; even though, Test Certificates for such materials are available.
- 5.4 The passed sleepers, for which inspection certificates have duly been obtained, only shall be allowed to be taken for loading in road vehicles. Any damage to the sleepers in the process of loading in vehicles or carrying to the loading sites from the Supplier's premises shall be to Supplier's account.
- 5.5 Deleted
- 5.6 The testing of PSC line sleepers and their subsequent acceptance should be in accordance with the Standard Specifications of PSC line sleepers (IRS T-39) as amended up to date.
- 5.7 The supplier of PSC sleepers shall ensure that the necessary checks on supply of raw material e.g. Cement, aggregate, HTS wire, SGCI insert, as well as plants, machinery, equipments, instruments such as moulds, weigh-batching plant, stressing system, mixing & vibration system, steam curing system, de-moulding and de-tensioning, water curing, product inspection and lab testing, sleeper testing and dispatch etc. are being done as per the checklists issued by Railways Board/ RDSO from time to time and record of same shall be maintained.
- 5.7.1 Compliance to provisions of STR (Schedule of Technical Requirement):  
The production of PSC sleepers against this tender shall be permitted only when the Concrete Sleeper Plant has complied all the provisions of STR.
- 5.7.2 Temporary suspension of production:  
During course of execution, the production of the concrete sleepers may be temporarily suspended by Engineer on the advice of its inspecting officials or RDSO in serious cases of

non-adherence to Specifications/Schedule of Technical Requirement or large scale rejection of sleeper (>2%) or premature failure of sleepers in track. Engineer may order for temporary suspension of the production in above cases and direct the manufacturer to identify the defects in the manufacturing process and rectify the same within a reasonable period. Production will be resumed once the manufacturer identifies and removes the defects and same is verified by the Engineer and/or RDSO as the case may be. While allowing resumption of production, Engineer may also order for higher scale of testing, till quality of production is stabilized in terms of provisions of IRS-T-39.

- 5.7.3 The plants, which have not done any production for past more than one year (reckoning from issue of LOA), will be permitted to resume production only after re-validation/certification of plant by RDSO.
- 5.7.4 In cases, where contract of a CSP under previous contract, had to be cancelled/terminated on account of large scale rejection(>2%)/quality issues, the production will be allowed to be resumed only after re-validation/certification of plant by RDSO and initial 10,000 sleepers will be tested and passed by RDSO.
- 5.8 Sleepers used for tests, including abrasion test, and found as per specifications and drawings shall be paid for by the Purchaser at accepted rates. Such sleepers paid for shall remain the property of the Purchaser and will be disposed of in the manner prescribed by the Purchaser from time to time.
- 5.9 The rejected sleepers shall be permanently damaged by the Supplier so as to make them unusable in addition to the provisions provided in “Indian Railway specification for pre-tensioned prestressed concrete sleepers (serial no. T-39)”. A certification that all rejected sleepers of previous batches have been permanently damaged and marked as per drawing, will be given by manufacturer before offering the next batch of fresh sleepers for inspection.
- 5.10 Regular inspection of SGCI inserts will be done by M/s RITES Ltd. or any other nominated agency by Engineer at manufacturer’s premises. Inspection charges & GST as applicable towards the inspection charges by RITES/Nominated Inspection agency will be borne by Supplier CSPs. Besides regular inspection by RITES/Nominated inspection agency, HRIDC/Nominated Railway officials will also conduct the inspections prescribed in Railway Board’s letter no. 98/TK-II/22/11/17/Pt. Policy, dtd. 11.08.2003.
- 5.11 Regular inspection of HTS wire will be done by Inspecting authorities nominated by Engineer at manufacturer’s premises in accordance with IS: 6006. In addition to this, periodical test checks by nominated inspecting officer to be stipulated by the Inspecting Railway shall also be carried out. Apart from Railways necessary inspection shall also be carried out by HRIDC/General Consultant.
- 5.12 CSPs will ensure procurement of 53-S Grade Cement to requisite specification from BIS Licensee manufacturers along with their own Manufacturers Test Certificate with each consignment. In addition to this, periodical test checks by nominated Railway officer to be stipulated by the Inspecting Railway/Engineer and shall also be carried out.

## **6. Modification to Design**

In case purchaser, at any stage, during the currency of the contract, decide to make minor modifications to the design of PSC Sleeper, the supplier shall modify the moulds, manufacturing process, etc. to suit such minor modifications. The cost of such modifications will be negotiated and mutually settled and will be paid by the purchaser.

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**Section VIII - General Conditions of Contract (GCC)****Clauses**

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#### **Appendix to General Conditions: Prohibited Practices**

## Section VIII - General Conditions of Contract (GCC)

### 1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “Bank” means the Asian Infrastructure Investment Bank.
- (b) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices and all documents incorporated by reference therein.
- (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- (d) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (e) “Day” means calendar day.
- (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (g) “GCC” means the General Conditions of Contract.
- (h) “Goods” means all of the commodities, raw material, machinery and equipment and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (i) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
- (j) “Purchaser” means the entity purchasing the Goods and Related Services, as named in the Contract Agreement and specified in the **SCC**.
- (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.
- (l) “SCC” means the Special Conditions of Contract.
- (m) “SubSupplier” means any person, private or government entity, or a combination of the above, to whom any part of



the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

- (n) “Supplier” means the person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
- (o) “The Project Site,” where applicable, means the place named in the **SCC**.

## 2. **Contract Documents**

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract Agreement shall be read as a whole.

## 3. **Prohibited Practices**

3.1 The Bank requires compliance with the Bank’s Policy on Prohibited Practices as set forth in Appendix to the GCC.

3.2 The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party; the amount and currency; and the purpose of the commission, gratuity or fee.

## 4. **Interpretation**

4.1 If the context so requires it, singular means plural and vice versa.

### 4.2 Incoterms

- (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms specified in the **SCC**.
- (b) The terms EXW, CIP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

### 4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

#### 4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

#### 4.5 Nonwaiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers or remedies under the Contract must be in writing, dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### 5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

- 6. Joint Venture, Consortium or Association**
- 6.1 If the Supplier is a joint venture, consortium or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium or association. The composition or the constitution of the joint venture, consortium or association shall not be altered without the prior consent of the Purchaser.
- 7. Eligibility**
- 7.1 The Supplier and its SubSuppliers shall have the nationality of an eligible country. A Supplier or SubSupplier shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed by the Bank shall have their origin in Eligible Countries. For the purpose of this Clause origin means the country where the goods have been grown, mined, cultivated, produced, manufactured or processed; or through manufacture, processing or assembly, another commercially recognized article result that differs substantially in its basic characteristics from its components.
- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser’s Country, unless otherwise specified in the **SCC**.
- 9.2 Throughout the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in the Purchaser’s Country when
- (a) as a matter of law or official regulations, the Recipient’s country prohibits commercial relations with that country; or
  - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Recipient’s Country prohibits any import of goods from that country or any payments to any country, person or entity in that country.

