Government Of India (Bharat Sarkar)
Ministry Of Railways (Rail Mantralaya)
Railway Board

No. 2007/CE.1/CT/18 New Delhi, dated 05.07.2010

The General Manager,
All Indian Railways.

Sub : Introduction of Project Management Consultancy (PMC) Services on Indian Railways.

Introduction of Project Management Consultancy (PMC) Services on Indian Railways has been under consideration of Railway Board for quite some time. In order to improve the quality of supervision and also to expedite completion of various railway projects, Board (ME & FC) have now decided that PMC services may be introduced in not more than 2-3 works contracts relating to throughput enhancement construction projects (Doubling, Railway Electrification, Signal & Telecommunication and Traffic Facility Works) that are estimated to cost more than Rs. 100 crore each in each Zonal Railway. Accordingly, Guidelines for introducing PMC in Railways (Annexure-I) alongwith Model Tender Documents, in two Volumes (Annexure-II) for awarding PMC Contracts are enclosed for taking necessary action.

After gaining adequate experience, this policy would be reviewed by Railway Board after a period of one year for necessary further action.

This issues with the concurrence of Finance Directorate of Railway Board.

Please acknowledge the receipt.

DA : as above.

(Alok Kumar) 05/7/10
Executive Director Civil Engg. (G)
Railway Board

No. 2007/CE-I/CT/18 New Delhi, dated 05.07.2010

Copy forwarded for information to :

(i) The CAO(C)s, FA&CAOs and FA&CAO(C)s, all Indian Railways.
(ii) Deputy Comptroller and Auditor General of India (Railways), New Delhi.

Please issue fair
28/7/10

O/C For Financial Commissioner (Railways) 5.7.10

भारत सरकार Government Of India
रेल मंत्रालय Ministry Of Railway
(रेलवे बोर्ड) (Railway Board)

सं. 2007/सी.ई.–1/सी.टी./18 नई दिल्ली दिनांक 05.07.2010

महाप्रबंधक,
सभी भारतीय रेलें.

विषय : भारतीय रेलों पर परियोजना प्रबंधन परामर्शदात्री सेवाएं प्रारम्भ करना.

भारतीय रेलों पर परियोजना प्रबंधन परामर्शदात्री सेवाएं प्रारम्भ करने का विषय कुछ समय से रेलवे बोर्ड के विचाराधीन रहा है। पर्यवेक्षण के स्तर में सुधार लाने तथा विभिन्न रेलवे परियोजनाओं को शीघ्र पूरा करने के उद्देश्य से बोर्ड (सदस्य इंजी. एवं वित्त आयुक्त) ने अब यह निर्णय लिया है कि प्रत्येक क्षेत्रीय रेल पर थ्रूपुट संवर्धन निर्माण परियोजनाओं (दोहरीकरण, रेल विद्युतीकरण, सिगनल एवं दूरसंचार तथा यातायात सुविधा कार्यों) से संबंधित ऐसे 2–3 निर्माण ठेकों में परियोजना प्रबंधन परामर्शदात्री सेवाएं प्रारम्भ की जाएं, जिनमें प्रत्येक की अनुमानित लागत 100 करोड़ रू. से अधिक हो। तदनुसार, परियोजना प्रबंधन परामर्शदात्री ठेके प्रदान करने के लिये दो वॉल्यूम में (अनुलग्नक–।।) मॉडल निविदा प्रलेखों सहित रेलों पर परियोजना प्रबंधन परामर्शदात्री सेवाओं को प्रारम्भ करने के लिये मार्गनिर्देश (अनुलग्नक–।) आवश्यक कार्यवाही हेतु संलग्न हैं।

पर्याप्त अनुभव प्राप्त करने के बाद आगे की आवश्यक कार्यवाही हेतु एक वर्ष की अवधि के बाद रेलवे बोर्ड द्वारा इस नीति की समीक्षा की जायेगी।

इसे रेलवे बोर्ड के वित्त निदेशालय की सहमति से जारी किया जा रहा है।

कृपया पावती भेजें।

(आलोक कुमार)
कार्यकारी निदेशक/सी.ई./जी./रेलवे बोर्ड

सं. 2007/सी.ई.–1/सी.टी./18 नई दिल्ली दिनांक 05.07.2010

प्रतिलिपि सूचनार्थ प्रेषित :

(1) मुख्य प्रशासनिक अधिकारी/निर्माण, वित्त सलाहकार एवं मुख्य लेखाधिकारी तथा वित्त सलाहकार एवं मुख्य लेखाधिकारी/निर्माण, सभी भारतीय रेलें।

(2) भारत के उप नियंत्रक एवं महालेखा परीक्षक (रेलें), नई दिल्ली।

कृते वित्त आयुक्त(रेलें)



भारत सरकार
रेल मंत्रालय
Government Of India
MINISTRY OF RAILWAYS

Model Document

For

Project Management Consultancy (P M C) Services

On

Indian Railways

Railway Board

July 2010

Project Management Consultancy (P M C) Services On Indian Railways

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(**Annexure-I** to Railway Board's Letter No. 2007/CE.1/CT/18, Dated 05.07.2010)

GUIDELINES FOR IMPLEMENTING "PROJECT MANAGEMENT CONSULTANCY" SERVICES IN RAILWAYS

1. Following are the guidelines for implementing Project Management Consultancy (PMC) on the Zonal Railways :

a. PMC shall be deployed only in two to three contracts in each Zonal Railway to gain experience. They will be deployed only in throughput enhancement construction projects (Doubling, Traffic Facility, Railway Electrification and Signal & Telecommunication works) that are estimated to cost more than Rs.100 crore each. After gaining adequate experience, this policy would be reviewed by Railway Board after a period of one year for necessary further action.

b. PMC shall be adopted "contract based" and not "project based". Ideally, high value projects should be executed on a composite contract basis covering works relating to all departments (Civil, Electrical, OHE, S&T etc.) and one PMC should be engaged for that contract. However, where it is not feasible to float composite tenders for mega projects, PMC can be for the project as a whole covering multiple works contracts being executed in that project.

c. In Railway construction projects, PMC should be engaged only for supervision of contract and this PMC for supervision of contract should be distinct and different from other consultants, if any, engaged for planning, survey and other activities that precede the actual award of contract.

d. Since the PMC policy is new to Railway construction projects, PMC contract shall be finalized on Quality and Cost Based Selection (QCBS) method of selection for works contracts of value upto Rs.100 crore and Combined Quality Cum Cost Based Selection (CQCCBS)[1] method of selection for works contracts of

[1] Terms taken from the 'Manual of Policies and Procedure of Employment of Consultants' dated 31.08.2006 issued by the Ministry of Finance.

value more than Rs.100 crore. The detailed procedure for the proposed QCBS and CQCCBS based selections recommended is explained in Chapter-3 of Volume-I of Model Tender Document and step by step procedure for evaluation of tenders vide page 104 to 115 of Volume-II of Model Tender Document.

QCBS system entails awarding of scores for the stipulated parameters which inter alia, includes qualification and experience of the consultant and their key personnel at the Technical Evaluation stage and followed by opening of the Price Bid of those tenderers who qualify in the Technical Bid and the final award is determined based on the Financial Bid. In the case of CQCCBS system, final award is based on combined weightage given to the scores obtained both in Technical and Financial Bids. The detailed procedure to be followed in this regard is given in the Model Tender Document.

e. Since the success of the PMC depends mainly on the quality of man-power, the PMC consultant would engage in the contract, eligibility and qualification criteria to be prescribed in the PMC tender for different categories of personnel assume great importance.

f. Two-packet system of tendering shall be adopted, i.e. packet one shall be technical bid and packet-two shall be price bid.

g. The consultant engaged for planning and design activities preceding the award of contract for the subject work shall not be eligible to participate in the PMC in the same work.

h. In this PMC, the Consultants shall function in the capacity as Engineer's Representative and the Engineer's role shall continue to be with regular Engineer/Manager(s) of Railways.

i. The PMC consultants or any of their members (if it is a consortium), cannot be engaged as the main works contractor for the same project for which they are consultants.

j. Participation of JV/Consortium in the proposed PMC contract would be encouraged. The JV policy guidelines that were recently introduced in works contracts vide Board's letter no.

2002/CE-1/CT/37, dated 2.9.08 would be equally applicable in PMC contracts to the extent modified. This will facilitate Joint Ventures Firm to participate in PMC contracts.

k. Measurement and preparation of bill, etc. would be undertaken by the main works contractor and submitted in serially numbered measurement sheets. This shall be checked 100% by the PMC supervisor and further 20% test check shall be carried out by Assistant Resident Engineer/Resident Engineer of the PMC consultant. This shall be followed by representative test check at not less than 10% by the nominated engineer of Railways. The Dy.CE (in-charge), who shall be designated as the 'Project Engineer', shall exercise random checks so as to ensure that procedure has been followed and there are no excess payment on account of incorrect/irregular measurements. The detailed measurement procedure to be followed by the PMC contractor has been furnished in the Model Tender Document.

l. The Railway engineer at the JA grade level shall be the nominated 'Project Engineer (In-charge)' who shall be responsible for all issues of project management inclusive of billing, measurements, quantity variations, progress report etc. The detailed duties and responsibilities of the 'Project Engineer' shall continue to be as per existing procedure except to the extent modified in these Guidelines.

m. For hidden items, which cannot be verified later on even through the latest non-destructive testing methods, such as initial levels before the earthwork, in addition to the procedure under the clause (k) above, the test checks shall be more comprehensive & stringent and these shall be recorded in the presence of the Railway Supervisors.

n. PMC consultant shall indemnify Railways for excess billing claimed either due to oversight or done intentionally.

o. The consultant shall take out and maintain insurance at his own cost against risks as specified in the tender. Detailed clauses for this are incorporated in Model Tender Document.

p. It is the duty of the PMC consultant to keep a tag on variation in quantities in contracts and raise alarm sufficiently in advance to enable Railways take necessary corrective action.

q. PMC consultant's main responsibility is to ensure execution of work with due controls for safety, quality control, cost control and project progress monitoring; and for this purpose a Performance Guarantee shall be submitted by the PMC consultant.

r. Payment to the PMC consultant shall be made in the manner explained below :

(i) The monthly payment shall be made @ 80% of the accepted man-month rates as per actual deployment of staff duly certified by the Dy.CE (in- charge).

(ii) 10% of the accepted man-month rates shall be released proportionately to the average financial progress of the construction contract for which PMC has been appointed.

(iii) Balance 10% of the accepted man-month rates shall be released on successful commissioning of project as under :

a) On preparation and submission of Final bill – 6%

b) During defect liability period of one year – 4% @ 1% for each quarter.

In case any of the relevant Key Personnel/Technical staff remains unavailable during important activities, like Pre-Non interlocking, Non-interlocking work and commissioning of project, recovery will be made @ three times the payable remuneration.

s. A proper *Quality Assurance* system including positioning of programme expert, quality expert and safety expert should be put in place by the works contractor for deriving the full benefit for PMC. The works tender should provide for such a system. The PMC should ensure that works contractor put such a Quality Assurance System in place and see that the same is properly implemented. It is also PMC's responsibility for getting approval of the competent Railway authority for construction methodology proposed by the contractor, for

changes in design and scope of work, if any warranted during project execution, for timely reaching of milestones fixed and for good performance of the asset created during defect liability period.

t. For successful execution of mega Railway projects for which PMC consultants are engaged, commensurate allocation of funds every year to meet the physical target is of paramount importance. In the present scheme of things, this sort of assured allocation of funds during the gestation of the project execution does not take place and this, besides jeopardizing physical target, also leads to huge cost overrun and consequent contractual complications. For success of PMC contracts, a minimum guaranteed fund allocation for the project concerned (for which PMC consultant is engaged) during the construction period, has to be ensured.

u. Amendments to the extant Codal provision in Engineering Code and Finance Code can be undertaken after the PMC policy is introduced and sufficient experience gained. For the present, suitable clauses have been incorporated in the Model Tender Document to take care of deviations from the extant clauses, applicable to works contracts.

v. The PMC cost and cost of Railway establishment put together should not be more than the permissible D&G provision in the sanctioned estimate for the project concerned.

w. All PMC tenders irrespective of its value shall be finalized by tender committees of level not less than SAG.

x. Since PMC concept is new for Railways, there is a need to develop PMC expertise for Railway related works. Since the existing PMC consultants may not have direct railway project experience, after awarding a PMC contract, a few select supervisory personnel of the PMC consultant should undergo training at IRICEN, Pune, which has already developed training modules on PMC. The cost of training and other incidental expenditure in this regard shall be borne by the PMC consultant. Necessary clauses to this effect have been incorporated in the tender document.

2. MINIMUM QUALIFICATION CRITERIA

2.1 Only those offers which are considered as valid offers would be taken up for evaluation of technical bids.

(a) The tenderer must have paid the cost of the tender document.

(b) The tenderer must have paid the EMD amount in one of the prescribed formats.

(c) The tenderer should be a valid, legal and duly registered/ incorporated entity – individual/firm/society/company registered in India or a valid JV Firm/Consortium.

(d) The tenderer should not have been blacklisted.

(e) The tenderer should not have conflict of interest as defined in the tender condition.

2.2 Technical Eligibility

1.	Minimum value of a single eligible PMC contract carried out in the last five years i.e. current financial year and the previous five financial years.	(A) Value of one completed Eligible Assignment executed for Railway works, equivalent to 0.5% of the cost of work for which the subject PMC tender is being called, OR Value of one completed Eligible Assignment relating to a project executed for government or quasi-government organization other than Railways equivalent to 0.75% of the cost of work for which the subject PMC tender is being called.
2.	Turnover from Consultancy Contracts during the last three financial Years, i.e. Current Financial year and previous Three years.	The tenderer should have a minimum turnover of **0.75 %** of the cost of work for which the subject PMC tender is being called, in last three financial years
3	Net Profit	The tenderer should have been in 'Profit' at least during two of the preceding three financial years.

NOTE : "Eligible Assignment" in the above table is defined as consultancy assignments in respect of General Consultancy Services, Project Management Consultancy Services, Construction Supervision / Monitoring, as the case may be, for the projects relating to highways, airports, metro rail or other infrastructure projects for engineering works. For workshop/ RE/S&T works, the *Eligible Assignment* will have to be suitably defined in the tender document by the competent authority, i.e. overall 'Project Head' in consultation with associate FA&CAO.

2.3 Qualification and Experience Requirement of Key Personnel

2.4 List of Key Personnel : The Tenderer shall offer and make available the Key Personnel as per the list prescribed in the tender.

2.5 The CAO in consultation with FA&CAO/C may modify the type and number of key personnel, their qualification, experience, number of eligible assignments etc. in the eligibility condition of the tender depending upon the nature of the project, its scope and requirement. A suggested list of Key Personnel for PMC contract has been given in the model tender document enclosed.