- 10. Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC**.
- 10.3 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Purchaser shall pay the Supplier any monies due the Supplier.
- 11. Inspections and Audit by the Bank**
- 11.1 The Supplier shall keep, and shall make all reasonable efforts to cause its SubSuppliers to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.
- 11.2 The Supplier shall permit and shall cause its agents (whether declared or not), subSuppliers, subconsultants, service providers, suppliers and their personnel, to permit the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the procurement process, tender submission, proposal submission, and contract execution, and to have such accounts, records and other documents audited by auditors appointed by the Bank.
- 12. Scope of Supply**
- 12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- 13. Delivery and Documents**
- 13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the **SCC**.

- 14. Supplier's Responsibilities** 14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.
- 15. Contract Price** 15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorized in the **SCC**.
- 16. Terms of Payment** 16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.
- 16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the Tender price is expressed.
- 16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the **SCC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 17. Taxes and Duties** 17.1 For goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees and other such levies imposed outside the Purchaser's Country.
- 17.2 For goods manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the

Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

## **18. Performance Security**

18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.

18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 As specified in the **SCC**, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in the format stipulated by the Purchaser in the **SCC**, or in another format acceptable to the Purchaser.

18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

## **19. Copyright**

19.1 The copyright in all drawings, documents and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party

## **20. Confidential Information**

20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its SubSupplier such documents, data and other information it receives from the Purchaser to the extent required for the SubSupplier to perform its work under the Contract, in which event the Supplier shall obtain from such SubSupplier an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Purchaser shall not use such documents, data and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data and other information received from the

Purchaser for any purpose other than the performance of the Contract.

20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

- (a) the Purchaser or Supplier need to share with the Bank or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

**21. Subcontracting** 21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Tender. Such notification, in the original Tender or later shall not relieve the Supplier from any of its obligations, duties, responsibilities or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

**22. Specifications and Standards** 22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards as specified in the Schedule of Supply part of the Contract and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or

designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Supply part of the Contract. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

### **23. Packing and Documents**

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Purchaser.

### **24. Insurance**

24.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

### **25. Transportation and Incidental Services**

25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in **SCC**:

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;



- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance and/or repair of the supplied Goods.

25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

## **26. Inspections and Tests**

26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.

26.2 The inspections and tests may be conducted on the premises of the Supplier or its SubSupplier, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its SubSupplier, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.

26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and

standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.

26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

## **27. Liquidated Damages**

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

## **28. Warranty**

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## **29. Patent Indemnity**

29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Supplier, pursuant to the Contract.

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers and SubSuppliers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification or other documents or materials provided or designed by or on behalf of the Purchaser.

**30. Limitation of Liability**

- 30.1 Except in cases of criminal negligence or willful misconduct,
- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
  - (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser with respect to patent infringement.

**31. Change in Laws and Regulations**

- 31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Tender submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the

Purchaser's Country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

- 32. Force Majeure**
- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 33. Change Orders and Contract Amendments**
- 33.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
  - (b) the method of shipment or packing;
  - (c) the place of delivery and
  - (d) the Related Services to be provided by the Supplier.
- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any

provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 **Value Engineering:** The Supplier may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

- (a) the proposed change(s), and a description of the difference to the existing contract requirements;
- (b) a full cost/benefit analysis of the proposed change(s), including a description and estimate of costs (including life cycle costs) the Purchaser may incur in implementing the value engineering proposal and
- (c) a description of any effect(s) of the change on performance/functionality.

The Purchaser may accept the value engineering proposal if the proposal demonstrates benefits that:

- (a) accelerates the delivery period; or
- (b) reduces the Contract Price or the life cycle costs to the Purchaser; or
- (c) improves the quality, efficiency or sustainability of the Goods; or
- (d) yields any other benefits to the Purchaser,

without compromising the necessary functions of the Goods.

If the value engineering proposal is approved by the Purchaser and results in:

- (a) a reduction of the Contract Price; the amount to be paid to the Supplier shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or

- (b) an increase in the Contract Price, but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Supplier shall be the full increase in the Contract Price.

33.5 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

#### **34. Extensions of Time**

34.1 If at any time during performance of the Contract, the Supplier or its subSuppliers should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

#### **35. Termination**

##### **35.1 Termination for Default**

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
  - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;
  - (ii) if the Supplier fails to perform any other obligation under the Contract or
  - (iii) if the Supplier, in the judgment of the Purchaser has engaged in Prohibited Practices, as defined in paragraph 2 of the Appendix to the GCC, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such

manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### 35.2 Termination for Insolvency

- (a) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

### 35.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

## **36. Assignment**

36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

## **37. Export Restriction**

37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those



products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser and of the Bank that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

### Section IX - Special Conditions of Contract (SCC)

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>GCC 1.1(i)</b>	The Purchaser's Country is: India
<b>GCC 1.1(j)</b>	The Purchaser is: Haryana Orbital Rail Corridor Limited (HORCL) & Haryana Rail Infrastructure Development Corporation Limited (HRIDC)
	Add at the end of Sub-Clause 1.1  The Purchaser's Representative is: Haryana Rail Infrastructure Development Corporation Limited (HRIDC)
<b>GCC 1.1(n)</b>	Supplier shall mean Supplier/Contractor
<b>GCC 1.1 (o)</b>	The Project Site(s)/Final Destination(s) is as specified in Section VII: Schedule of Requirements.
Add New Sub-Clause 1.1 (p) at the end of GCC Sub-Clause 1.1 (o)	
<b>GCC 1.1 (p)</b>	Engineer is: RITES Limited in Consortium with SMEC International Pty Ltd, Address: 4th Floor, Plot No.144, RITES Limited, Sector-44, Gurugram, Haryana-122003  The Engineer shall manage the Contract and shall also process payments to the Supplier.
<b>GCC 4.2 (a)</b>	The meaning of the trade terms shall be as prescribed by Incoterms.
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be <b>2020 (latest updated)</b> .
<b>GCC 5.1</b>	The language shall be: <b>English</b>

<b>GCC 8.1</b>	<p>For <b>Notices</b>,</p> <p>a) the Purchaser's address shall be:</p> <p style="padding-left: 40px;">Haryana Orbital Rail Corporation Limited, IRCON International Tower-2, Plot No. 16, Sector-32, Gurugram, Haryana- 122003</p> <p>b) the Engineer's address shall be:</p> <p style="padding-left: 40px;">RITES Limited in Consortium with SMEC International Pty Ltd, Address: 4th Floor, Plot No.144, RITES Limited, Sector-44, Gurugram, Haryana-122003</p> <p>c) the Supplier's address shall be: To be entered at the time of signing of Contract Agreement</p>
<b>GCC 9.1</b>	The governing law shall be the law of <b>India</b> .
<b>GCC 10.2</b>	<p>This clause stands amended and restated in its entirety as follows:</p> <p>10.2.1 Disputes shall be settled by arbitration in accordance with the following provisions:</p> <p style="padding-left: 40px;">If the efforts to resolve all or any of the disputes through amicable settlement fail, then such disputes or differences, whatsoever arising between the parties, arising out of the Contract or relating to effect of the Contract or the breach thereof shall be referred to Arbitration in accordance with the following provisions:</p> <p style="padding-left: 40px;">(a) The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by Managing Director of the Purchaser (MD/HORCL).</p> <p style="padding-left: 40px;">(b) The disputes so referred to arbitration shall be settled in accordance with the Indian Arbitration &amp; Conciliation Act, 1996 and amended by the Arbitration and Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof. Further, it is agreed between the parties as under:</p> <p style="padding-left: 40px;">Number of Arbitrators - The Arbitral tribunal shall consist of 3 (three) arbitrators.</p>

**1. Procedure for Appointment of Arbitrators**

The arbitrators shall be appointed as per following procedure:

- a) Within 30 days from the day when a written and valid demand for Arbitration is received by MD/HORCL, the Purchaser will forward a panel of not fewer than five (05) independent and neutral nominees to the Supplier. These names shall be obtained from those Organizations, for the purpose of nominating them as DAAB Members/Conciliator/Arbitrator, who are also not ex- employees or directly or indirectly associated with the Purchaser. The Supplier may propose another five members to add to the above list who shall not be an ex- employees or directly or indirectly associated with the Supplier. The Supplier will then give his consent for any one name out of the above panel list to be appointed as one of the arbitrators within 30 days of dispatch of the request by the Purchaser.
- b) The Purchaser will decide the second Arbitrator. MD/HORCL shall appoint the two Arbitrators, including the name of one Arbitrator for whom consent was given by the Supplier, within 30 days from the receipt of the consent for one name of the Arbitrator from the Supplier. In case the Supplier fails to give his consent within 30 days of the request of the Purchaser, MD/HORCL shall nominate both the Arbitrators from the panel. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of Arbitrators finalized in para (a) above who shall act as presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus for the appointment of presiding Arbitrator within a period of 30 days from their appointment, then, upon the request of either or both parties, the presiding Arbitrator shall be appointed by the President of Indian Council of Arbitration, New Delhi, India.
- c) If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as Arbitrator for any reason whatsoever or dies or in the opinion of the MD/HORCL fails to act without undue delay, the MD/HORCL shall appoint new Arbitrator/Arbitrators to act in his/their place except in case of new presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (b) above. Such reconstituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).
- d) The Purchaser 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 Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the

	<p>Supplier. The minimum qualification and experience of the arbitrators which may be appointed by the Parties in accordance with the contract is set out below:</p> <p>(i) A working/retired officer (not below E-8 grade in a central public sector undertaking in India, with which the Purchaser has no direct business relationship), of engineering or accounts/finance discipline, having experience in management of construction contracts; or</p> <p>(ii) A retired officer (not below the SAG level in Indian Railways) of any Engineering Services of Indian Railways or Indian Railway Accounts Service, having experience in management of construction contracts;</p> <p><b>2. Miscellaneous:</b> In any arbitration proceeding hereunder:</p> <p>(a) The language of arbitration shall be English. This arbitration shall be governed in accordance with the laws of India.</p> <p>(b) The venue of the arbitration shall be Gurugram, India. The cost of Arbitration including the fees of the Arbitrator shall be borne equally by both the parties.</p> <p>(c) The decision of the majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in High court at Chandigarh, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p> <p>21.6.2 In the event that the Supplier wishes to refer a dispute to arbitration in accordance with this Sub-Clause, it shall be required to serve a notice in this regard to the Managing Director, of the Purchaser for commencement of arbitration.</p> <p>21.6.3 Pending the submission of and/or decision on a dispute and until the arbitral award is published, the Parties shall continue to perform their respective obligations under the contract without prejudice to a final adjustment in accordance with such award.</p> <p>21.6.4 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, and any decision of the DAAB, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Engineer from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute. However, Conciliator cannot be present as a witness by either party in the arbitral proceedings.</p>
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	<p>21.6.5 Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the DAAB to obtain its decision, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.</p> <p>21.6.6 Neither party shall be limited in the proceedings before such arbitrators to the evidence or arguments put before the Engineer to obtain his decision. No decision given by the Engineer in accordance with the contract shall disqualify him from being called as a witness and giving evidence before the arbitrators on any matter, whatsoever, relevant to dispute referred to arbitration.</p> <p>21.6.7 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Engineer and the DAAB shall not be altered by reason of any arbitration being conducted during the progress of the Works.</p>
<p><b>GCC 13.1</b></p>	<p>Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and send the following documents to the Purchaser:</p> <ul style="list-style-type: none"> <li>(a) <b>Two (02)</b> copies of the Supplier's invoice showing the description of the Goods, quantity, unit price and total amount;</li> <li>(b) Consignee/dispatch note issued by the Agency engaged for the transportation of the Good;</li> <li>delivery note, railway receipt or truck receipt;</li> <li>(b) Manufacturer's or Supplier's warranty certificate;</li> <li>(c) Insurance Certificate / Insurance Policy</li> <li>(d) Inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and</li> <li>(e) evidence of payment of customs duties or other similar import taxes on directly imported components incorporated in the Goods.</li> <li>(f) Certificate of Origin</li> </ul> <p>The above documents shall be received by the Purchaser before the arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p>