2.6 Terms of Reference (TOR) i.e. the scope of consultancy work shall be clearly defined in the tender document. A sample TOR has been given in the model tender document. Similarly, the role and responsibility of the PMC has also been elaborated in the model tender document.

2.7 The detailed evaluation procedure to determine a tenderer's eligibility (as per the QCBS Model) for opening the financial bid has been explained in the Model Tender Document enclosed.

3. OTHERS

3.1 The Model Tender Documents for the purpose of awarding PMC contract are enclosed herewith in two Volumes. Volume-I contains standard fixed clauses and Volume-II contains variable clauses. While clauses in Volume-I will remain unchanged in all PMC contracts, the clauses in Volume-II can be changed by the Zonal Railway with the approval of the CAO/C or the PHOD concerned with concurrence of FA&CAO/C or FA&CAO as per the requirements in each PMC contract.

3.2 Since in the proposed PMC model, the responsibility of measurement and billing has been assigned to the works contractor, it is necessary that the works contractor has a proper team of technically qualified personnel.

3.3 After gaining sufficient experience in the field organization, this policy would be further reviewed after period of, say one year.

3.4 In order to get a lasting solution for effective supervision of Railway projects, it is necessary to strengthen the infrastructure for in house supervision. This can be done by launching a massive recruitment drive to fill the existing vacancies of supervisory officials in all departments.

******



Government of India
Ministry of Railways

Model

Tender Document

For

Project Management Consultancy Services

Volume-I
(*Non Variable* Document)

Railway Board

Office of the

Chief Administrative Officer (Construction)

[Name of the Zonal Railway]
[Office address,
City]

Tender Document

Project Management Consultancy Services

Volume – I

(*Non Variable* Document)

Tender for Project Management Consultancy Services for the work of

Name of Work:

_____

_____

_____

Authenticated By: _____
Signature / Name / Designation

DISCLAIMER

The information contained in this tender document (the **"Tender Document"**) or subsequently provided to tenderer(s), whether verbally or in documentary or any other form by or on behalf of the Railway or any of their employees or advisors, is provided to tenderer(s) on the terms and conditions set out in this Tender Document and such other terms and conditions subject to which such information is provided.

This Tender Document is not a Contract but an offer/ invitation by the Railway to the prospective tenderers or any other person for entering into a contract. The purpose of this Tender Document is to provide interested parties with information that may be useful to them in making their technical and financial offers pursuant to this Tender Document. This Tender Document includes statements, which reflect various assumptions and assessments arrived at by the Railway in relation to the Project(s). Such assumptions, assessments and statements do not purport to contain all the information that each tenderer may require. This Tender Document may not be appropriate for all persons, and it is not possible for the Railway, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Tender Document. The assumptions, assessments, statements and information contained in this Tender Document may not be complete, accurate, adequate or correct. Each tenderer should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Tender Document and obtain independent advice from appropriate sources.

Information provided in this Tender Document to the tenderer(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Railway accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Railway, its employees and advisors make no representation or warranty and shall have no liability to any person, including any tenderer under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on

account of anything contained in this Tender Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Tender Document or arising in any way in the tendering process.

The Railway also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any tenderer upon the statements contained in this Tender Document.

The Railway may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Tender Document.

The issue of this Tender Document does not imply that the Railway is bound to select a tenderer or to appoint the selected tenderer, as the case may be, for the Project and the Railway reserves the right to reject all or any of the offers without assigning any reason whatsoever.

Each tenderer shall bear all its costs associated with or relating to the preparation and submission of its offer including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Railway or any other costs incurred in connection with or relating to its offer. All such costs and expenses will remain with the tenderer and the Railway shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a tenderer in preparation or submission of its offer, regardless of the conduct or outcome of the tendering process.

GLOSSARY

Contract	As defined in Form of Contract
Tenderer	As defined in Clause 2.1.1
Authorised Signatory	As defined in Clause 2.11.3 (iii)
Conditions of Eligibility	As defined in Clause 2.2.1
Conflict of Interest	As defined in Clause 2.2.8
Consortium or JV	As defined in Clause 2.1.1
Consultancy	As defined in Clause 1.2
Consultancy Team	As defined in Clause 2.12.6
Consultant	As defined in Clause 1.2
Contractor (s)	As specified in Clause 1.1.2
CV	Curriculum Vitae
Documents	As defined in Clause 2.10
Defect Liability Period	As defined in Clause 8 of the SCC
EMD	Earnest Money Deposit
Effective Date	As defined in Clause 2.1 of S.C.C
Eligible Assignments	As defined in Clause 3.1.3
Form of Contract	Form of Contract as in Schedule II
Financial Offer	As defined in Clause 2.13.1
GCC	General Condition of Contract as in Schedule I
GCC for Works Contract	As defined in Schedule I
INR, Re, Rs.	Indian Rupee
IR	Indian Railways
ITT	Instruction to Tenderers
Inception Report	As defined in Clause 6.1 of TOR
Key Personnel	As defined in Clause 2.1.3
Lead Member	As defined in Clause 2.2.2 (A)
LOA	Letter of Acceptance
NTP or Notice to Proceed	As defined in Clause 2.28
Official Website	As defined in Clause 1.4
Performance Guarantee	As defined in Clause 2.18.5
Project (s)	As defined in Clause 1.1.2
Project Office	As defined in Clause 7.2 of TOR
Project Team	As defined in Clause 7.4 of TOR
Professional Personnel	As defined in Clause 2.12.6

Railway	As specified in Clause 1.2
Selected Tenderer	As specified in Clause 2.23
SCC	Special Conditions of Contract as in Schedule IV
Security Deposit	As defined in Clause 2.18.5
Services	As defined in Clause 1.1.1(o) of SCC
Single Entity Tenderer	As defined in Clause 2.1.1
Site Office(s)	As defined in Clause 7.2 of TOR
Statutory Auditor	An Auditor appointed under Applicable Laws
Support Personnel	As defined in Clause 2.12.6
Team Leader	As defined in Clause 5.18.3(i)
Technical Offer	As defined in Clause 2.12.1
TOR	Terms of Reference as in Schedule III
Tender	As defined in Clause 1.2
Tender Submission Date or TSD	As defined in Clause 1.5
Tender Document	As defined in Disclaimer

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein.

STRUCTURE OF THE TENDER DOCUMENT

1. The complete set of Tender Document should be read in the following order:

S.No.	Content	Available at
(i)	Forwarding Letter	Volume II
(ii)	Notice Inviting Tender	Volume II
(iii)	Section 1: Introduction	Volume I
(iv)	Section 2: Instruction to Tenderers (ITT)	Volume I
(v)	Section 3: Criteria for Evaluation	Volume I
(vi)	Section 4: Project Description	Volume II
(vii)	Section 5: Tender Data Sheet	Volume II
(viii)	Schedule-I: General Conditions of Contract (GCC)	Volume I
(ix)	Schedule-II: Form of Agreement	Volume I
(x)	Schedule-III: Terms of Reference (TOR)	Volume II
(xi)	Schedule-IV: Special Conditions of Contract (SCC)	Volume II
(xii)	Appendix-I: Technical Offer Forms (Form-1 to Form-15)	Volume II
(xiii)	Appendix-II: Financial Offer Forms (Form-16 to Form-22)	Volume II

2. Technical Offer should consist of following:

   a. Filled up forms from Form-1 to Form-15

   b. Multiple pages of a Form if details to be provided require more number of pages

   c. Any attachment in the form of photocopy of relevant pages of any document, experience certificate etc. to supplement the information provided in the Forms.

3. Financial Offer should consist of filled up forms from Form-16 to Form-22.

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1. INTRODUCTION

1.1 Background

1.1.1 Indian Railways (the "IR") undertake varied infrastructure development works through Construction Units of Zonal Railway, various Production Units, and Project related Organizations. Over the years, budgetary allocations for these infrastructure development works and the number of works have gone up considerably; the need for Project Management Consultants to supervise execution of various project works has been strongly felt to achieve construction to required specifications and standards, timely completion of intermediate milestones stages, and overall Project completion within the stipulated duration and estimated cost.

1.1.2 Specific project(s) mentioned in Clause 5.5 (the **"the Project(s)"**) for which this Project management Consultancy is being contemplated is/are described in Section 4. The Project(s) will be undertaken preferably through composite work contracts covering works relating to various disciplines e.g. civil, electrical, over head traction, signal & telecommunication etc. involving one or more contractors (the **"Contractor(s)"**).

1.1.3 The statements and explanations contained in this Tender Document are intended to provide a proper understanding to the Tenderers about the subject matter of this Tender Document and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Selected Tenderer set forth in the Form of Contract or the Railway's rights to amend, alter, change, supplement or clarify the scope of work, the contract to be awarded pursuant to this Tender Document or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in this Tender Document are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Railway.

1.2 The Tender

The President of India acting through the designated official specified at Clause 5.1 (**the "Railway"**) invites Tenders (the **"Tender(s)"**) for selection of a Project Management Consultant (the **"Consultant"**) who shall assist the Railway in management of construction and commissioning of the Project(s) through construction supervision. Scope of services to be provided by the Consultant shall be as specified in Schedule III and other requirements as

specified in this Tender Document, (collectively the **"Consultancy"**) for execution of the Project(s) through Contractor(s) appointed or to be selected.

1.3 Due Diligence by Tenderers

Tenderers are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Tender by paying a visit to the Railway and the Project(s) site(s), sending written queries to the Railway, and attending a Pre Tender Conference on the date and time specified in Clause 5.7.

1.4 Availability of Tender Document

Tender Document can be obtained on all working days on payment of non-refundable fee specified in Clause 5.8 in the form of Demand Draft or Banker's cheque drawn on any Scheduled Bank in India in favour of the official specified in Clause 5.9**.** The document can also be downloaded from the official website of the Railway (the **"Official Website"**) specified in Clause 5.16. In case of a downloaded form, the Tenderer needs to deposit the aforesaid fee prior to participating in the pre-tender conference. In case a Tenderer does not participate in the pre-tender conference, the aforesaid fee shall be deposited prior to or at the time of submission of the Tender.

1.5 Validity of the Tender

The Tender shall be valid for a period of not less than 120 days from the tender submission date (the **"Tender Submission Date"** or **"TSD"**) specified in Clause 5.11.

1.6 Brief Description of the Selection Process

The Railway intends to select the Consultant through an open competitive bidding process involving evaluation of Technical and Financial Offers (collectively the **"Selection Process"**). The Railway shall adopt a tender evaluation process as described in Clause 2.19.3. The final selection of the Consultant shall be based either on the Quality and Cost Based System (QCBS) or the Combined Quality Cum Cost Based System (CQCCBS). The system of final selection to be adopted for this Tender is specified in 5.6. Tenderers shall be short-listed based on their Technical Offers meeting a minimum Quality standard. The Financial Offers of only the short-listed Tenderers shall be opened. The final selection shall be based on either the

lowest financial offer (in case of QCBS) or the highest combined technical and financial scores (in case of CQCCBS) as described in Section 3.

1.7 Currency Conversion Rate

For the purposes of technical evaluation, Indian Rupee (INR) to US dollar conversion rate specified in Clause 5.10 shall be considered as the applicable currency conversion rate. In case of any other currency, the same shall first be converted to US$ as on the date 60 (sixty) days prior to the Tender Submission Date (TSD), and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the average of buying and selling rates prevailing in New York on the relevant date. All payments, however, shall be made in INR in accordance with the Tender submitted by the Tenderer and the exchange risk, if any, shall be borne by the Tenderer. The Consultant may convert Rupees into any foreign currency as per Applicable Laws.

1.8 Pre-Tender visit to the Site and Inspection of Data

Prospective Tenderers may visit the Site and review the available data at any time prior to TSD. For this purpose, they will provide at least 2 days' notice to the Nodal officer specified in Clause 5.13. However, for the convenience of the Tenderers, a visit to the Site, prior to pre-tender meeting, shall be arranged on date, time and venue specified in Clause 5.14. The Tenderers who desire to avail themselves of this facility may visit the venue on the date and time mentioned therein.

1.9 Communications

1.9.1 All communications including the submission of Tender should be addressed to the person specified in Clause 5.15.

1.9.2 Amendments and all notices related to this Tender Document will be uploaded on the Official Website from time to time. All prospective Tenderers are advised to be in contact with the Official Website till the opening of Tenders.

1.9.3 All communications, including the envelopes, should contain the Tender Document Notice number specified in Clause 5.1 and should be marked at the top in bold letters:

END OF INTRODUCTION

2. INSTRUCTIONS TO TENDERERS (ITT)

2A. GENERAL

2.1 Scope of the Tender

2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements relating to this Consultancy are specified in this Tender Document. A private, public or government owned legal entity possessing the requisite experience and capabilities required for undertaking the Consultancy may participate in the Selection Process either individually as a single entity tenderer (the "**Singly Entity Tenderer**"), or as combination thereof as joint venture or consortium (the "**Consortium**" or "**JV**") in response to this Tender. The term Tenderer (the "**Tenderer**") means the Single Entity Tenderer or the Consortium, as the case may be. The manner in which the Tender is required to be submitted, evaluated and accepted is mentioned in this Tender Document.

2.1.2 Tenderers are advised that the selection of Consultant shall be on the basis of evaluation by the Railway through the Selection Process specified in this Tender Document. Tenderers shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be extended and that the Railway's decisions thereof are without any right of appeal whatsoever.

2.1.3 **Key Personnel**

The Consultancy Team shall consist of Key Personnel (the "**Key Personnel**"), specified in Clause 5.18.3, who shall discharge their respective specified responsibilities. The Consultancy team shall be also supported by other technical and support Personnel deployed by the Tenderer.

2.2 Conditions of Eligibility of Tenderers

2.2.1 Tenderers must read carefully the minimum conditions of eligibility (the "**Conditions of Eligibility**") provided herein. Tenders of only those Tenderers who satisfy the Conditions of Eligibility will be considered for evaluation.

2.2.2 To be eligible for evaluation of its Tender, a Tenderer shall fulfill the following:

(A) **Technical Capacity**: The Single Entity Tenderer or the lead member of a Consortium (the **"Lead Member"**), as the case may be, shall have, during the previous 5 (five) financial years and the current financial year till the TSD, undertaken the minimum number of Eligible Assignments specified in Clause 5.18.1.

(B) **Financial Capacity:** The Single Entity Tenderer or the Lead Member of the Consortium, as the case may be, shall have achieved a minimum turnover specified in Clause 5.18.2 per annum from professional fees during the previous 3 (three) financial years and the current year till the TSD. Further the Tenderer should have been in Profit at least during the two of the three years preceding the TSD.

(C) **Availability and Conditions of Eligibility for Key Personnel**: The Tenderer shall offer and make available all Key Personnel meeting the requirements specified in Clause 5.18.3 (ii).

2.2.3 The Tenderer shall submit its work experience in the form of Eligible Assignments in the formats specified at Form-10 and Form-12 of Appendix-I as part of its Technical Offer for demonstrating its Technical Capacity and claiming Technical Score. The Tenderer shall enclose with its Tender certificate(s) from its Statutory Auditors stating its turnover from professional fees during the past three years and the payments received in respect of each of the Eligible Assignments.