<b>GCC 15.1</b>	<p><b>Replace entire Sub-Clause 15. 1 with the following:</b></p> <p>15.1.1 The Contract price shall included all duties (including Customs duties), taxes including Goods and Services Taxes (GST), insurances, transportation cost to the final destination (Project site), Inspection charges, Freight Charges, royalties, fees, cess, octroi/Entry tax, other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders shall be included in the rates, prices and the total Tender Price submitted by the Tenderer.</p> <p><b>15.1.2</b> The prices charged for the Goods supplied and the related Services performed <b>shall</b> be adjustable.</p> <p><b>Price Adjustment Formula</b></p> <p>The following method shall be used to calculate the price adjustment:  <math display="block">P_1 = (P_0 / 100) (10 + 23 I_1 / I_0 + 11 L_1 / L_0 + 21 S_1 / S_0 + 26 C_1 / C_0 + 9 W_1 / W_0)</math></p> <p>Where,</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><b>P<sub>1</sub></b></td> <td>Updated Rate of sleeper</td> </tr> <tr> <td><b>P<sub>0</sub></b></td> <td>Accepted Rate of sleeper</td> </tr> <tr> <td><b>I<sub>1</sub></b></td> <td>WPI for Pig Iron during production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http:// eaindustry.nic.in</a></td> </tr> <tr> <td><b>I<sub>0</sub></b></td> <td>WPI of Pig Iron for one month before tender opening month as per Economic Advisor, Ministry of Industry Web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a></td> </tr> <tr> <td><b>L<sub>1</sub></b></td> <td>All India Consumer Price Index of Industrial Labour during production Month, as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a></td> </tr> <tr> <td><b>L<sub>0</sub></b></td> <td>All India Consumer Price Index for Industrial Labourfor one month before tender opening month as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a></td> </tr> <tr> <td><b>S<sub>1</sub></b></td> <td>WPI for alloy steel wire rods during Production Month as per Economic Advisor, Ministry of Industry web site <a href="http:// eaindustry.nic. in">http:// eaindustry.nic. in</a></td> </tr> </table>	<b>P<sub>1</sub></b>	Updated Rate of sleeper	<b>P<sub>0</sub></b>	Accepted Rate of sleeper	<b>I<sub>1</sub></b>	WPI for Pig Iron during production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http:// eaindustry.nic.in</a>	<b>I<sub>0</sub></b>	WPI of Pig Iron for one month before tender opening month as per Economic Advisor, Ministry of Industry Web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>	<b>L<sub>1</sub></b>	All India Consumer Price Index of Industrial Labour during production Month, as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a>	<b>L<sub>0</sub></b>	All India Consumer Price Index for Industrial Labourfor one month before tender opening month as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nic.in">http://labourbureau.nic.in</a>	<b>S<sub>1</sub></b>	WPI for alloy steel wire rods during Production Month as per Economic Advisor, Ministry of Industry web site <a href="http:// eaindustry.nic. in">http:// eaindustry.nic. in</a>
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	<b>C<sub>1</sub></b>	WPI for “Ordinary Portland Cement” during production month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
	<b>Co</b>	WPI for “Ordinary Portland Cement” one month before tender opening month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
	<b>W<sub>1</sub></b>	WPI for all commodities during production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
	<b>Wo</b>	WPI for all commodities for one month before tender opening month, as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
	<p>15.1.3 In order to avoid blockage of funds till final escalation is worked out and paid on the basis of indices for the month of production, the accepted price will be updated every six months as per the above formula for escalation. First updating shall be done on the basis of indices for the month of acceptance of tender as soon as confirmed indices for the month of acceptance are available. Payment for the supplies made shall be done at the latest updated price.</p> <p>15.1.4 No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.</p>	
<b>GCC 16.1</b>	<p><b>Replace entire Sub-Clause 16.1 with the following:</b></p> <p>16.1.1 The time to time interim payment towards supply of finished goods shall be made at the updated rate. The final payment would be made as per Escalated/De-escalated rate worked out on the basis of Price Variation Clause (Clause 13). All payments will be made by the HORCL/HRIDC on submission of bills in accordance with the procedure as detailed below:</p> <p>16.1.2 70% of the price of each consignment will be paid after the PSC sleepers are inspected and passed by the Purchaser on execution of Indemnity Bond in the prescribed format given in Section X- Contract Forms for an equivalent amount by the Supplier. In such</p>	



	<p>cases of 70% advance payments, a copy of the Inspection Certificate shall be enclosed with the bills. The Supplier may submit the Indemnity Bond for 70% of the contract value in one go in lieu of submitting several Indemnity Bonds for 70% of value of each inspected consignment.</p> <p>16.1.3 Balance 30% of the price of each consignment will be paid on proof of dispatch and on submission of Indemnity Bond (in the prescribed format given in Section X-Contract Forms for 25% of the value of stores supplied covering the warranty period as per warranty clause. The Supplier may submit the Indemnity Bond for 25% value of the entire value of the contract in one go in lieu of submitting several Indemnity Bonds for 25% of each consignment. Consignor's Certificate shall be enclosed with 30% bills. In case, 70% payment as laid down in clause 15.2 above is not sought, 100% of the price of each consignment will be paid on proof of dispatch of stores and on submission of Indemnity Bond.</p> <p>16.1.4 All payments shall be subject to the deduction of any amount for which the Supplier is liable under this contract or any other contract in respect of which the HRIDC/HORCL/President of India is the Purchaser and any other deductions as are legally leviable as per Indian laws.</p> <p>16.1.5 Payment of Goods and Service Taxes (GST) The Supplier is responsible for paying all the taxes [including Goods and Service Tax (GST)], duties, cess, etc. as per the Statutory requirements. However, GST levied on the invoices raised by the Supplier will be temporarily withheld at the time of making payment for the invoice.</p> <p>GST withheld will be released by HRIDC/ HORCL on submission of proof, i.e. copy of Form GSTR-1 (reflecting the particular invoice) after due verification from the GST portal by the Purchaser.</p>
<b>GCC 16.4</b>	<p><b>Replace entire Sub-Clause 16.1 with the following:</b></p> <p>The currency for payments shall be as per INR only.</p>

<b>GCC 16.5</b>	<p>The payment-delay period after which the Purchaser shall pay interest to the supplier shall be <b>28</b> days.</p> <p>The interest rate shall be calculated at an interest rate equal to “State Bank of India’s (SBI) Marginal Cost of fund-based Lending Rate (MCLR)” applicable for the tenure of 01year prevailing on the due date plus three percent.</p>
<b>GCC 18.1</b>	<p><b>Replace Sub-Clause 18.1 with the following:</b></p> <p>The Supplier shall, within twenty-eight (28) days of the notification of contract award, provide performance security for the performance of the Contract. The amount of performance security shall be 5% of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount.</p> <p>In the event the Supplier fails to provide the Performance Security within 28 days from the date of issue of the LOA, it may seek an extension of time for providing the performance security for a period not exceeding a further 14 days on payment of damages for such extended period in a sum calculated at the rate of 0.005% of the Accepted Contract Amount for each day until the Performance Security is provided. The Supplier shall maintain the said Performance Security at its own expense, so that it shall remain in full force and effect until the issue of Performance Certificate. In the event of a revision of the Contract Price, the value of the Performance Security shall be increased proportionately by the Supplier, if required by the Purchaser. The cost of obtaining the Performance Security shall be at the expense of the Supplier.</p>

<b>GCC 18.3</b>	<p>The Supplier shall submit the Performance Security in any of the following forms:</p> <p>(a) Unconditional and irrevocable Bank Guarantee from the specified banks in the form appearing in Section X [Contract Forms] as under:</p> <p>(i) a scheduled bank (excluding co-operative banks) in India, or</p> <p>(ii) a Foreign Bank having arrangement with a nationalized bank or scheduled banks (excluding co-operative banks) in India;</p> <p>(b) Banker's Cheque or Demand Draft drawn on a scheduled bank (excluding co-operative banks) or nationalized bank in India.</p> <p>The scheduled bank issuing the bank guarantee shall be on “Structure Financial Messaging System (SFMS)” platform. A separate advice of the bank guarantee shall invariably be sent by the issuing bank to Purchaser’s Bank through SFMS and only of the same by the Purchaser’s Bank, the bank guarantee shall become operative and acceptable to the Purchaser. Further, the bank guarantees in original form along with a copy of “MT760COV (in case of bank guarantee message)/ MT767COV (in case of bank guarantee amendment message) Report” sent by the concerned issuing bank sealed in an envelope shall be submitted to the Purchaser.</p> <p>The Issuing Bank shall send the SFMS to:</p> <p>Beneficiary: Haryana Orbital Rail Corporation Limited</p> <p>Bank Name:</p> <p>IFSC Code:</p> <p>Note: All the instruments mentioned in (a) &amp; (b) above should be in favour of Haryana Orbital Rail Corporation Limited, IRCON International Tower-2, Plot No. 16, Sector-32, Gurugram, Haryana-122003.</p> <p>The Supplier shall ensure that the Performance Security is valid and enforceable until the Supplier has executed and completed the Works and remedied defects, if any. If, (a) the Supplier does not complete the Works for any reasons whatsoever, and (b) the Supplier has not become</p>
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	<p>entitled to receive the Performance Certificate by 28 days prior to the expiry date of the Performance Security, the Supplier shall be bound to extend the validity of the Performance Security until the Works have been completed and the defects have been remedied. If the Performance Security is or becomes invalid or unenforceable for any reason whatsoever, or if such security is withdrawn or expires, the Supplier must immediately notify the Purchaser and obtain within 3 days a replacement guarantee in the form appearing in Section X [Contract Forms] and which is acceptable to the Purchaser in its absolute discretion.</p> <p>The provision, maintenance and renewal by the Supplier of the Performance Security in accordance with this Sub-Clause 18.1 [Performance Security] shall be a condition precedent to any payment by the Purchaser to the Supplier under the Contract.</p> <p>If the Supplier fails to provide, maintain and renew the Performance Security in accordance with the Contract, the Purchaser shall, without prejudice to any other rights and remedies to which it may be entitled, shall have the right to invoke the Performance Security for the value equal to the damages to the Purchaser as a result of the Supplier's failure and/or by written notice terminate the Contract in accordance with Clause 35.</p>
<b>GCC 18.4</b>	Discharge of the Performance Security shall take place 28 days after the completion of warranty period under the Contract.
<b>GCC 23.2</b>	Stamping and marking of PSC sleepers will be as per Para 6 of IRS-T-39, Indian Railway Standard Specification for Pre-tensioned Pre-stressed Concrete Sleepers.
<b>GCC 24.1</b>	The insurance coverage shall be as specified in the Incoterms.
<b>GCC 25.1</b>	The Supplier is required under the Contract to transport the Goods to the place of final destination specified within the Section VII-Schedule of Requirements within the Purchaser's Country, defined as the Project Site. The transport to such place of destination in the Purchaser's Country, including insurance and storage, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.
<b>GCC 25.2</b>	<p>Replace Sub-Clause 25 with the following</p> <p>Incidental services to be provided are: as per Section VII : Schedule of Requirements.</p>

<b>GCC 26.1</b>	The inspections and tests shall be as specified in Section VII: Schedule of Requirements.
<b>GCC 26.2</b>	The inspections and tests shall be conducted at location specified in Section VII: Schedule of Requirements.

<b>GCC 27.1</b>	<p>Replace GCC 27.1 with the following</p> <p>If the Supplier fails to deliver the store within the delivery period as per contract or as extended or at any time repudiates the contract before the expiry of such period due to any circumstances whatsoever, save as provided in sub Clause (e), and force majeure conditions defined in Clause 32, the purchaser reserves the right to cancel the contract for the balance quantity in whole or in part and recover from him the liquidated damages as per sub Clause (g). If, however, the stores are accepted after the expiry of the period fixed for delivery, the purchaser may grant an extension of the delivery period at its sole discretion, subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) That the purchaser has the right to recover from the Supplier as agreed liquidated damages and not by way of penalty a sum equivalent to ½ (half) per cent of the price of any goods (including elements of taxes, duties, freight, etc.) which the Supplier has failed to deliver within the period fixed for delivery in the contract for each week or part of a week during which the delivery of such goods may be in arrears where delivery thereof is accepted after expiry of the aforesaid period. Upper limit for recovery of liquidated Damages in Supply Contracts will be 5 % (Five Per cent) of value of delayed supplies irrespective of delays, unless otherwise provided, specifically in the contract;</li><li>(b) That no increase in price on account of any statutory increase in or fresh imposition of Customs Duty, Excise Duty, Sales Tax, Freight Charges or on any account of any other tax or duty leviable in respect of the stores specified in the contract, which takes place after the date of delivery period stipulated in the said Acceptance of Tender shall be admissible on such of the said stores as are delivered after said date;</li><li>(c) That notwithstanding any stipulation in the contract for increase in price on any other grounds no such increase which takes place after the delivery date stipulated in the contract shall be admissible on such of the said as are delivered after the said date;</li><li>(d) But nevertheless the purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of Customs Duty, Excise Duty, Sales Tax or on account of any other ground which takes place after the expiry of the above mentioned date</li></ul>
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	<p>namely the delivery date stipulated in the contract. The Supplier shall allow the said benefit in his bills or in the absence thereof shall certify that no decrease in price on account of any of these factors has taken place.</p> <p>(e) If unsupplied quantities at the expiry of DP/extended DP are within 5% of the contracted quantity, then the same will be treated as cancelled without financial repercussion on either side”.</p> <p>(f) <u>Damages for slower supplies during “Monitoring Period”:</u></p> <p>The performance of delivery of sleepers will be reviewed after every 3 months. In case of failure on the part of the supplier to arrange supplies as per the specified delivery schedule fixed in advance, save force majeure conditions and/or cases of delays attributable to the HORCL, the purchaser reserves the right to cancel the quantity in deficit at the end of monitoring periods i.e. every three month and recover from the defaulting Supplier a sum equivalent to five percent of the cost of sleepers which have remained unsupplied. The recovery of five percent as detailed above will be effected only when HORCL cancel the quantities in deficit at the end of monitoring period through a written order to this effect. In case, HORCL do not cancel the quantities in deficit at the end of monitoring period, the supplier will be entitled to recoup the shortfall in subsequent monitoring period(s) and in such cases LD shall be leviable.</p> <p>(g) <u>Liquidated Damages (LD) for Failure to Complete Supplies within Delivery Period and Damages on Termination of Contract</u></p> <p>The Liquidated damages will be limited to a maximum of 5% of the cost of stores which the Supplier fails to deliver within the period fixed for delivery in the contract or as extended, where delivery of the store is accepted after expiry of the aforesaid period. In case, the delivery of the store is not accepted by the purchaser after expiry of the period fixed for delivery in the contract or as extended or the contract is terminated before expiry of the contract due to failure of the Supplier to execute the contract as per the agreed terms and conditions of the contract during its currency, the damages equivalent to 5% of the cost of sleepers undelivered/cancelled would be recovered from the Supplier.</p>
<b>GCC 28.3</b>	<p>Replace complete Sub-Clause GCC 28.3 with the following:</p> <p>28.3 The warranty period shall be as follows-</p>