2.2.4 The Tenderer should submit a Power of Attorney for the Authorised Signatory as per the format at Form-4 of Appendix-I and another Power of Attorney for the Lead Member, in case of consortium, as per the format of Form-5 of Appendix-I.

2.2.5 Any entity which has been barred by the Central/ State Government in India, (or any entity controlled by such barred entity), from participating in any project, and the bar subsists as on the date of Tender, would not be eligible to submit a Tender.

2.2.6 A Tenderer should have, during the last one year, neither failed to perform on any Contract, as evidenced by imposition of a penalty by a judicial authority or a judicial pronouncement, nor been expelled from any project

or Contract nor have had any Contract terminated for breach by such Tenderer.

2.2.7 Where the Tenderer is a single entity and registered or incorporated in a country other than India, it shall be required to form an appropriate subsidiary company in India under the Indian Companies Act 1956, to execute the Contract and implement the Consultancy.

2.2.8 Conflict of Interest

(i) A Tenderer shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the **"Conflict of Interest"**). Any Tenderer found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Railway shall forfeit and appropriate the EMD in full, without prejudice to any other right or remedy that may be available to the Railway hereunder or otherwise.

(ii) the Railway requires that the Consultant provide professional, objective, and impartial advice and at all times, hold the Railway's interests paramount, avoid conflicts with other assignments or their own corporate interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other employers, or that may place it in a position of not being able to carry out the assignment in the best interests of the Railway.

(iii) Without limiting the generality of the above, a Tenderer shall be considered to have a Conflict of Interest that affects the Selection Process, if such Tenderer has a relationship with another Tenderer, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Tender of either or each other, and if:

(a) a Tenderer or its constituent/Member and any other Tenderer or its constituent/Member have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Tenderer or its constituent/Member (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Tenderer or its constituent/Member, as the case may be) in the other Tenderer or

its constituent/Member is less than 5% (five percent) of the paid up and subscribed share capital of such Tenderer or its constituent/Member; provided further that this disqualification shall not apply to a bank, insurance company, pension fund, mutual fund or any financial institution that is included under the FEMA (notification No. FEMA.131/2005-RB dated 17th March, 2005) (for avoidance of doubt the indirect shareholding shall be reckoned by multiplying the percentage shareholding in each successive layer). or

(b) a Single Entity Tenderer is a constituent/Member of another Tenderer;

(c) a constituent/Member of such Tenderer is also a constituent/Member of another Tenderer; or

(d) such Tenderer has the same legal representative for purposes of this Tender as any other Tenderer; or

(e) such Tenderer or its constituent/Member has provided or is providing directly or indirectly services on the same Project(s) in detailed design and tender planning such as FLS, geotechnical studies, soil testing, design/drawing, BOQ etc.; conversely the Consultant shall be disqualified for providing above services on the Project(s); or

(f) such Tenderer or its constituent/Member has provided or is providing directly or indirectly any form of services to the Contractor(s), conversely the Consultant shall be disqualified for providing above services to the Contractor(s); or

(g) a firm which has been engaged by the Railway to provide goods or works for a project will be disqualified from providing consulting services for the same project; conversely, a firm hired to provide consulting services for the preparation of implementation of a project, and its constituent/Members, will be disqualified from subsequently providing goods or works or services related to the same project; or

(h) the Tenderer or its constituent/Member and the Contractor(s) or its constituent/Member have common controlling shareholders or other ownership interest; provided that this disqualification shall not

apply in cases where the direct or indirect shareholding of a Tenderer or its constituent/Member (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of the Tenderer or its constituent/Member, as the case may be) in the Contractor(s) or its constituent/Member is less than 5% (five percent) of the paid up and subscribed share capital of such Contractor(s) or its constituent/Member; provided further that this disqualification shall not apply to a bank, insurance company, pension fund, mutual fund or any financial institution that is included under the FEMA (notification No. FEMA.131/2005-RB dated 17th March, 2005), provided further that its direct or indirect shareholding doesn't exceed 26% of the paid up and subscribed share capital of the Tenderer or its constituent/Member, as the case may be (for avoidance of doubt the indirect shareholding shall be reckoned by multiplying the percentage shareholding in each successive layer).

2.2.9 **Consortium/ JV Requirements**

Tenderers applying as Consortium/JV shall comply the requirements laid down through the Railway Board's letter no. 2002/CE-1/CT/37 dated 2.9.2008 (copy of which is attached to Form-6 in Appendix-I) except as modified by the requirements of this Tender Document. Further, such Tenderer shall comply the following:

(i) each Member, whose technical experience and financial capacity is utilized in the bidding, shall have a share of interest not less than 20% in the Consortium/JV;

(ii) the Lead Member shall have a majority (at least 51%) share of interest in the Consortium/JV;

(iii) a JV with foreign entities as a constituent/Member shall necessarily have an Indian firm as Lead Member;

(iv) execution of formal joint bidding agreement in the Form-6 of Appendix I shall be done prior to TSD;

(v) by submitting the Tender, such Tenderer shall deem to have acknowledged and undertaken that each of the constituent Members shall continue to hold at least the specified minimum share in the JV until the Consultancy services required for the Project(s) is completed under and in accordance with the provisions of the Contract. The Tenderer further acknowledges and agrees that the

aforesaid obligation shall be the minimum, and in addition to other obligations contained in the Contract, and a breach hereof shall, notwithstanding anything to the contrary contained in the Contract, be deemed to be a breach of the Contract and dealt with as such there under;

(vi) by submitting the Tender, the Tenderer shall also be deemed to have acknowledged and agreed that in the event of a change in JV Member whose Minimum Eligibility, Technical Capacity or Financial Capacity was taken into consideration for the purposes of evaluation of the Tender, the Tenderer shall inform the Railway forthwith along with all relevant particulars about the same and the Railway may, in its sole discretion, disqualify the Tenderer or withdraw the LOA from the Tenderer, as the case may be. In the event such change in control occurs after signing of the Contract but prior to completion of the Consultancy, it would, notwithstanding anything to the contrary contained in the Contract, be deemed to be a breach thereof, and the Contract shall be liable to be terminated without the Railway being liable in any manner whatsoever to the Consultant. In such an event, notwithstanding anything to the contrary contained in the Contract, the Railway shall forfeit and appropriate the EMD, Security Deposit and Performance Guarantee without prejudice to any other right or remedy that may be available to the Railway hereunder or otherwise; and

(vii) the Technical experience of a constituent/Member of JV (for the purpose of reckoning Eligible Assignments) shall be considered for evaluation of the Technical Offer subject to such constituent/Member having on its roll for more than 12 months as on the TSD no less than two Key Personnel among those proposed in the Technical Offer. It is clarified that this requirement shall not be applicable for the purposes of determining the Eligibility of a Tenderer in terms of the Clause 2.2.2 (A).

2.2.10 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

2.2.11 A Tenderer who is under a declaration of ineligibility by the Railway in terms of Clause 2.2.5, on the TSD or thereafter, shall be disqualified. The Railway maintains a list of Firms and Individuals that have been debarred/

blacklisted, and are not eligible to participate in tenders and the list is regularly updated.

2.2.12 Serving Government employees are not permitted to undertake any assignment except when the Consultant or any of its Members is a Public Sector Unit (PSU) and such employees being on deputation to the PSU are deployed by them to undertake an assignment in the Services. In case of retired Government employees, they should be proposed by the Tenderer only after the mandatory period for re-employment in related area of work has been completed by the employee. If a retired Government employee is proposed to be engaged in the Consultancy, such Employee shall declare that:

(i) he superannuated from the Government in the normal process;

(ii) he was not removed or dismissed from Government service;

(iii) he is not undergoing any D&AR action; and

(iv) he is not undergoing any court cases or prosecution cases.

2.3 Cost of Tender Document

The Tenderers shall be responsible for all of the costs associated with the preparation of their Tender and their participation in the Selection Process. The Railway will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.4 Site Visit and Verification of Information

2.4.1 Tenderers are encouraged to submit their respective Tenders after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, access to the site, availability of drawings and other data with the Railway, applicable laws and regulations or any other matter considered relevant by them.

2.4.2 the Railway shall not be liable for any omission, mistake or error on the part of the Tenderer in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to Tender Document or the Selection Process, including any error or mistake therein or in any information or data given by the Railway.

2.5 Acknowledgement by Tenderer

It shall be deemed that by submitting the Tender, the Tenderer has:

(a) made a complete and careful examination of the Tender Document;

(b) received all relevant information requested from the Railway;

(c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Tender Document or furnished by or on behalf of the Railway or relating to any of the matters referred to in Clause 2.4 above;

(d) satisfied itself about all matters, things and information including matters referred to in Clause 2.4 hereinabove necessary and required for submitting an informed Tender and performance of all of its obligations thereunder;

(e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Tender Document or ignorance of any of the matters referred to in Clause 2.4 hereinabove shall not form a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Railway, or a ground for termination of the Contract;

(f) acknowledged that it does not have a Conflict of Interest; and

(g) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.6 Right to Reject Offers

2.6.1 Notwithstanding anything contained in this Tender Document, the Railway reserves the right to accept, or reject any or all Tender(s) and to annul the Selection Process, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.6.2 the Railway reserves the right to reject any Tender if:

(a) at any time, a material misrepresentation is made or uncovered, or

(b) the Tenderer does not provide, within the time specified by the Railway, the supplemental information sought by the Railway for evaluation of the Tender.

Such misrepresentation/ improper response may lead to the disqualification of the Tenderer. If such disqualification / rejection occurs after the

Tenders have been opened and the highest ranking Tenderer gets disqualified / rejected, then the Railway reserves the right to:

(i) consider the next best Tenderer, or
(ii) take any other measure as may be deemed fit in the sole discretion of the Railway, including annulment of the Selection Process.

2B. DOCUMENTS

2.7 Contents of the Tender Document

2.7.1 This Tender Document comprises following and will additionally include any Addendum/ Amendment issued in accordance with Clause 2.9:

(i) Disclaimer;

(ii) Glossary;

(iii) Structure of the Tender Document;

(iv) Volume–I consisting of Section 1, 2 & 3 and Schedule-I & II; and

(V) Volume-II consisting of Forwarding Letter, Notice Inviting Tender, Section 4 & 5, Schedule-III & IV and Appendices I & II.

2.7.2 Notwithstanding anything to the contrary contained in this Tender Document, the detailed terms and conditions specified in the SCC shall have overriding effect; provided, however, that any conditions or obligations imposed on the Tenderer under this Tender Document shall continue to be in addition to its obligations under the Contract.

2.8 Clarification on Tender Document

2.8.1 Tenderers requiring any clarification on the Tender Document may send their queries to the Railway in writing before the date mentioned in the Schedule of Selection Process at Clause 5.17. The envelopes shall clearly bear the following identification:

"Queries/Request for Additional Information concerning Tender Document"

The Railway shall endeavour to respond to the queries within the period specified therein but not later than 7 days prior to the Tender Submission Date. The responses will be sent by fax or e-mail. The Railway will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Tenderers who have purchased the Tender Document without identifying the source of queries.

2.8.2 The Railway reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this clause shall be taken or read as compelling or requiring the Railway to respond to any question or to provide any clarification.

2.9 Amendment of Tender Document

2.9.1 At any time prior to the deadline for submission of Tender, the Railway may, for any reason, whether at its own initiative or in response to clarifications requested by a Tenderer, modify the Tender Document by the issuance of Addendum/ Amendment.

2.9.2 All such amendments will be notified in writing through fax or e-mail to all Tenderers who have purchased the Tender Document. The amendments will also be posted on the Official Website along with the revised Tender Document containing the amendments and will be binding on all Tenderers.

2.9.3 In order to afford the Tenderers a reasonable time for taking an amendment into account, or for any other reason, the Railway may, in its sole discretion, extend the Tender Submission Date.

2C. PREPARATION AND SUBMISSION OF TENDER

2.10 Language

The Tender with all accompanying documents (the "**Documents**") and all communications in relation to or concerning the Selection Process shall be in English Language and strictly on the forms provided in this Tender Document. No supporting document or printed literature shall be submitted with the Tender unless specifically asked for and in case any of these documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, in which case, for all purposes of interpretation of the Tender, the translation in English shall prevail.

2.11 Format and Signing of Tender

2.11.1 The Tenderer shall provide all the information sought under this Tender Document. the Railway would evaluate only those Tenders that are received in the specified forms and complete in all respects.

2.11.2 The Tenderer shall prepare and submit only one original set of the Documents.

2.11.3 The Tender shall be typed or written in indelible ink and signed by the authorised signatory of the Tenderer who shall initial each page, in blue ink. All the alterations, omissions, additions, or any other amendments made to the Tender shall be initialed by the person(s) signing the Tender. The Tenders must be properly signed as detailed below:

(i) by the proprietor, in case of a proprietary firm;

(ii) by the partner holding the Power of Attorney, in case of a partnership firm;

(iii) by a duly authorised person holding the Power of Attorney (the "**Authorised Signatory**"), in case of a Limited Company or a corporation; or

(iv) by the Authorised Signatory of the Authorized Member, in case of consortium.

A copy of the Power of Attorney certified under the hands of a partner or director of the Tenderer or a notary public on the specified form shall accompany the Tender.

2.11.4 Tenderers should note the Tender Submission Date, as specified in Clause 5.11, for submission of Tenders. Tenderers are reminded that no supplementary material will be entertained by the Railway, and that evaluation will be carried out only on the basis of Documents received by the closing time of Tender Submission Date as specified in Clause 5.11. Tenderers will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

2.12 Technical Offer

2.12.1 Tenderers shall submit the Technical Offer in the formats at Appendix-I (the "**Technical Offer**").

2.12.2 While submitting the Technical Offer, the Tenderer shall, in particular, ensure that:

(a) CVs of all Professional Personnel have been submitted;

(b) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 5.18.3 of the Tender Document;

(c) no alternative Tender for any Key Personnel is being made and only one CV for each position has been furnished;

(d) the CVs have been recently signed in blue ink by the respective Personnel and countersigned by the Authorised Signatory of the Tenderer. Photocopy or unsigned/un-countersigned CVs shall be rejected;

(e) the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the Tender Document; and

(f) Professional Personnel proposed have good working knowledge of English language.

2.12.3 Failure to comply with the requirements spelt out in this Clause 2.12 shall make the Tender liable to be rejected.

2.12.4 If an individual Key Personnel makes an averment regarding his qualification, experience or other particulars and it turns out to be false, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Contract, he shall be debarred for any future assignment of the Railway. The award of this Consultancy to the Tenderer shall also be liable to cancellation in such an event.