	<p>28.3.1 The Supplier guarantees that the PSC Sleepers which he supplies shall be manufactured fully in accordance with specifications. In all cases, the Supplier guarantees that its design shall strictly follow the “as made” detailed drawing with such modifications as are notified in respect of each type.</p> <p>28.3.2 The Supplier further guarantees that the PSC sleepers shall be free from defects in material and workmanship. The Supplier shall be liable to arrange the necessary replacements of the defective sleepers free of any charge only to the extent that such replacements are attributable to or arise from faulty workmanship or material or design in the manufacture of the sleepers. All replacements shall be made free of cost at destination. If the Supplier so desires, the replaced sleepers can be taken over by him for disposal as he deems fit, within a period of three months from the date of receipt of the replacement of defective sleepers by the purchaser. At the expiry of this period, no claim in this respect shall lie on the purchaser. The guarantee herein contained shall not apply to any material which shall have been repaired or altered by the Purchaser, or on his behalf in any way so as to effect its strength, performance or reliability, or to any defect to any part due to misuse, negligence or accident.</p> <p>28.3.3 The guarantee herein contained shall expire in respect of each sleeper on the expiry of five years from the date of the manufacturing / three years from date of placement in service, whichever is earlier, except in respect of defects notified to the Supplier prior to the expiry of such date. Provisions of IRS T-39 in this regard shall also be applied.</p> <p>28.3.4 All replacements that the purchaser shall call upon the Supplier to deliver under this guarantee shall be delivered by the Supplier within 60 days from the date of intimation of such rejection of defective sleepers. If the Supplier fails to replace the defective sleepers within the said period, the cost of the said sleepers at the rate stipulated in the contract shall be recovered from the payments due to the Supplier.</p> <p>28.3.5 Any approval of acceptance by the purchaser of the sleepers or of the materials, incorporated therein shall not in any way limit the Supplier’s liability hereunder.</p> <p>28.3.6 The decision of the purchaser in regard to Supplier’s liability under this guarantee shall be final and conclusive.</p>
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<b>GCC 28.5, GCC 28.6</b>	The period for replacement shall be as detailed in Sub-Clause 28.3 Special Conditions of Contract.
<b>GCC 33.4</b>	Not Applicable

**Section X - Contract Forms**

**Forms**

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**INDEMNITY BOND.....56**

### Notification of Intention to Award

**[This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender.]**

**[Send this Notification to the Tenderer's Authorized Representative named in the Tenderer Information Form]**

For the attention of Tenderer's Authorized Representative

Name: *[insert Authorized Representative's name]*

Address: *[insert Authorized Representative's Address]*

Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]*

Email Address: *[insert Authorized Representative's email address]*

**[IMPORTANT: insert below the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]**

**DATE OF TRANSMISSION:** This Notification is sent by: *[email/fax]* on *[date]* (local time)

#### Notification of Intention to Award

**Purchaser:** *[insert the name of the Purchaser]*

**Project:** *[insert name of project]*

**Contract title:** *[insert the name of the contract]*

**Country:** *[insert country where Tender is issued]*

**Loan No.:** *[insert reference number for loan/credit/grant]*

**Tender No.:** *[insert the Tender reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) request a debriefing in relation to the evaluation of your Tender; and/or
- b) submit a Procurement-Related Complaint in relation to the decision to award the contract.

#### 1. The successful Tenderer

<b>Name:</b>	<i>[insert name of successful Tenderer]</i>
<b>Address:</b>	<i>[insert address of the successful Tenderer]</i>
<b>Contract price:</b>	<i>[insert contract price of the successful Tender]</i>

**2. List of all Tenderers [INSTRUCTIONS: insert names of all Tenderers that submitted a Tender including the successful Tenderer, together with the corresponding Tender price as read out at tender opening and the evaluated Tender price (if applicable).]**

Name of Tenderer	Tender Price	Evaluated Tender Price (if applicable)
[insert name]	[insert Tender price]	[insert evaluated price]
[insert name]	[insert Tender price]	[insert evaluated price]
[insert name]	[insert Tender price]	[insert evaluated price]
[insert name]	[insert Tender price]	[insert evaluated price]
[insert name]	[insert Tender price]	[insert evaluated price]

**3. Reason/s why your Tender was unsuccessful**

**[INSTRUCTIONS: State the reason/s why this Tenderer's Tender was unsuccessful. Do NOT include: (a) a point-by-point comparison with another Tenderer's Tender or (b) information that is marked confidential by the Tenderer in its Tender.]**

**4. How to request a debriefing**

**DEADLINE:** The deadline to request a debriefing expires at midnight on [insert date] (local time).

You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

**Attention:** [insert full name of person, if applicable]

**Title/position:** [insert title/position]

**Agency:** [insert name of Purchaser]

**Email address:** [insert email address]

**Fax number:** [insert fax number] **delete if not used**

If your request for a debriefing is received within the three (3)-Business Day deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be

extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

## 5. How to make a complaint

**Period: Procurement-Related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (local time).**

Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

**Attention:** [*insert full name of person, if applicable*]

**Title/position:** [*insert title/position*]

**Agency:** [*insert name of Purchaser*]

**Email address:** [*insert email address*]

**Fax number:** [*insert fax number*] ***delete if not used***

At this point in the procurement process, you may submit a Procurement-Related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

For more information see the [Procurement Instructions for Recipients](#) (Annex IV, Complaint Monitoring).

## 6. Standstill Period

**DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).**

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended as stated in Section 4 above.

If you have any questions regarding this Notification please do not hesitate to contact us.

For and on behalf of the Purchaser:

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title/Position:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

### Beneficial Ownership Disclosure Form

***INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM***

*This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful Tenderer<sup>1</sup>. In case of joint venture, the Tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:*

- *directly or indirectly holding 25 percent or more of the shares,*
- *directly or indirectly holding 25 percent or more of the voting rights or*
- *directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.*

**Tender No.:** *[insert number of Tendering process]*

**Tender Name:** *[insert title of the Tender Document]*

**To:** *[insert complete name of Purchaser]*

In response to your request in the Letter of Acceptance dated *[insert date of letter of Acceptance]* to furnish additional information on beneficial ownership:

*[select one of the options described below as applicable and delete the other options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

#### Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25 percent or more of the shares  (Yes / No)	Directly or indirectly holding 25 percent or more of the Voting Rights  (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer

			(Yes / No)
<i>[include full name (last, middle, first), nationality, country of residence]</i>			

**OR**

(ii) *We declare that there is no Beneficial Owner meeting one or more of the following conditions:*

- directly or indirectly holding 25 percent or more of the shares,
- directly or indirectly holding 25 percent or more of the voting rights or
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer

**OR**

(iii) *We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]*

- directly or indirectly holding 25 percent or more of the shares,
- directly or indirectly holding 25 percent or more of the voting rights or
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer]"

**Name of the Tenderer:\*** *[insert complete name of the Tenderer]* \_\_\_\_\_

**Name of the person duly authorized to sign the Tender on behalf of the Tenderer:\*\*** *[insert complete name of person duly authorized to sign the Tender]*\_\_\_\_\_

**Title of the person signing the Tender:** *[insert complete title of the person signing the Tender]*  
\_\_\_\_\_

**Signature of the person named above:** *[insert signature of person whose name and capacity are shown above]* \_\_\_\_\_

**Date signed** *[insert date of signing]* **day of** *[insert month]*, *[insert year]*

\_\_\_\_\_  
\*In the case of the Tender submitted by a Joint Venture, specify the name of the Joint Venture as Tenderer. In the event that the Tenderer is a joint venture, each reference to "Tenderer" in the



Beneficial Ownership Disclosure Form (including this Introduction thereto) shall be read to refer to the joint venture member.