2.12.5 The Technical Offer shall not include any financial information.

2.12.6 The Consultant shall propose a consultancy team (the **"Consultancy Team"**) for the implementation of this Consultancy. The Consultancy Team shall be composed of Key Personnel as specified in Clause 5.18.3, experts and specialists in their respective areas of expertise and field engineers as specified in Clause 5.21 (collectively the **"Professional Personnel"**) and managerial/support staff (the **"Support Personnel"**) as specified in Form-18 of Appendix-II (Schedule of Personnel and Man Month Rates). The CV of Professional Personnel other than Key Personnel should also be submitted in the format at Form-14 of Appendix-I.

2.12.7 A Tenderer shall neither be allowed to sub-let any part of the Services to any sub-consultant nor any member of the Consultancy Team be allowed to be replaced with any sub-consultant.

2.12.8 The Railway reserves the right to verify all statements, information and documents, submitted by the Tenderer in response to the Tender Document. Failure of the Railway to undertake such verification shall not relieve the Tenderer of its obligations or liabilities hereunder nor will it affect any rights of the Railway thereunder.

2.12.9 In case it is found during the evaluation or at any time before signing of the Contract or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Tenderer or the Tenderer has made material misrepresentation or has given any materially incorrect or false information, the Tenderer shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Contract, and if the Tenderer has already been issued the LOA or has entered into the Contract, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Tender Document, be liable to be terminated, by a communication in writing, without the Railway being liable in any manner whatsoever to the Tenderer or Consultant, as the case may be.

In such an event the Railway shall forfeit and appropriate the EMD, Security Deposit and encash the Performance Guarantee in full, without prejudice to any other right or remedy that may be available to the Railway.

2.12.10 The complete set of Tender Document as issued by the Railway or as downloaded from the Official Website of the Railway shall be submitted as part of the Technical Offer with each page of the Tender Document signed by the Authorized Signatory. This submission is as a token of acknowledgement and agreement by the Tenderer of all the terms and conditions of the Tender Document together with the contents of Schedules and Appendices.

2.13 Financial Offer

2.13.1 The financial offer shall be submitted in the format at Appendix-II (the **"Financial Offer"**) clearly indicating the total cost of the Consultancy (Item G of Form-17 of Appendix II) in both figures and words, in Indian Rupees, and signed by the Tenderer's Authorised Signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account. In the event of a difference between the arithmetic total and the total shown in the Financial Offer, the lower of the two shall be taken into account.

2.13.2 While submitting the Financial Offer, the Tenderer shall ensure the following:

(i) All the costs associated with the assignment, except for the equipment and services, if any, to be provided to the Consultant by the Railway either directly or through a Contractor, shall be included in the Financial Offer. These shall normally cover remuneration for all the

Personnel (in the field, office etc), accommodation, equipment, printing of documents, transport, office consumables etc. The total amount indicated in the Financial Offer shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Tender, it shall be considered non-responsive and liable to be rejected.

(ii) The Financial Offer shall take into account all expenses and tax liabilities.

(iii) Costs (including break down of costs) shall be expressed in INR.

(iv) Equipment and services to be provided by the Railway shall be as specified at Annex-11 of the Form of Contract.

2.14 Submission of Tender

2.14.1 The Tenderer shall submit the Tender in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be signed by the Authorized Signatory of the Tenderer. In case the Tender is submitted on the document down loaded from Official Website, the Tenderer shall be responsible for its accuracy and correctness as per the version uploaded by the Railway and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the Tender Document and the original Tender Document issued/uploaded by the Railway, the latter shall prevail.

2.14.2 The Tender will be sealed in an outer envelope which will bear the address of the Railway, Tender Document Notice no., Consultancy name as indicated at Clause 5.4 and 1.9.3 and the name and address of the Tenderer. It shall bear on top, the following:

"Do not open, except in presence of the Authorised Persons"

If the envelope is not sealed and marked as instructed above, the Railway assumes no responsibility for the misplacement or premature opening of the contents of the Tender submitted.

2.14.3 The aforesaid outer envelope will contain two separate sealed envelopes; one clearly marked 'Technical Offer' and the other clearly marked 'Financial Offer'.

2.14.4 The Technical Offer and Financial Offer shall be typed or written in indelible ink and signed by the authorised signatory of the Tenderer. All pages of the original Technical Offer and Financial Offer must be numbered and initialed by the Authorised Signatory signing the Tender.

2.14.5 The completed Tender must be delivered on or before the specified time on TSD. Tenders submitted by fax, telex, telegram or e-mail shall not be entertained.

2.14.6 The Tender shall be made in the Forms specified in this Tender Document. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents, experience certificates etc. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

2.14.7 The rates quoted shall be firm, except as specified in the Contract, throughout the period of performance of the assignment upto and including acceptance of the Completion Report by the Railway and discharge of all obligations of the Consultant under the Contract.

2.15 Tender Submission Date (TSD)

2.15.1 Tender should be submitted before the time specified at Clause 5.11 on the Tender Submission Date at the address provided in Clause 5.4 in the manner and form as detailed in this Tender Document.

2.15.2 The Railway may, in sole discretion, extend the Tender Submission Date by issuing an Addendum/Amendment in accordance with Clause 2.9 uniformly for all Tenderers.

2.16 Late Tenders

Tenders received by the Railway after the specified time on Tender Submission Date shall not be eligible for consideration and shall be summarily rejected.

2.17 Modifications / Substitution & withdrawal of Tenders

2.17.1 A Tenderer may, only in exceptional circumstances, modify, substitute, or withdraw its Tender after submission, provided that written notice of the modification, substitution, or withdrawal is received by the Railway prior to Tender Submission Date. No Tender shall be modified, substituted, or withdrawn by the Tenderer on or after the Tender Submission Date.

2.17.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.14, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.17.3 Any alteration / modification in the Tender or additional information material supplied subsequent to the Tender Submission Date, unless the same has been expressly sought for by the Railway, shall be disregarded.

2.18 Earnest Money Deposit (EMD)

2.18.1 The Tenderer shall furnish as part of its Tender, an EMD of amount as specified in Clause 5.12 in the manner specified in GCC.

2.18.2 Any Bid not accompanied by the EMD shall be summarily rejected by the Railway as non-responsive.

2.18.3 The Railway shall not be liable to pay any interest on the EMD and the same shall be interest free.

2.18.4 The Tenderer, by submitting its Tender pursuant to this Tender Document, shall be deemed to have acknowledged that without prejudice to the Railway's any other right or remedy hereunder or in law or otherwise, the EMD shall be forfeited and appropriated in full by the Railway under the following conditions:

a) If a Tenderer engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 2.30 of this Tender Document;

b) If a Tenderer withdraws its Tender during the period of its validity as specified in this Tender Document and as extended by the Tenderer from time to time;

c) In the case of the Selected Tenderer, if the Tenderer fails to reconfirm its commitments during negotiation as required vide Clause 2.23;

d) In the case of a Selected Tenderer, if the Tenderer fails to sign the Contract or commence the assignment as specified in Clause 2.27 and 2.28 respectively; or

e) If the Tenderer is found to have a Conflict of Interest as specified in Clause 2.2.8.

2.18.5 EMD of the successful Tenderer who is awarded the Consultancy shall be retained by the Railway as part of security for the due and faithful fulfillment of the Contract (the **"Security Deposit"**) by the Consultant. The amount of the Security Deposit shall be 5% of the Contract Value. The balance amount to make up the Security Deposit for this Consultancy may be deposited by the Consultant in advance otherwise it will be recovered from the Consultant's running bills @ 10% deduction from each such bill. Security Deposit shall be returned to the Consultant after the expiry of the Defect Liability Period. Further the Consultant shall deposit a performance guarantee (the **"Performance Guarantee"**) for an amount not less than 5% of the Contract Value in the form of a Bank Guarantee in the Format at Annex-10 of Form of Contract prior to or at the time of execution of the Contract. Performance Guarantee shall be returned after the expiry of the Defect Liability Period.

2.18.6 EMD of the unsuccessful Tenderers, if otherwise not forfeited by the Railway in terms of the Clause 2.18.4, will be returned to respective Tenderer.

2D. EVALUATION PROCESS

2.19 Opening and Evaluation of Tenders

2.19.1 The Railway shall open the Tenders at the specified time on the Tender Submission Date soon after the closing time of the Tender submission and in the presence of the Tenderers who choose to attend. The envelopes marked "Technical Offer" shall only be opened. The envelopes marked "Financial Offer" shall be kept sealed for opening at a later date.

2.19.2 Tenders for which a notice of withdrawal has been submitted in accordance with Clause 2.17 shall not be opened.

2.19.3 The Railway shall examine the Tenders in the sequence specified hereunder. The Railway shall first examine the Tenders for responsiveness in terms of Clause 2.21. Only the Tenders found to be responsive, will be examined further for completeness and adequacy of all legal documents submitted as part of the Tender. Only the Tenders that pass this stage of examination will be examined further for Technical Capacity and Financial Capacity as specified at Clause 2.2.2. Thereafter other Eligibility requirements such as Conflict of Interest etc shall be checked for compliance. Tenders not qualifying at any of the stages specified hereabove shall be rejected at that

stage itself. The Railway will subsequently carry out evaluation of the Technical Offers and the Financial Offers, in that order, in accordance with the provisions set out in Section 3.

2.19.4 After the evaluation of the Technical Offers, the Railway shall short list the Tenderers in terms of Clause 3.2 for opening of their Financial Offers. Date, time and venue will be notified to all Tenderers for announcing the result of Technical evaluation and opening of Financial Offers. The opening of Financial Offers shall be done in presence of the respective representatives of Tenderers who choose to be present. The Railway will not entertain any query or clarification from Tenderers who fail to qualify at any stage of the Selection Process. The evaluation of Financial Offers and Final Selection of the Tenders would be carried out in terms of Clauses 3.3 and 3.4.

2.19.5 Tenderers are advised that selection of Tenderers will be entirely at the discretion of the Railway. Tenderers will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or the selection will be given.

2.19.6 Any information contained in the Tender shall not in anyway be construed as binding on the Railway, its agents, successors or assigns, but shall be binding against the Tenderer if the Consultancy work is subsequently awarded to that Tenderer under the Selection Process on the basis of such information.

2.19.7 The Railway reserves the right not to proceed with the Selection Process at any time without notice or liability and to reject any Tender without assigning any reasons.

2.20 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Tenderers shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Railway in relation to or matters arising out of, or concerning the Selection Process. The Railway will treat all information, submitted as part of the Tender, in confidence and will require all those who have access to such material to treat the same in confidence. The Railway may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to

require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Railway.

2.21 Tests of Responsiveness

2.21.1 As the first stage of evaluation process, the Railway shall determine whether each Tender is responsive to the requirements of the Tender Document. A Tender shall be considered responsive only if:

(a) it is received as per Form-I at Appendix-I (Technical Offer) and Form-II at Appendix-II (Financial Offer);

(b) it is received on or before the Tender Submission Time and Date including any extension thereof pursuant to Clause 2.15;

(c) it is accompanied by the EMD as specified in Clause 2.18.

(d) it is signed, sealed, hard bound and marked as stipulated in Clause 2.11 and 2.14;

(e) it is accompanied by the Power of Attorney as specified in Clause 2.2.4 with clear evidence of authority for the person(s) executing the Power of Attorney;

(f) it contains all the information as requested in formats specified in this Tender Document; and

(g) it does not contain any condition or qualification.

2.21.2 The Railway reserves the right to reject any Tender which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Railway in respect of such Tender.

2.22 Clarification on Tender

2.22.1 To facilitate evaluation of Tenders, the Railway may, at its sole discretion, seek clarifications from any Tenderer regarding its Tender. Such clarification(s) shall be provided within the time specified by the Railway for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.22.2 If a Tenderer does not provide clarifications sought under Sub-Clause 2.22.1 above within the specified time, its Tender shall be liable to be rejected. In case the Tender is not rejected, the Railway may proceed to evaluate the Tender by construing the particulars requiring clarification to the best of its

understanding, and the Tenderer shall be barred from subsequently questioning such interpretation of the Railway.

2E. APPOINTMENT OF CONSULTANT

2.23 Negotiations

The first ranked Tenderer (the **"Selected Tenderer"**) may, if necessary, be invited for negotiations. The negotiations shall be either for reducing the price of the Tender, or for re-confirming the obligations of the Consultant, and discussing the deployment of Key Personnel, proposed methodology and work plan. The Railway will also examine the CVs of all Other Professional Personnel and those not found suitable shall have to be replaced by the Tenderer to the satisfaction of the Railway. If the negotiation with the Selected Tenderer fails, the Tender shall be cancelled and the Railway will re-invite the Tender if required.

2.24 Substitution of Key Personnel

2.24.1 The Railway will not normally consider any request of the Selected Tenderer for substitution of Key Personnel during negotiations as the ranking of the Tenderer is based on the evaluation of Key Personnel and any change therein may upset the ranking. Substitution, will, however be permitted if the concerned Key Personnel is not available for reasons of any serious incapacity or due to ill health, subject to equally or better qualified and experienced personnel being substituted to the satisfaction of the Railway.

2.24.2 The Railway expects all the Key Personnel to be available during the first year (12 months) of implementation of the Contract. The Railway will not consider substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to a maximum of 20% of the Key Personnel subject to equally or better qualified and experienced personnel being substituted to the satisfaction of the Railway. As a condition to such substitution, a sum equal to 20% of the remuneration specified for the original Key Personnel shall be deducted from the payments due to the Consultant. Any subsequent substitution of Key Personnel by the Consultant shall be with equally or more competent and experienced personnel to the satisfaction of the Railway.

2.24.3 Substitution of the Team Leader will not normally be considered and may lead to disqualification of the Tenderer or termination of the Contract.

2.24.4 The Railway may direct the Consultant to replace any Key Personnel at any time during the implementation of the Contract on the basis of non-satisfactory performance or otherwise and the Consultant shall have to replace this Key Personnel with more competent and experienced personnel to the satisfaction of the Railway.

2.25 Indemnity

The Consultant shall, subject to the provisions of the Contract, indemnify the Railway for any direct loss or damage that is caused due to any deficiency in services. It shall take professional insurance for the amount specified in the Contract towards this end. This shall be over and above the Security Deposit and Performance Guarantee specified therein.

2.26 Award of Consultancy

After selection, a Letter of Acceptance (the **"LOA"**) shall be issued, in duplicate, by the Railway to the selected Tenderer and the Selected Tenderer shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Tenderer is not received by the stipulated date, the Railway may, unless it consents to extension of time for submission thereof, forfeit and appropriate the EMD of such Tenderer in full on account of failure of the Selected Tenderer to acknowledge the LOA, and cancel the LOA.

2.27 Execution of Contract

After acknowledgement of the LOA as aforesaid by the Selected Tenderer, it shall execute the Contract within the period specified in the LOA, subject to such date not being earlier than one week after the date of issue of LOA. The Selected Tenderer shall not be entitled to seek any deviation in the Contract.