\*\* Person signing the Tender shall have the power of attorney given by the Tenderer. The power of attorney shall be attached with the Tender Schedules.

**Letter of Acceptance**

*[use letterhead paper of the Purchaser]*

*[date]*

To: *[name and address of the Supplier]*

Subject: **Notification of Award Contract No.** . . . . .

This is to notify you that your Tender dated ***[insert date]*** for execution of the ***[insert name of the contract and identification number, as given in the SCC]*** for the Contract Price of ***[insert amount in numbers and words and name of currency]***, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by our Agency.

You are requested to furnish (i) the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form; and (ii) the additional information on beneficial ownership in accordance with TDS ITT 45.1 within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section X, Contract Forms, of the Tender Document.

Authorized Signature: \_\_\_\_\_  
Name and Title of Signatory: \_\_\_\_\_  
Name of Agency: \_\_\_\_\_

**Attachment: Contract Agreement**

## Contract Agreement

*[The successful Tenderer shall fill in this form in accordance with the instructions indicated]*

THIS AGREEMENT made the *[insert: **number**]* day of *[insert: **month**]*, *[insert: **year**]*.

BETWEEN

- (1) *[insert complete name of Purchaser]*, a *[insert description of type of legal entity, for example, an agency of the Ministry of ... of the Government of {insert name of Country of Purchaser}, or corporation incorporated under the laws of {insert name of Country of Purchaser}]* and having its principal place of business at *[insert address of Purchaser]* (hereinafter called “the Purchaser”), of the one part, and
- (2) *[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (hereinafter called “the Supplier”), of the other part:

WHEREAS the Purchaser invited Tenders for certain Goods and Related Services, viz., *[insert brief description of Goods and Related Services]* and has accepted a Tender by the Supplier for the supply of those Goods and Related Services, in the sum of *[insert currency or currencies and amount of contract price in figures and words]* (hereinafter called “the Contract Price”).

The Purchaser and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents:
  - (a) the Letter of Acceptance,
  - (b) the Letter of Tender,
  - (c) the Addenda Nos. \_\_\_\_\_ (if any),
  - (d) the Special Conditions of Contract,
  - (e) the General Conditions of Contract,
  - (f) the Schedule of Supply (including Schedule of Requirements and Technical Specifications),
  - (g) the completed Schedules (including Price Schedules) and
  - (h) any other document listed in GCC as forming part of the Contract.
3. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to supply the Goods and Related

Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the supply of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *[insert the name of the Contract governing law country]* on the day, month and year indicated above.

For and on behalf of the Purchaser

Signed: *[insert signature]*  
in the capacity of *[insert title or other appropriate designation]*  
In the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*  
in the capacity of *[insert title or other appropriate designation]*  
in the presence of *[insert identification of official witness]*

**Performance Security  
Bank Guarantee**

*[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]*

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and address of the Purchaser]*

**Date:** \_\_\_\_ *[Insert date of issue]*

**PERFORMANCE GUARANTEE NO.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that \_ *[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the supply of \_ *[insert name of contract and brief description of Goods and Related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words]*),<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the .... Day of ....., 2...<sup>2</sup>, and any demand for payment under it must be received by us at this office indicated above on or before that date.

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<sup>1</sup> *The Guarantor shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency (ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

<sup>2</sup> *Insert the date twenty-eight (28) days after the expected completion date as described in GCC Clause 18.4. The Purchaser should note that in the event of an extension of this date for completion of the Contract, the Purchaser would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_  
*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Advance Payment Security

### Demand Guarantee

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[Insert name and Address of Purchaser]*

**Date:** *[Insert date of issue]*

**ADVANCE PAYMENT GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of *[insert name of contract and brief description of Goods and Related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of *[insert amount in figures]* (\_\_\_\_\_) *[insert amount in words]* is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* ( ) *[insert amount in words]*<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has used the advance payment for purposes other than toward delivery of Goods; or
- (b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been

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<sup>1</sup> *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Purchaser.*

credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant's bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Contract Price, has been certified for payment, or on the *[insert day]* day of *[insert month]*, *[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is hereby excluded.

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*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***



## INDEMNITY BOND

**(For 70% payment of value of Mono Block PSC Concrete Sleepers inspected and Accepted by the Purchaser)**

**To,**

**Haryana Orbital Rail Corporation Limited**  
 -----

THIS INDENTURE made on this day \_\_\_ by M/s. (Duly registered under the Indian Companies Act 1956) and having its registered office at \_\_\_\_\_, hereinafter called “the Supplier” (which expression shall include its successors) in favour of the Haryana Orbital Rail Corporation Limited (HORCL), hereinafter called “the Purchaser” (which expression shall include his successors and assignees).

WHERE AS under the formal order/contract specified in schedule, I/We have agreed to supply mono block concrete sleepers to the HORCL (hereinafter called the Purchaser) at the time and place and in the manner detailed there in.

WHERE AS purchaser agreed to accommodate the Supplier in case in which the purchaser thinks fit by making 70% payment of value of Mono block PSC Concrete Sleepers which have been inspected and passed by the Purchaser or his nominee.

In consideration of such payment I/We am/are hereby is/are expressly prepared to accept certain liabilities as herein after set out but such liabilities shall not affect the passing of the sleepers concerned to the purchaser.

NOW, I/We hereby agree, declare and undertake as follows:

- (i) I/We shall remain absolutely responsible for the safe custody and protection of sleepers, which were inspected and passed by the Railway Authority \_\_\_\_\_ by IC No. \_\_\_\_\_ dated, but could not be dispatched due to non-availability of truck/wagons against all risk whatsoever, till those are dispatched under the above mentioned contract and duly delivered. The HORCL, however, shall be kept indemnified against any losses and/or damage to the said sleepers till delivery to the ultimate consignee. The said sleepers shall however, be at all-time open to the inspection by officer who may be authorized on behalf, by the purchaser or his nominee.

- (ii) Details of quantity which will be loaded in my/our siding as per challan will be submitted by me/us to the consignee direct and if any discrepancy is noticed on receipt of Mono block Concrete Sleepers at the destination, the cost of quantity in deficit will be realized from my/our 30% bills.
- (iii) The said number of sleepers shall be loaded and dispatched correctly as per the inspection note and that no broken or un-passed sleepers, not conforming to the specification/drawings mentioned in the formal contract shall be dispatched and then in such case we shall be liable for the entire loss or damage that purchaser may sustain due to the dispatch of such broken/un-passed sleepers and I/We undertake to indemnify the purchaser against all such loss and damage and shall replace at my/our cost any of such broken/un-passed sleepers as may be dispatched by us aforesaid.
- (iv) In the event of any loss or damage as aforesaid the assessment of such loss or damage and assessment of the compensation therefore would be made by the GM/IP&IT, HORCL or his authorized nominee from our 30% bills and the said assessment shall be final and binding upon us.
- (v) Provided always that notwithstanding anything contained in the formal, order/contract, the HORCL will be fully entitled to realize all dues against me/us under orders/contracts specified in the schedule or other contracts between myself/ourselves and the HORCL without prejudice due by any other lawful means.