2.28 Commencement of Assignment

The Consultant shall commence the Services at the Project site within the period specified in LOA or such other date to be specified by the Railway through a notice to proceed (the **"Notice to Proceed"** or **"NTP"**) subject to such date not being earlier than two week after the date of issue of the LOA. If the Consultant fails to either execute the Contract as specified in Clause 2.27 or commence the assignment as specified herein, the Railway may cancel the LOA or terminate the contract, as the case may be. In such

an event, the EMD, Security Deposit and Performance Guarantee of the Selected Tenderer shall be forfeited/encashed and appropriated in full. Besides any other penal action as deemed fit by the Railway will also be initiated.

2.29 Proprietary Data

All documents and other information provided by the Railway or submitted by a Tenderer to the Railway shall remain or become the property of the Railway. Tenderers and the Consultant, as the case may be, are to treat all information as strictly confidential. The Railway will not return any Tender or any information related thereto. All information collected, analysed, processed or in whatever manner, provided by the consultant to the Railway in relation to the Consultancy shall remain or become the property of the Railway.

2.30 Fraud and Corrupt Practices

2.30.1 The Tenderers and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this Tender Document, the Railway shall reject a Tender without being liable in any manner whatsoever to the Tenderer, if it determines that the Tenderer has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Selection Process. In such an event, the Railway shall, without prejudice to its any other rights or remedies, forfeit and appropriate the EMD or Security Deposit, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Railway for, inter alia, time, cost and effort of the Railway, in regard to the Tender Document, including consideration and evaluation of such Tenderer's Tender.

2.30.2 Without prejudice to the rights of the Railway under Clause 2.29.1 hereinabove and the rights and remedies which the Railway may have under the LOA or the Contract, if an Tenderer or Consultant, as the case may be, is found by the Railway to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Contract, such Tenderer or Consultant shall not be eligible to participate in any tender invited by the Railway during a period of 2 (two) years from the date such

Tenderer or Consultant, as the case may be, is found by the Railway to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

2.30.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) **"corrupt practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Railway who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Contract or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Railway, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project(s) or the LOA or the Contract, who at any time has been or is a contractor or design consultant of the Railway in relation to any matter concerning the Project(s);

(b) **"fraudulent practice"** means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;

(c) **"coercive practice"** means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection Process;

(d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Railway with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and

(e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Tenderers with the objective of restricting or manipulating a full and fair competition in the Selection Process.

2.31 Pre-Tender Conference

2.31.1 Pre-Tender Conference of the Tenderers shall be convened at the designated date, time and place. Only those Tenderers who have purchased the Tender Document shall be allowed to participate in the Pre-Tender Conference. A maximum of two representatives of each Tenderer shall be allowed to participate on production of an authority letter from the Tenderer.

2.31.2 During the course of Pre-Tender Conference, the Tenderers will be free to seek clarifications and make suggestions for consideration of the Railway. The Railway shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

2.32 Miscellaneous

2.32.1 The Selection Process shall be governed by and construed in accordance with the laws of India, and the Courts at the city, where the office of tender inviting official is located, shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process or the Contract.

2.32.2 The Railway, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

(a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Tenderer in order to receive clarification or further information;

(c) retain any information and/or evidence submitted to the Railway by, on behalf of and/or in relation to any Tenderer; and/or

(d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Tenderer.

2.32.3 It shall be deemed that by submitting the Tender, the Tenderer agrees and releases the Railway, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

_____END OF INSTRUCTION TO TENDERERS _____

3. CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Offers

3.1.1 Only those Tenderers whose Tenders are found responsive in terms of Clause 2.21 and who meet the eligibility criteria specified in Clause 2.2 determined in the sequence specified in Clause 2.19.3 shall qualify for evaluation under this Section 3. Tenders not meeting with the requirements at any stage as specified in Clause 2.19.3 shall be rejected. Tenderers will be evaluated on the basis of Tenderer's experience, its understanding of TOR, proposed methodology and Work Plan, and the experience of Key Personnel. Only those Tenderers whose Technical Offer score 70 points or more out of 100 shall qualify for further consideration, and shall be ranked from highest to the lowest on the basis of their technical score (S_T).

3.1.2 The scoring criteria to be used for evaluation shall be as follows.

Item Code	Parameter	Maximum Marks	Criteria
1.	Firm's Relevant Experience	25	Full Marks will be awarded to the Tenderer having the highest number of Eligible Assignments in respect of project management services or construction supervision services among the Tenderers, while the Tenderer having the number of Eligible Assignments required for Eligibility in terms of Clause 5.18.1 will be awarded 50% of the full marks; other Tenderers will be awarded marks pro-rata between above two extremes based on the number of Eligible Assignments undertaken by the Tenderer.
2.	Proposed methodology and Work Plan	5	Evaluation will be based on the quality of submissions.
3.	Relevant Experience of the	70	Full Marks for each Key Personnel* will be awarded to the candidate having the highest number of Eligible

	Key Personnel		Assignments among all candidates proposed by various Tenderers against that Key Personnel, while the candidate having the number of Eligible Assignments required for Eligibility in terms of Clause 5.18.3 (ii) will be awarded 50% of the full marks; other candidates will be awarded marks pro-rata between above two extremes based on the number of Eligible Assignments undertaken by each of them.

*Marks for each Key Personnel is specified in Clause 5.19.

3.1.3 Eligible Assignments

For the purposes of determining Conditions of Eligibility and for evaluating the Technical Offers under this Tender, consultancy assignments in respect of project management services, construction supervision/monitoring, proof checking/ design coordination, as the case may be, for the projects specified in Clause 5.20 shall be deemed as eligible assignments (the **"Eligible Assignments"**).

3.1.4 For the purposes of the evaluation of the Technical Offers in terms of the Clause 3.1, one Eligible Assignment relating to a railway/metro project shall be scored as two Eligible Assignments. Further, in respect of Key Personnel, one Eligible Assignment for duration of two years or more shall be scored as two Eligible Assignments.

3.2 Short-listing of Tenderers

Tenderers ranked as aforesaid shall be technically pre-qualified and short-listed for financial evaluation in the second stage. However, if the number of such short-listed Tenderers is less than two, the Railway may, in its sole discretion, pre-qualify the Tenderer(s) whose technical score is less than 70 but not in any case less than 50, provided that in such an event, the total number of pre-qualified and short-listed Tenderers shall not exceed two. In other words for example if only one Tenderer secures more than 70 and gets shortlisted, then the Tenderer who has secured the highest score among

those who have not got shortlisted (securing score between 50 and 70) shall be considered and short listed notwithstanding his score being less than 70. The Railway shall notify those Tenderers whose Technical Offers did not meet the minimum qualifying standard or whose Tenders were rejected at any of the evaluation stage specified hereabove. Their Financial Offers will be retained/destroyed by the Railway after completing the Selection Process and no further correspondence would be entertained.

3.3 Evaluation of Financial Offers

3.3.1 Financial Offers of only the short-listed Tenderers shall be opened.

3.3.2 For the purpose of evaluation, the total cost shall include all taxes and duties for which the Railway will make payments to the Consultant. Each Financial Proposal will be assigned a financial score (S_F).

3.3.3 The Railway will determine whether the Financial Proposals are complete, unqualified and unconditional. If there are conditions attached to any Financial Offer, which shall have bearing on the total costs as indicated in the Offer, the Railway shall reject such Offers as non-responsive Financial Offer. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the Tenderer to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant. For the purposes of CQCCBS system of final selection, the lowest Financial Offer (F_M) will be given a financial score (S_F) of 100 points and the financial scores of other Offers will be computed as follows:

$$S_F = 100 \times F_M/F$$

(Where, F = amount of Financial Offer

F_M = lowest financial offer,

S_F = financial score)

3.4 Final Selection

3.4.1 (a) Under the QCBS procedure, the Financial Offers will be ranked in terms of their total evaluated cost. The least cost proposal will be ranked as L-1 and the next higher and so on will be ranked as L-2, L-3 etc. The least cost proposal (L-1) will be considered for invitation for negotiation (if required) and award of contract.

(b) Under CQCCBS, the Technical Score S_T will be allotted weightage of 70% while the Financial Score S_F will be allotted weightage of 30%. Offers will finally be ranked, from the highest as H-1 and the next lower and so on as H-2, H-3 etc., according to their combined technical (S_T) and financial (S_F) scores as follows:

$$S = S_T \times T_w + S_F \times F_w$$

Where, S = combined score

ST = technical score

SF = financial score

T_w and F_w are weights assigned to Technical Offer and Financial Offer that shall be 0.7 and 0.3 respectively.

The Tender securing the highest combined score shall be ranked as H-1 and shall be considered for negotiation (if required) and award of contract.

3.4.2 The negotiation with the Selected Tenderer, L-1 in case of QCBS and H-1 in case of CQCCBS system of final selection, will be carried out as specified in Clause 2.23.

_____END OF CRITERIA FOR EVALUATION_____

VOLUME I

(NON-VARIABLE)

SCHEDULE I

GENERAL CONDITIONS OF CONTRACT

(GCC)

GENERAL CONDITIONS OF CONTRACT

1.0 The requirements specified in Clauses of he General Condition of Contract of the Indian Railways, ___ Year, updated upto Correction Slip No: _____ (the "**GCC for Works Contract**") to the extent specified and modified hereunder shall form part of the General Conditions of Contract or GCC applicable for this Tender and the Contract.

2.0 Clause 2 'Definition' shall be applicable subject to following:

(i) the term "Contractor" shall be replaced with "Consultant"

(ii) the term "Engineer" shall be replaced with "Engineer-in-Charge"

(iii) the term "Engineer's Representative" shall be replaced with "Engineer"

(iv) the term "Works" shall be replaced with "Consultancy"

3.0 Clauses 11,12,13,14, 19 to 40, and 45 to 51 shall not be applicable as these pertain to works contract only.

4.0 In the event of a conflict between the GCC and the SCC, the SCC shall prevail to that extent.

Note: It is expected that Tenderers shall purchase/ acquire a copy of the relevant General Condition of Contract of the Indian the Railways.

_____END OF GCC_____

VOLUME I

(NON-VARIABLE)

SCHEDULE II

FORM OF AGREEMENT

FORM OF AGREEMENT

Project Management Consultancy for _____

AGREEMENT No._____

This Agreement (hereinafter called the "**Contract**") is made on the _____ day of the month of _____ 2***, between, on the one hand, the President of India acting through _____ (hereinafter called the "**the Railway**" which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, _____ (hereinafter called the "**Consultant**" which expression shall include their respective successors and permitted assigns).

WHEREAS

(A) The Railway vide its Tender for Project Management Consultancy Services (hereinafter called the "**Consultancy**") for _____ (hereinafter called the "**Project(s)**");

(B) the Consultant submitted its offers for the aforesaid work, whereby the Consultant represented to the Railway that it had the required professional skills, and in the said offers the Consultant also agreed to provide the Services to the Railway on the terms and conditions as set forth in the Tender Document and this Contract; and

(C) the Railway, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Acceptance No. _____ dated _____ (the "**LOA**"), Notice to Proceed No. _____ dated _____ (the "**NTP**"), which was accepted by the consultant vide its letter No _____ dated _____; and

(D) In pursuance of LOA and NTP and Consultant's acceptance thereto, the parties have agreed to enter into this Contract with effect from date_____.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The following documents along with all addenda issued thereto and attached hereto shall be deemed to form and be read and construed as integral part of this Contract and in case of any contradiction between or among them the priority in

which a document would prevail over other would be as laid down below beginning from the highest priority to the lowest priority:

(a) Schedules of Costs for Services

(b) Schedule of Rates at Annex-5 to Annex-9

(c) Notice to Proceed

(d) Letter of Acceptance

(e) Terms of Reference

(f) The Special Conditions of Contract(hereinafter called "**SCC**")

(g) The General Conditions of Contract (hereinafter called "**GCC**")

(h) Other Annexes of the Contract

(i) Tender Document;

2. The Parties agree that the total value of the Consultancy (the **"Contract Value"**) is Rs. _____ (Rs. _____) including all taxes and the total time for completing the Services under the Consultancy is _____months.

3. The mutual rights and obligations of the Railway and the Consultant shall be as set forth in the Contract; in particular:

(a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and

(b) Railway shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed in their respective names as of the day and year first above written.

SIGNED, SEALED AND DELIVERED	SIGNED, SEALED AND DELIVERED
For and on behalf of Consultant:	For and on behalf of the President of India
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
(Fax No.)	(Fax No.)

In the presence of:

1. 2.

Annex -1

General Conditions of Contract

(Reproduce Schedule I of the Tender Document)

Annex -2

Special Conditions of Contract

(Reproduce Schedule IV of the Tender Document)

Annex -3

Terms of Reference

(Reproduce Schedule III of the Tender Document)

Annex - 4

Schedule of Costs for Services

(Reproduce as per Form - 2 of Appendix-II of the Tender Document)

Annex - 5

Schedule of Personnel and Man Month Rates

(Reproduce as per Form - 3 of Appendix-II of the Tender Document along with the names of the respective Professional Personnel)

Annex - 6

Schedule of Provision and Maintenance of Offices

(Reproduce as per Form - 4 of Appendix-II of the Tender Document)

Annex-7

Schedule of Hiring of Vehicles

(Reproduce as per Form-20 of Appendix-II of the Tender Document)

Annex-8

Schedule of Payment for Attending Meetings

(Reproduce as per Form-21 of Appendix-II of the Tender Document)

Annex-9

Schedule of Payment for Office Consumables

(Reproduce as per Form-22 of Appendix-II of the Tender Document)

Annex-10

Performance Bank Guarantee

(Alternatively the format existing on the Railway may be used)

(Refer Clause 2.18.5)

To

The President of India

(acting through

_____,

_____.

In consideration of _____ acting on behalf of the President of India (hereinafter referred as the "Railway", which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s _____, having its office at _____ (hereinafter referred as the "Consultant" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Railway's Contract no. _____ dated _____ valued at Rs. _____ (Rupees _____), (hereinafter referred to as the "Contract") a Project Management Consultancy Services for _____ _____, and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs. _____ (Rupees _____) to the Railway for performance of the said Contract.

We, _____ (hereinafter referred to as the "Bank") at the request of the Consultant do hereby undertake to pay to the Railway an amount not exceeding Rs._____ (Rupees _____) against any loss or damage caused to or suffered or would be caused to or suffered by the Railway by reason of any

breach by the said Consultant of any of the terms or conditions contained in the said Contract.

2. We, _____ (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Railway stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Railway by reason of breach by the said Consultant of any of the terms or conditions contained in the said Contract or by reason of the Consultant's failure to perform the said Contract. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees _____).

3. We undertake to pay to the Railway any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

4. We, _____ (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and that it shall continue to be enforceable till all the dues of the Railway under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged or till the Railway certifies that the terms and conditions of the said Contract have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, _____ (indicate the name of Bank) further agree with the Railway that the Railway shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by

the Railway against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Railway or any indulgence by the Railway to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).

7. We, _____ (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Railway in writing.

Dated the _____ day of _____ 200*

For _____

(Name of Bank)

(Signature, Name and Designation of the Authorised Signatory)

Seal of the Bank:

NOTES:

(i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.

(ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

Annex- 11

Equipment and Services to be Provided by the Railway

(Refer Clause 2.13.2)

(To be filled up by the CAO of the Zonal Railway before floating RFP)

Annex-12

Deployment Schedule of Professional Personnel

(Refer Clause 7.2 of TOR)

(To be filled up by the Railway)

S.No.	Designation	Name	Month Numbers from the Commencement of Services																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1.																						
2.																						
3.																						
4.																						
5.																						
6.																						
7.																						
8.																						
9.																						
10.																						
11.																						

Annex-13

Responsibilities of Professional Personnel

(Reproduce Clause 5.18.3 (i) for Key Personnel and 8.21.1 for

Other Professional Personnel)

Annex-14

Minimum Eligibility Requirements of Professional Personnel

(Reproduce Clause 5.18.3 (ii) for Key Personnel and 8.21.2 for

Other Professional Personnel)

_____END OF VOLUME-I_____



Government of India
Ministry of Railways

Model

Tender Document
For

Project Management Consultancy Services

Volume-II
(*Variable* Document)

Railway Board

Office of the

Chief Administrative Officer (Construction)

[Name of the Zonal Railway]
[Office address,
City]

Tender Document

For

Project Management Consultancy Services

Volume – II

(*Variable* Document)

(In continuation of Volume-I)

Tender for Project Management Consultancy Services for the work of

Name of Work:

_____

_____

_____

Authenticated By: _____
Signature / Name / Designation

DISCLAIMER

The information contained in this tender document (the **"Tender Document"**) or subsequently provided to Tenderer(s), whether verbally or in documentary or any other form by or on behalf of the Railway or any of their employees or advisors, is provided to tenderer(s) on the terms and conditions set out in this Tender Document and such other terms and conditions subject to which such information is provided.

This Tender Document is not a contract but an offer/ invitation by the Railway to the prospective tenderers or any other person for entering into a contract. The purpose of this Tender Document is to provide interested parties with information that may be useful to them in making their technical and financial offers pursuant to this Tender Document. This Tender Document includes statements, which reflect various assumptions and assessments arrived at by the Railway in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each tenderer may require. This Tender Document may not be appropriate for all persons, and it is not possible for the Railway, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Tender Document. The assumptions, assessments, statements and information contained in this Tender Document may not be complete, accurate, adequate or correct. Each tenderer should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Tender Document and obtain independent advice from appropriate sources.

Information provided in this Tender Document to the tenderer(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Railway accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Railway, its employees and advisors make no representation or warranty and shall have no liability to any person, including any tenderer under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any

loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Tender Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Tender Document or arising in any way in this Tender Document.

The Railway also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused or arising from reliance of any tenderer upon the statements contained in this Tender Document.

The Railway may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Tender Document.

The issue of this Tender Document does not imply that the Railway is bound to select a tenderer or to appoint the selected tenderer for the Project and the Railway reserves the right to reject all or any of the offers without assigning any reason whatsoever.

Each tenderer shall bear all its costs associated with or relating to the preparation and submission of its offer including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Railway or any other costs incurred in connection with or relating to its Tender Document. All such costs and expenses will remain with the tenderer and the Railway shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a tenderer in preparation or submission of its offer, regardless of the conduct or outcome of the tendering process.

GLOSSARY

Contract	As defined in Form of Contract
Tenderer	As defined in Clause 2.1.1
Authorised Signatory	As defined in Clause 2.11.3 (iii)
Conditions of Eligibility	As defined in Clause 2.2.1
Conflict of Interest	As defined in Clause 2.2.8
Consortium or JV	As defined in Clause 2.1.1
Consultancy	As defined in Clause 1.2
Consultancy Team	As defined in Clause 2.12.6
Consultant	As defined in Clause 1.2
Contractor (s)	As specified in Clause 1.1.2
CV	Curriculum Vitae
Documents	As defined in Clause 2.10
Defect Liability Period	As defined in Clause 8 of the SCC
EMD	Earnest Money Deposit
Effective Date	As defined in Clause 2.1 of S.C.C
Eligible Assignments	As defined in Clause 3.1.3
Form of Contract	Form of Contract as in Schedule II
Financial Offer	As defined in Clause 2.13.1
GCC	General Condition of Contract as in Schedule I
GCC for Works Contract	As defined in Schedule I
INR, Re, Rs.	Indian Rupee
IR	Indian Railways
ITT	Instruction to Tenderers
Inception Report	As defined in Clause 6.1 of TOR
Key Personnel	As defined in Clause 2.1.3
Lead Member	As defined in Clause 2.2.2 (A)
LOA	Letter of Acceptance
NTP or Notice to Proceed	As defined in Clause 2.28
Official Website	As defined in Clause 1.4
Performance Guarantee	As defined in Clause 2.18.5
Project (s)	As defined in Clause 1.1.2
Project Office	As defined in Clause 7.2 of TOR
Project Team	As defined in Clause 7.4 of TOR
Professional Personnel	As defined in Clause 2.12.6

Railway	As specified in Clause 1.2
Selected Tenderer	As specified in Clause 2.23
SCC	Special Conditions of Contract as in Schedule IV
Security Deposit	As defined in Clause 2.18.5
Services	As defined in Clause 1.1.1(o) of SCC
Single Entity Tenderer	As defined in Clause 2.1.1
Site Office(s)	As defined in Clause 7.2 of TOR
Statutory Auditor	An Auditor appointed under Applicable Laws
Support Personnel	As defined in Clause 2.12.6
Team Leader	As defined in Clause 5.18.3(i)
Technical Offer	As defined in Clause 2.12.1
TOR	Terms of Reference as in Schedule III
Tender	As defined in Clause 1.2
Tender Submission Date or TSD	As defined in Clause 1.5
Tender Document	As defined in Disclaimer

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein.

STRUCTURE OF THE TENDER DOCUMENT

1. The complete set of Tender Document should be read in the following order:

S.No.	Content	Available at
(i)	Forwarding Letter	Volume II
(ii)	Notice Inviting Tender	Volume II
(iii)	Section 1: Introduction	Volume I
(iv)	Section 2: Instruction to Tenderers (ITT)	Volume I
(v)	Section 3: Criteria for Evaluation	Volume I
(vi)	Section 4: Project Description	Volume II
(vii)	Section 5: Tender Data Sheet	Volume II
(viii)	Schedule-I: General Conditions of Contract (GCC)	Volume I
(ix)	Schedule-II: Form of Agreement	Volume I
(x)	Schedule-III: Terms of Reference (TOR)	Volume II
(xi)	Schedule-IV: Special Conditions of Contract (SCC)	Volume II
(xii)	Appendix-I: Technical Offer Forms (Form-1 to Form-15)	Volume II
(xiii)	Appendix-II: Financial Offer Forms (Form-16 to Form-22)	Volume II

2. Technical Offer should consist of following:

   a. Filled up forms from Form-1 to Form-15

   b. Multiple pages of a Form if details to be provided require more number of pages

   c. Any attachment in the form of photocopy of relevant pages of any document, experience certificate etc. to supplement the information provided in the Forms.

3. Financial Offer should consist of filled up forms from Form-16 to Form-22.

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Forwarding Letter

……..

(Fill *name of concerned Railway/Organization calling the PMC Tender)*

File No: Dated: / /200

……..

(Name of firm and address)

……..

……..

Attention: ……..

Dear Sir/Madam.

Sub: ***(Fill name of work as per Tender)***

Ref.: Your application letter No…… dated…….

***

With reference to your application for purchasing tender document for Project Management Consultancy for above subject work a copy of the Tender Document in two Volumes as detailed below is enclosed herewith.

1. The Tender document includes the following documents:

Vol.I	Containing	pages
Vol.II	Containing	pages

Kindly acknowledge receipt.

Yours sincerely,

Encl.: Tender Document

(Name and Designation of RAILWAY).

_____END OF FORWARDING LETTER_____

NOTICE INVITING TENDER

(*Fill name of concerned Railway/Organisation calling the PMC Tender)*

Tender Notice No.: …… dated ……..

Invitation of Tender

1. ***For and on behalf of President of India, the (Fill Railway's Name & address As per Tender) h*ereafter referred as 'RAILWAY'** invites sealed Tenders on Two packet system, from eligible, experienced and reputed firms or consortium of firms to provide **Project Management Consultancy Services** for the following Railway Project :

(Fill name of work)

2. **Period of Completion: ……** *months including Defect Liability Period.*

3. **Scope of Consulting Services**: The scope of the Project Management Consultancy Services for the above mentioned Project is detailed in Volume - II of Tender Document.

4. **Tender Documents**: The interested firms or consortium of firms may obtain further information from the Tender Document which can be obtained between 11.00 hrs and 17.00 hrs on all working days from **__/ /200 to __/ /200** in person from the RAILWAY Office at the address, given in paragraph 8 below, on payment of non-refundable fee of Rupees……. only) in the form of Demand Draft in favour of **(FA & CAO of ……..) payable at** *(fill Headquarters of concerned Railway Railway)……*

Tender Documents requested by post will be dispatched by courier on payment of an extra amount of Rs (Rupees only).

5. Tender document can also be downloaded from website ……. and the Tenders can be submitted on the downloaded document along with a separate demand draft towards the cost of Tender Documents at the time of tendering in a separate envelope marked "cost of Tender Documents" failing which the Tender will be summarily rejected.

Please note that, if any drawings are referred to in the Tender Document, the cost of such drawings shall be inclusive of in the cost of Tender documents. For viewing the drawings and to have a copy of the same, the Tenderer can contact this office on any working day. It will be the responsibility of the Tenderer who is submitting the Tender on down loaded Tender documents

to check and see any addendum/corrigendum issued in this regard from the website from time to time and ensure submission of Tender along with all addendum/corrigendum.

6. **EMD :** The tenders must be accompanied by an Earnest Money Deposit of Rs…… (Rupees ……..) in the instrument/form specified in GCC.

7. **Schedule of Tender Process**

Sl.No	Description	Time	Date
1.	Last date of issue of Tender Documents in person	Hrs.	
2.	Last date of issue of Tender Document BY Post	Hrs.	
3.	Pre Tender Conference	Hrs.	
4.	Closing of Tender Box	Hrs.	
5.	Opening of Tender	Hrs.	

Note : *If date of opening of tender happens to be a declared holiday at a later date, the tender will be opened on the next working day at the stipulated time.*

8. The Consultancy firms will be selected based on fulfilling the Selection criteria detailed in ITA (Volume – I) of Tender document.

9. **Address For Communication:**

(Name and Designation of RAILWAY).	Phone : 0 - Telefax : 0 - E mail :

(Name and Designation of Railway Official)

for and on behalf of President of India

_____END OF NOTICE INVITING TENDER_____

VOLUME II

(VARIABLE)

SECTION 4

PROJECT DESCRIPTION

4. PROJECT DESCRIPTION

4.1 Introduction of Construction Organization

4.1.1 On the Zonal Railways, the *Open Line* Organisation is responsible for maintenance and upkeep of existing operational railway facilities, addition/ alterations of new/ existing facilities; whereas Construction Department of Zonal Railway are primarily assigned with the task of planning, design and execution/ implementation of various works/ projects for Railways like New Lines, Doubling, Gauge Conversion, Traffic Facilities, Workshops, Railway Electrification, Signal and Telecommunication Works, Buildings, ROBs/ RUBs and other miscellaneous works.

4.1.2 [(Any Specific note about the Organization, etc)]

4.2 Sanctioned Projects

4.2.1 Sanctioned Projects: […. Railway Construction Organization has been entrusted work/ works of ….. new line/ doubling / gauge conversion / other…. Special project. The target is to plan, design/ construct …… km of new broad gauge lines during the year. Proposed / sanctioned Cost of the Project is Rs xx.xx Cr., expected to be completed in.... Years, with breakup for Civil, Electrical, Mechanical, and S&T portion as: Rs. ... Cr, Rs. ... Cr, Rs. .... Cr , Rs. .... Cr ; with an Outlay for the Year .....as Rs ..... Cr.

4.2.2 [(any other specific detail about sanctioned Project, Targets etc)]

4.3 Scope of Work of Selected Project(s)

Scope of Work of Selected Project: The project/s will be undertaken under ..... [nature of the contract may be indicated here] through separate Contractors (the "**Contractor(s)**") for which contracts have already been awarded/ under finalization. Zonal Railways has decided to appoint the Consultant in the field of Civil engineering/ Electrical engineering/ Signal & Telecom engineering/Mechanical engineering (as applicable) for Project Management Services for Construction Supervision] of the said Project(s) (the "**Project(s)**").

4.4 Status and Details of the [ongoing/ likely Works] Contract(s)

Consultancy Services are sought for the following Works Contracts

Name of Work LOA Total Period

****

_____END OF PROJECT DESCRIPTION_____

VOLUME II

(VARIABLE)

SECTION 5

TENDER DATA SHEET

5. TENDER DATA SHEET

Clause No.	Items	Details
5.1	Title of the Consultancy and Tender Notice No.	**********
5.2	Estimated Cost of the Consultancy	Rs. ……(1.5% to 2% of the Cost of the Project)
5.3	Name of the Railway Official/ Engineer-in-Charge	Chief Engineer(Construction)/ ********** Zonal Railway
5.4	Address of office of the Railway (for Tender Submission)	_____, _____ Tele/Fax: Email:
5.5	Name of Project(s) (One or more)	********** **********
5.6	Final Selection of Consultant to be based on	Quality and Cost Based System (QCBS) for projects costing upto Rs. 100 crore and Combined Quality cum Cost Based System(CQCCBS) for projects costing more than Rs. 100 crore
5.7	Date, Time, Place of Pre-Tender Conference	Date and time of Pre-Bid Conference: Date: **** (****) Time: ***** hours Venue: ******
5.8	Cost of Tender Document	Rs **.** in form of …….
5.9	Payment to be made in favour of	[FA&CAO, **** Zonal Railway]
5.10	Currency Conversion Rate	Rs. *** per US $

5.11	Tender Submission Date (TSD)	To be submitted at the Office of …….. on or before. …(date)… before …. (time).
5.12	Earnest Money Deposit (EMD)	Rs….. in form of …….. in favour of FA&CAO/ ****** [Zonal Railway]
5.13	Contact (Nodal) Person for Site Visit and Inspection of Data	Name: ***** Designation: **** Address: **** Telephone No.:***** Email: *****
5.14	Date, Time and Venue of Site Visit(s)	********, ********, **********
5.15	Address for Communication	Name: ***** Designation: **** Address: **** Telephone No.:***** Email: *****
5.16	Official Website of the Railway	[*******]

5.17 Schedule of Selection Process

The Railway would endeavour to adhere to the following schedule:

Event Description	Estimated Date
Last date for receiving queries/clarifications	****(15 days prior to Tender Submission Date)
Pre-Tender Conference	****(10 days prior to Tender Submission Date)
Railway response to queries	*****(7 days prior to Tender Submission Date)
Tender Submission Date or TSD	******

Opening of Tenders	On TSD just after the closing time of submission
Validity of Applications	120 days of Tender Submission Date
Signing of Contract	Within 30 days from date of issue of LOA

5.18 Conditions of Eligibility for Tenderers

5.18.1 Technical Capacity:

One completed Eligible Assignment (definition of which may be referred at Clauses 3.1.3 and 8.20) of value Rs. **** (equivalent to 0.5% of the cost of the Project for which the subject Consultancy Tender is being called) executed for Railway works;

OR

Two completed Eligible Assignments (definition of which may be referred at Clauses 3.1.3 and 8.20) of value Rs. **** (equivalent to 0.75% of the cost of the Project for which the subject Consultancy Tender is being called) relating to a project executed for government or quasi-government organization other than Railways.