### THE SCHEDULE

HORCL's acceptance letter No. \_\_\_\_\_ dated \_\_\_\_\_ and HORCL's contract Agreement No. \_\_\_\_\_ dated \_\_\_\_\_ for manufacture and supply of Mono block PSC Concrete Sleepers.

Witness:

\*Signature of the Supplier /supplier:

Address:Dated:

Name:

Address:

Dated:

**HORCL**

**FOR AND ON BEHALF OF HORCL**

**INDEMNITY BOND**

**(For 30% payment of value of Mono Block PSC Concrete Sleepers inspected and Accepted by the Purchaser)**

1. BY THE PRESENT INDEMNITY BOND executed by M/s ----- on this \_\_\_ day of \_\_\_ 20\_\_\_ (hereinafter called the “Supplier”) in favour of Haryana Orbital Rail Corporation Limited (HORCL) hereinafter called the “Purchaser”.

2. WHEREAS – The Supplier has agreed with the purchaser to manufacture and supply PSC mono block Line Sleepers to the HORCL Administration in pursuant to and in terms of a contract evidenced by the-----

3. AND WHEREAS pursuant to the said contract, the Supplier(s) commenced dispatches of sleepers on\_\_\_\_\_and completed dispatches by \_\_\_\_\_

4. AND WHEREAS under \_\_\_\_\_ of the said contract for the supply of PSC monoblock Line Sleepers payment for the delivery of stores was/is to be made as follows:

-----  
-----  
Balance 30% of the price of each consignment will be paid on receipt of stores at consignee’s end duly certified by a nominated officer of the consignee and on submission of a Bond for 25% of the value of Stores supplied covering the warranty period as per warranty clause. Consigner’s certificate shall be enclosed with 30% bills. In case 70% payment as laid down in **Clause**-----above is not sought, 100% of price of each consignment will be paid on receipt of stores at consignee’s end duly certified by a nominated officer of the consignee and on submission of Indemnity Bond.

AND WHEREAS 70% payment in respect of the Stores inspected has already been paid by the -----HORCL to the Supplier, vide Cheque No.--  
-----dated\_\_\_\_\_Rs.\_\_\_\_\_.

5. AND WHEREAS the Supplier submitted one of his bills being bill No. ----- of Rs.\_\_\_\_\_for the 30% (i.e. balance amount) of the value in respect of stores dispatched by him through Way Bill No \_\_\_\_\_ to the consignee thereof namely the \_\_\_\_\_.

6. AND WHEREAS the Supplier submitted one of his bills being bill No.-----of \_\_\_\_\_Rs\_\_\_\_\_for . the 30% (i.e. balance amount) of the value in respect of stores dispatched by him through Way Bill No..... to the consignee thereof namely

the.....

7. AND WHEREAS the Purchaser has agreed to pay the amount of Rs (in words).....being the 30% /100% of the said bill No.----- upon the Supplier subject to execute an indemnity bond in the manner hereafter provided in the para----- of the contract.

8. NOW THEREFORE through this indenture, the Supplier hereby covenants with the Purchaser that the Supplier shall at all times hereinafter well and sufficiently indemnify and keep indemnified the Purchaser, his successors and assignee for an amount -----(25% of the value of stores supplied) from and against such damages, loss and costs, charges and expenses, whatsoever that may be caused and incurred by the said HORCL Administration on account of the short or non-receipt of the said stores said to have been dispatched by the said Way Bill No .----- to the said consignee or on account of the said goods if delivered in whole or in part not being according to the specification and requirements of the said contract and in the event of such short or non-delivery or delivery of the goods in whole or in the part being not in accordance with the specifications and requirements of the contract, the Supplier shall pay to the purchaser on intimation to the amount as may be equal to the price of the said goods so short received or not being according to the specifications or requirements as aforesaid and also all other loss that the Purchaser may incur or suffer on account thereof the decision of ----- HORCL as to the exact amount of such loss including the price of the goods short delivered or of the goods but not in accordance with the specifications or requirements of the said contract as aforesaid being final and binding on the Supplier together with all costs, charges and expenses that the Purchaser may incur for the recovery of the said amount and loss.

AND IT IS HEREBY guaranteed by the Supplier that PSC Sleepers which the Supplier has supplied have been manufactured fully in accordance with the specifications and its design shall strictly follow the “as made” detailed drawing with such specifications as are notified in respect of each type. The Supplier further guarantees that the PSC Sleeper shall be free from defects in material and workmanship. The Supplier shall be liable to arrange the necessary replacements of the defective sleepers free of any charge only to the extent that such replacements are attributable to or arise from faulty workmanship or material or design in the manufacture of the sleepers. All replacements shall be made free of cost at destination. If the Supplier so desires, the replaced sleepers can be taken over by him for disposal as he deems fit, within a period of three months from the date of receipt of the replacement of defective sleepers by the purchaser. At the expiry of this period, no claim in this respect shall lie on the purchaser.

IT IS AGREED that any approval or acceptance by the purchaser of the sleepers or of the materials incorporated therein shall not in any way limit the Supplier’s liability hereunder. The decision of the purchaser in regard to Supplier’s liability under this guarantee shall be final and conclusive. All replacements that the purchaser shall call upon the Supplier to deliver under this guarantee shall be delivered by the Supplier

within three months from the date of intimation of such rejection of defective sleepers. If the Supplier fails to replace the defective sleepers within the said period, the cost of the said sleepers at the rate stipulated in the contract shall be recovered from the payments due to the Supplier.

WHEREAS IT IS AGREED that the guarantee herein contains shall expire in respect of each sleeper on the expiry of 5 years from the date of the delivery or 3 years from the date of its placing in service whichever is earlier except in respect of defects notified to the Supplier prior to the expiry of such date.

9. AND IT IS HEREBY agreed between the parties hereto that the Purchaser shall be entitled to recover or adjust the cost of such replacements as aforesaid or the guaranteed amount----- (25% of the price of stores supplied) whichever is less out of or from the moneys, if any, payable to the Supplier in respect of the said Contract or any other contracts subsisting between the Supplier and the purchaser.

10. IN WITNESS WHEREOF the Supplier has put his seal on -----  
--

IS HEREINTO affixed pursuant to a resolution, dated  
passed by the Board of Directors of the said Company in the presence of:

1. Shri ....

2. Shri ...

M/s. \_\_\_\_\_

Signature of the Supplier  
Firm's Name:

(Stamp)

**Witness:**

1)

2)

**HORCL**

**FOR AND ON BEHALF OF HORCL**