5.18.2 Financial Capacity:

Minimum gross turnover of Rs. **** (equivalent to 3% of the cost of the Project for which the subject Consultancy Tender is being called) from any type of consultancy services covering all sectors including railways, in the current and immediately preceding three financial years.

5.18.3 Availability and Conditions of Eligibility for Key Personnel

(i) Key Personnel and their Responsibility shall be as follows:

Key Personnel	**Responsibilities**
Chief Resident Engineer and Team Leader (the **"Team Leader"**)	He shall lead, co-ordinate and supervise the team for the Project Management Consultancy and shall be responsible for monitoring progress, implementation of Quality Assurance/ Control, and Safety Program; and issues as per TOR.

Construction Manager/ Resident Engineer	He shall be responsible for construction planning, monitoring progress of work, supervising/ensuring compliance of quality, safety and environmental standards at work sites, development of method statements and work procedures, billing /measurement, checking of all construction and related activities -all as per Consultancy TOR, for the assigned jurisdiction. He shall report to the Team Leader.
Sector Expert (Track)	He shall be responsible to provide technical expertise in laying and maintaining railway track to the requirements of Consultancy TOR; assist in establishing the Quality Assurance System, develop method statements, work procedures, direct and train field engineers such as Section Engineers/Site Engineers; inspect works, and provide assistance to Construction Manager/ Resident Engineer and Design Review Manager. He will also review track design/alignment. He will report to the Team Leader.
Design Review Manager	He shall be in-charge and responsible for all design and drawing related activities in terms of the Consultancy TOR, including review of design/drawings, managing drawings, site specific changes in drawings and arranging approved drawings/ revisions to the Contractor in time. He shall be assisted by Sector Experts for review of design/drawings of respective disciplines. He shall report to the Team Leader.
Program Expert	He shall be in-charge and responsible for project scheduling, Baseline Program, updates, progress tracking and reporting, and document control. He shall monitor / review Critical activities, adequacy of resource mobilisation by the Contractor(s), prepare recovery plans for

	recovering delays. He shall interact with Construction Managers for coordination among various disciplines. He shall report to the Team Leader.
Quality Assurance / Control Manager	He shall be responsible for establishing and auditing Quality Assurance System and Quality Control at work sites including development of inspection and testing procedures, managing quality /inspection/test reports, inspecting work sites, witnessing lab tests, checking materials, reviewing effectiveness of Quality System, assisting Construction Manager/Resident Engineer in changing the method statements and work procedures, carrying out audits on construction supervision team and Contractors' works and trainings to site personnel. He will report to the Team Leader.
Environment, Health and Safety Manager	He shall be responsible for environmental management system, and health and safety management system as per the Consultancy TOR, including reporting/managing incidence/accident reports, site inspections, safety drills/trainings to site personnel, ensuring adherence to safety procedures, assisting Construction Manager/Resident Engineer in changing the method statements and work procedures on safety considerations. He will report to the Team Leader.
All the Key Personnel shall be deployed full time @ 6 days a week during the period of deployment for the Consultancy.	

(ii) Conditions of Eligibility for Key Personnel, in general, shall be as following:

Key Personnel	**Educational Qualification**	**Length of Professional Experience**	**Experience on Eligible assignments (Also see iii)**

Team Leader	Masters/ Bachelor in Engineering or equivalent	15 years	Should have led Project Management Team for one Eligible Assignment for a minimum period of two years, Or, Should have worked on similar/ Eligible Projects for over 3 years in the rank of Chief Engineer/ or over 5 years in the rank of Dy CE, or equivalent in Govt. or Public Sector Units.
Construction Manager/ Resident Engineer	Masters/ Bachelor in Civil engineering or equivalent	7 years	Should have worked as Construction Manager/ Resident Engineer for two Eligible Assignments, Or, worked on similar/ Eligible Projects for over 5 years in the rank of Dy CE, or equivalent in Govt. or Public Sector Units.
Sector Expert (Track)	Masters/ Bachelor in civil engineering	10 years	Should have worked as Sector Expert (Track) for two Eligible Assignments on Railway Projects Or, worked on similar/ Eligible Projects for over 5 years in the rank of XEN/ AEN /Sr Supervisor, or equivalent in Govt. or Public Sector Units. In such cases, the minimum qualification is relaxed to Diploma in Engineering.
Design Review Manager	Masters/ Bachelor in Civil Engineering	5 years	Should have worked as Design Review Manager for one Eligible Assignments Or, worked as part of proof-checking, Design / Design co-ordination teams, Design Wing of a Department having demonstrated experience with cumulative assignment period for over 5 years in suitable rank / grade.
Program Expert	Masers/ Bachelor in engineering	3 years	Should have worked as Program Expert in the program control team for one Eligible Assignment ,

	or equivalent		Or, worked as part of project scheduling/ document control teams, Project Scheduling for major Projects costing over Rs 100 cr., for a cumulative period over 3 years.
Quality Assurance/ Control Manager	Masters/ Bachelor in engineering or equivalent	3 years	He should have worked as Quality Assurance Manager for one Eligible Assignment Or, as part of the Quality assurance team for major Projects costing over Rs 100 cr, for a cumulative period over 2 years.
Environment, Health and Safety Manager (optional position)	Diploma in Health and Safety Management or equivalent with Bachelors as basic degree	3 years	He should have worked as Environment/ Health and Safety Manager for one Eligible Assignment Or, as part of the Environment, Health and Safety team for major Projects costing over Rs 100 cr, for a cumulative period over 2 years.

Note: Any proposed Key Personnel not meeting the above minimum requirements **or** as specified under (iii), shall not be considered, and awarded zero marks during Evaluation of the Proposal.

(iii) Permitted Junior Positions for Eligibility and Evaluation

Eligible Assignments completed in a junior position may also be accounted for determination of Eligibility and Technical Evaluation of a Key Personnel subject to two Eligible Assignments completed in such junior position being counted as one Eligible Assignment. The junior positions permitted for each of the Key Personnel for this purpose shall be as follows:

Key Personnel	**Permitted Junior Positions for Eligibility and Technical Evaluation**
Chief Resident Engineer and Team Leader (the "**Team Leader**")	Construction Manager or Resident Engineer reporting to Chief Resident Engineer/Team Leader of the project management team.
Construction Manager/ Resident	Sector Expert (Track), Sector Expert

Engineer	(Bridge) or Senior Site Engineer/Section Engineer reporting to Construction Manager/Resident Engineer on project.
Sector Expert (Track)	Work experience as Assistant Engineer and above in laying and/or maintaining tracks in Railway organizations with each 2 year experience equivalent to one Eligible Assignment in this junior position.
Design Review Manager	Design Engineer assisting the head of the Design review team on a project
Program Expert	Program Engineer assisting the head of the Program team on a project
Quality Assurance/ Control Manager	Quality Assurance/Control Engineer assisting the head of the Quality Assurance/Control team on a project
Environment, Health and Safety Manager	Environment/Health and Safety Engineer assisting the EHS manager on a project

5.19 Scoring Criteria for Key Personnel for Technical Evaluation

Maximum marks that can be awarded to a candidate for a position of Key Personnel shall be as follows:

Item Code	Criteria	Marks
3a	Chief Resident Engineer and Team leader	20
3b	Construction Manager/ Resident Engineer	15
3c	Sector Expert (Track)	7.5
3d	Design Review Manager	7.5
3e	Program Expert	7.5
3f	Quality Manager	7.5
3g	Environmental, Health and Safety Manager	5

Grand Total	70

Marks shall be awarded on the basis of the number of Eligible Assignments the candidate has completed on a similar position in projects specified at Clause 5.20. Eligible Assignments completed on a position junior to that for which the candidate is being proposed may also be considered as specified in Clause 5.18.3 (iii). The comparative marking among Tenderers for any position of Key Personnel shall be done as specified in Clause 3.1.2.

5.20 Projects for Eligible Assignments

Development of a highway, airport, railway, metro, or other transport infrastructure projects for civil engineering works (for workshop/RE/S&T works, the Eligible Assignment will have to be suitably defined in the tender document by the competent authority i.e. overall 'Project Head' in consultation with associate FA&CAO.).

Provided that the value of the consultancy assignment, that is being claimed as Eligible Assignment by the Tenderer, was at least Rs. **** (equivalent to 0.5% of the cost of the Project for which the subject Consultancy Tender is being called in case of experience on railway project) or Rs. **** (equivalent to 0.75% of the cost of the Project for which the subject Consultancy Tender is being called in case of experience on non-railway project) and the same has been completed and full payment received by the Tenderer prior to TSD. In case of an ongoing consultancy assignment, the Tenderer should have received cumulative payments at least equal to twice the minimum value of consultancy assignment specified here above, prior to TSD. Where credit is being claimed by a Key Personnel, she/he should have completed at least six months of the relevant assignment prior to TSD.

5.21 Other Professional Personnel

5.21.1 Professional Personnel other than Key Personnel and their respective responsibilities shall be as following:

Other Professional Personnel	Responsibilities
Sector Expert (S&T)	He will be responsible to provide technical expertise in installing and maintaining railway signalling and telecommunication works to the Consultancy Team, assist in establishing the Quality Assurance System, developing method statements, work procedures, inspection and testing procedures, training the field engineers such as

	Section Engineers/Site Engineers. He will also perform the responsibilities of Resident Engineer and review the design/drawings in respect of all S&T works. He will report to the Team Leader.
Sector Expert (OHE)	He will be responsible to provide technical expertise in installing and maintaining railway over head electric traction works to the Consultancy Team, assist in establishing the Quality Assurance System, developing method statements, work procedures, inspection and testing procedures, training the field engineers such as Section Engineers/Site Engineers. He will also perform the responsibilities of Resident Engineer and review the design/drawings in respect of all OHE works. He will report to the Team Leader.
Sector Expert (Bridges)	He will be responsible to provide technical expertise in construction and maintenance of railway bridges to the Consultancy Team, assist in establishing the Quality Assurance System, developing method statements, training the field engineers such as Section Engineers/Site Engineers, inspecting works, and providing assistance to Construction Manager/Resident Engineer and Design Review Manager. He will also review bridge design/drawings. He will report to the Team Leader.
Design Engineer	He shall be responsible for assisting the Design Review Manager in discharge of all design related services relating to civil engineering, S&T and OHE discipline(s) respectively. He will report to the Resident Engineer for civil works or the respective Sector Experts for S&T and OHE works as the case may be for day to day field related activities.
Section Engineer	He shall be responsible for construction supervision, measurement checking and all other field related activities of his respective section. He will report to the Resident Engineer.
Site Surveyor	He shall be responsible for setting out of works at site. He will report to the Resident Engineer.
Site Engineer	He shall be responsible for construction supervision and all other field related activities of his respective site. He will report to the Section Engineer under which the site belongs.

5.21.2 Minimum Eligibility criteria of Other Professional Personnel shall be as following

Other Professional Personnel	**Educational Qualification**	**Length of Professional Experience**	**Minimum Experience**
Sector Expert (S&T)	Masters/ Bachelor in Electronics engineering	10 years	He should have worked as signaling and telecom expert for one Eligible Assignment on a railway project or have working experience of at least five years in installing and/or maintaining signaling and telecommunication in railway organizations.
Sector Expert (OHE)	Masters/ Bachelor in Electrical engineering	10 years	He should have worked as over head electric traction expert for one Eligible Assignment on a railway project or have working experience of at least five years in installing and/or maintaining over head electric traction in railway organizations.
Sector Expert (Bridges)	Masters/ Bachelor in Civil engineering	10 years	He should have worked as bridge expert for one Eligible Assignments on railway project or have working experience of at least five years in construction and/or maintenance of bridges in railway organizations.
Design Engineer	Masters/ Bachelor in ____ Engineering	** years	*** Eligible Assignments
Section Engineer	Masers/ Bachelor in _____ engineering	** years	*** Eligible Assignments

Site Surveyor	Bachelor/ Diploma in _____ engineering	** years	*** Eligible Assignments
Site Engineer	Bachelor/ Diploma in _____ engineering	** years	*** Eligible Assignments

_____END OF PROPOSAL DATA SHEET_____

VOLUME II

(VARIABLE)

SCHEDULE III

TERMS OF REFERENCE

(TOR)

TERMS OF REFERENCE

1. INTRODUCTION OF THE PROJECT

1.1 The Project involves construction of [** km New Lines/ Doubling/ Gauge Conversion/railway electrification including signaling and telecom, over head electric traction, bridge including ROB/RUB/Flyover/Roadwork/bridges between **** and *** or mechanical workshop for ****]. Detailed description of the Project is specified in Section 4.

2. OBJECTIVE

2.1 The objective of this Consultancy (the "**Objective**") is to assist the Railway in implementation of the Project(s) till the successful completion, commissioning and handing over of all works to the zonal railway and comprehensively supervise the works and activities carried out by the Contractor(s) as "Engineer's Representative" under the respective contract(s) in a manner that would ensure:

a. total compliance of technical specifications and various other requirements contained in the respective contracts by the Contractor(s);

b. high standards of quality assurance system complying ISO 9001 in the Consultancy as well as the works and activities of the Contractor(s);

c. comprehensive and documented reporting to the Railway of Consultant's own activities, progress of the Project(s) and compliances/ non-compliances by the Contractor(s);

d. modern safety practices in execution of works at project sites for ensuring complete safety to works, workers, running trains, general public, and structures and properties adjacent to work sites;

e. proper verification of measurements and bills submitted by the Contractor(s) so that payments made by the Railway against these bills truly reflect the actual work done at site complying with the requirements of the respective contract(s);

f. proper interface and coordination among the Railway, Contractor(s), other consultants/ contractors and local bodies/ state government; and

g. Full documentation of the completed works including applications for various approvals.

3. SCOPE OF SERIVCES

The Consultant's main responsibility is to ensure execution of work with due controls for safety, quality control, cost control and project progress monitoring. The Services

to be performed by the Consultant shall include but not be limited to those described hereunder.

3.1 The Consultant shall review and revalidate the planning, survey, alignment and design done at the DPR/ FLS stage, by the detailed design consultant or by the Contractor, as the case may be, in order to provide verified/proof checked working document to the Contractor. It is clarified that the Consultant shall not be responsible for carrying out any field survey but it shall be responsible for supervision of survey work being done by the Contractor or by any other consultant appointed by the Railway.

3.2 The Consultant shall set up framework of quality assurance system consisting of model documents on management procedures for managing construction, design, quality, safety, training, environment, non-conformances, payment, reporting, project schedule etc. These model documents would form the basis on which the Contractor(s) would prepare their own respective documents that shall be checked, commented upon and finally concurred by the Consultant before start of respective work by the Contractor(s).

3.3 The Consultant shall develop formats for method statements and work procedures for describing important and complex construction works including model documents for key aspects of the Project(s). These formats and model documents would form the basis on which the Contractor(s) would prepare their own respective documents that shall be checked, commented upon and finally concurred by the Consultant before start of respective work by the Contractor(s).

3.4 The Consultant shall develop formats for inspection and testing procedures for quality control at site and record keeping including model documents for key aspects of the Project(s). These formats and model documents would form the basis on which the Contractor(s) would prepare their own respective documents that shall be checked, commented upon and finally concurred by the Consultant before start of respective work by the Contractor(s).

3.5 The Consultant shall examine, comment and issue No Objection Certificate on the management plan/ procedures, method statements, work procedures, inspection and testing procedures and other such documents submitted by the Contractor(s) and ensure that they are in conformance to the model documents and formats approved by the Railway and in compliance to the requirements of Contract(s).

3.6 Through proper coordination with the Contractor(s) and monitoring of site work the Consultant shall ensure that the Contractor(s) do not carry out any work without approved working drawings and agreed procedures, method statements, work procedures and inspection and testing procedures.

3.7 The Consultant shall prepare the Project Program in suitable software for monitoring the Project. The Consultant shall also prepare four week and four month rolling programs (containing progress during the previous week/month and showing the

planned work during the next three weeks/months) for discussion in the weekly and monthly meetings with the Engineer-In-Charge. These rolling Programs shall be updated by the Consultant every week or month, as the case may be. The Consultant shall also review and comment on the Project Programs submitted by the Contractor(s) and ensure compliance of such comments in the revision thereof. It shall also carry out periodic reviews of the Contractor(s)'s resources vis-a-vis Project Program and ensure that the Contractor(s) mobilizes additional resources to meet the Program requirements.

3.8 The Consultant shall ensure compliance of all rules of Indian Railways related to the execution of the Project(s). Special care shall be taken in imposing necessary speed restriction, caution, arranging necessary traffic/ power blocks, where necessary.

3.9 The Consultant shall carry out scheduled inspections of work sites and issue site instructions and assist the Railway to issue non-conformance notices to the Contractor(s) after identification of defects or non-conformance to specifications, method statements or to any other requirement in the Contract. It shall also monitor that the Contractor(s)'s own quality inspection teams carries out similar regular inspections and raising site instructions and non-conformances.

3.10 The Consultant shall monitor and ensure the compliance of quality assurance system, method statements, work procedures and inspection and testing procedures by the Contractor(s)'s own quality organization through regular site inspections raising deficiencies through their own site instructions and non-conformance reports.

3.11 The Consultant shall check and verify the measurements and arithmetical errors in accounts, invoices, bills and other statements submitted by the Contractor(s) with the actual work done at site to the conformance of respective contracts and issue interim certificates for progress payments within 14 working days of receipt of bill from the Contractor(s) and forward the same to the Engineer for further checking and making payments to the Contractor(s).

3.12 The Consultant shall identify and document encroachments, if any occur during the execution of the Project(s), prepare details of land acquisition, and monitor railway's land and assets during construction.

3.13 The Consultant shall monitor and ensure that the Contractor(s) mobilize adequate and suitable workers, sub-contractors, materials and construction equipments for carrying out works as per the approved Project Program.

3.14 The Consultant shall monitor and ensure that the Contractor(s) carry out construction in compliance of environmental standards, safety of the works, safety of trains, safety of road traffic, safety of personnel/ public, and safety of construction equipments complying environmental and safety standards laid down in the Contract(s) and quality assurance documents.

3.15 The Consultant shall monitor and ensure that every incident at the work site is reported and recorded and that the Contractor takes corrective and preventive measures for avoiding their recurrence. Further it shall also inspect and report unsafe and inferior practices at the work site through control documents and ensure that the Contractor(s) takes corrective and preventive measures to improve the practices to avoid accidents.

3.16 The Consultant shall review minor changes in design; alignment and layout required at work site and approve them for avoiding stoppage of work at site subject to subsequent approval of the Railway. However in all such cases it shall take prior verbal permission of the Railway.

3.17 The Consultant shall review major changes requested by the Contractor(s) in design, alignment and layout and submit its comments/ recommendation for consideration of the Railway.

3.18 The Consultant shall review, quantify, comment and submit its recommendations to the Railway on claims of variations by the Contractor(s), if any. It is the duty of the Consultant to keep a tag on variation in quantities in work contracts and raise alarm sufficiently in advance to enable Railways take necessary corrective action.

3.19 The Consultant shall inspect and approve materials at source as well as at site for use in permanent works and ensure that quality of such materials is in accordance with the contractual specifications.

3.20 During the course of execution of the Project(s) the Consultant shall suggest modifications in the Contractor(s)'s work program, procedures, method statements; material sources etc. and ensure that they are complied by the Contractor(s) in accordance with the Contract(s).

3.21 The Consultant shall prepare and present monthly progress reports to the Railway, containing description of ongoing, completed, and delayed project activities illustrated by bar charts, comments on the Contractor(s) progress report and progress/ completion photographs.

3.22 The Consultant shall inspect, measure, record and approve setting out and other such intermediate stages of work which is about to be covered or put out of view before permanent work is placed thereon so as to enable the Contractor(s) to proceed with the work at site without causing any delay and at the same time with proper checks and records before a work gets hidden.

3.23 The Consultant shall check and review concrete mix design, temporary works design, drawings, formation compaction scheme and such other construction related proposals from the Contractor(s) and submit comments for consideration of approval by the Railway. The Consultant shall ensure carrying out required alterations in the drawings

in the process of approval. Railway's approval to various plans, design, documents, drawings etc shall be made available to the Contractor(s) through the Consultant.

3.24 The Consultant shall review, comment and modify proposals for S&T and OHE Power disconnections block working, non-interlock working which require CRS approval/ Electrical Inspector to Government (EIG), wherever required, before the proposals are forwarded to CRS/ EIG. The Consultant shall further review the arrangements during the non-interlock working and ensure smooth progress of work and train operation with the required coordination with the concerned departments. The Consultant shall further liaison between various contractors and designers such that the designs for each sub-system, in particular their civil works such as ducting, pedestal, cabins, poles and supports will be integrated properly into the overall project works.

3.25 The Consultant shall witness, verify, analyze and check the laboratory and field tests carried out by the Contractor(s) and carry out independent tests.

3.26 The Consultant shall order the uncovering of completed works, additional destructive tests, and assist the Railway in removal of improper/ substandard works and replacement with proper materials/ works at site.

3.27 The Consultant shall assist and advise the Railway in taking appropriate and timely actions for ensuring fulfillment of the Contractual obligations by the Contractor(s) and successful completion of Project(s) in time.

3.28 The Consultant shall review the proposal for sub-contractor, if any, submitted by the Contractor(s) and comment/ recommend to the Railway for return for compliance of observation or approval as the case may be.

3.29 The Consultant shall maintain records, test data; details of variations, correspondence and diaries in the formats specified/ approved by the Railway and shall submit them to the Railway from time to time as requested by the Railway.

3.30 The Consultant shall assess material and machinery to be supplied by the Railway, prepare schedule of supply and arrange their release to the Contractor(s) as per the progress of the work at site and maintain its proper accountal.

3.31 The Consultant shall prepare quarterly cash flow projections for the Railway over the Contract(s) based on the projected progress of Project(s).

3.32 The Consultant shall maintain a day-to-day diary which shall record all events pertaining to the administration of the Contract, request forms and orders given to the Contractor(s) and any other information which may at a later date be of assistance in resolving queries which may arise concerning execution of the works.

3.33 The Consultant shall assist the Railway in meetings with the Contractor and co-ordination work with different agencies and hold meetings for proper and timely implementation of the works.

3.34 The Consultant shall advise and assist the Railway in arbitration proceedings, the appeal of arbitration or litigation relating to the works, whenever required during or after the Consultancy assignment till the expiry of the Defect Liability Period.

3.35 The Consultant shall assist the Railway in obtaining sanction of Commissioner of Railway Safety (CRS) for commissioning of the new railway assets. This shall include preparation, modification and compilation of documents, reports, drawings and other necessary material for submission to the CRS and preparation of replies, compliance of observations of CRS in document as well as at site etc.

3.37 The Consultant shall prepare, check, compile and ensure completion drawings and as-built drawings either on its own or through the Contractor(s) and submit them to the Railway. It shall also prepare completion certificate to be issued by the Railway to the Contractor(s) on completion of their works.

3.38 The Consultant shall prepare O&M manuals for the completed Project(s) highlighting the important and salient technical aspects so as to achieve a longer Project life and smaller maintenance frequency. The Consultant shall also train Railway's personnel in operation and maintenance of the Project assets based on the Manuals so prepared.

3.39 The Consultant shall carry out any other assignment given by the Railway toward fulfillment of the Objective of the Consultancy and which are restricted to such Services as are necessary for fulfilling the obligations of the Engineer.

3.40 The Quality Assurance Plan to be prepared by the Contractors and ensured by the Consultant shall include the following:

a)	Materials, equipments, workmanship and end products	Type of tests and frequency at source and at site as available
b)	Degree of quality control measures	Acceptability criteria as per tender specifications
c)	Quality check	Rectification/corrective action surveillance, review technical appraisal, performance
d)	Records, reporting and documentation	Formats for records keeping, reporting and analyzing

3.41 The Consultant shall exercise complete day-to-day supervision during construction period of the assigned work, ensuring quality control in accordance with tender stipulations, specifications, drawing and site conditions. The quality control will be exercised at all stages of construction, viz. Approval of materials thereof in proper proportion including prescribing norms for test periodically and acceptability criteria and workmanship at all stages of execution of individual terms of work.

3.42 The consultant shall suggest to the Railway modifications, if any, due to site conditions and advising regarding cost variation, on account of extra items and excesses on the contract.

3.43 The consultants shall ensure regular and timely flow of working drawings/instructions.

3.44 The consultants shall monitor the progress by using modern methods of control such as computerized CPM and submission of progress reports of work executed monthly.

3.45 The consultant shall undertake complete administration and management of contract till expiry of the defect liability period and payment of final dues to the contractor.

3.46 The Consultant shall render to the Railway all required assistance, technical services, guidance, support, or advise on matters concerning engineering aspects of the Projects by way of personal interaction, and also through invited Experts on the matter with Railway's prior approval.

4. Consultant's Authority

4.1 The Team Leader of the Consultant shall act as Engineer's Representative on behalf of the Engineer-in-Charge from the Railway and exercise such authority as may be delegated by the Engineer-in-Charge for day-to-day working. Team Leader may further allocate and delegate such authority, as may be necessary for effective management of the Consultancy, to other Key Personnel in the Consultant's organization such as Resident Engineer, Design Engineer. All communication from the Consultant shall be carried out by the Team Leader or such Personnel who has been delegated the requisite authority. One copy of all correspondences emanating from the Consultant addressed to other than the Railway shall invariably be marked to the Engineer-in-Charge.

4.2 The Consultant shall however not have any power in respect of the following and it shall only make recommendations to the Engineer-in-Charge of the Railway in these matters:

a. Approving deployment of any sub-contractor by the Contractor(s);

b. Granting Claims of Contractor(s);

c. Ordering suspension of Contractor's work;

d. Determining of an extension of time;

e. Waiving off the penalty and arranging the repayment of compensation for delay;

f. Issuing a variation order;

g. Ordering any works/test beyond the scope of the Contract(s);

h. Determining rates for the extra items/extra work;

i. Any variation in the contract condition;

j. Approval to designs submitted by the Contractor(s);

k. Relieving the Contractor(s) of its duties, responsibilities and obligation stated in the respective Contract Contracts; and

l. Exercising authority for items other than those provided in these terms of reference and stipulated in the Contract.

5 Consultant's Responsibility

5.1 The Consultant shall ensure that all its Personnel are experienced in modern methods of construction management, monitoring and supervision. It shall deploy experienced Personnel to the extent possible and shall provide compulsory training to its Personnel in quality, safety, and environment and construction management including training in railway works at IRICEN or such other Railway institutes. Further the Consultant shall provide compulsory job specific training to all its Personnel. All the Personnel of the Consultant should be fully aware of all relevant management procedures, method statements, work procedures, inspection and testing procedures and Contract requirements/ specifications.

5.2 The Consultant shall work towards minimizing, if not total elimination of, claims and disputes from the Contractor(s).

5.3 While checking the invoices and bills submitted by the Contractor(s) the Consultant shall ensure recovery of advances including statutory recoveries and continued validity of securities submitted by the Contractor(s)' towards fulfillment of their liabilities to the works Contract(s).

5.4 The Consultant shall ensure implementation of various Labour Laws, Rules and Regulations including employee provident fund and other welfare measures by the Contractor(s) as per the extant provisions and as laid down in the Contract(s).

5.5 The Consultant shall maintain copies of all reference documents, specifications, drawings, management procedures, method statements, work procedures, inspection and testing procedures in a systematic manner in the office of the Project Manager/ Resident Engineer and provide adequate copies to site supervision personnel.

5.6 The Consultants shall be fully responsible for the soundness and correctness of all works executed by the Contractor, the soundness of design and of the conformity of the work to the approved plans, designs and specifications and conditions of contract applicable to the subject work.

6 Reports and Deliverables

The Consultant shall prepare and deliver reports including but not limited to those provided hereunder. Each of such reports shall be reviewed and commented by the Railway preferably within 14 days of the receipt of the report. The Consultant shall

thereafter revise and modify the report to comply the Railway's observations and resubmit not later than 7 days of the receipt of such observations. Further, during course of the Consultancy the Railway may at any time instruct the Consultant for further changes in these reports which the latter shall comply within 7 days of such instruction.

6.1 Inception Report

Within 21 days of the commencement of the Consultancy Contract, the Consultant shall prepare and deliver an Inception Report (the **"Inception Report"**). The Inception Report shall be a further elaboration of the Consultant's submissions towards understanding of the Tender, the methodology to be followed and work plan. It shall also include quality assurance plan conforming ISO 9001 system of the Consultant's own working and including but not limited to quality policy, organizational structure, organizational chart, roles and responsibility of various positions, names of personnel proposed to man these positions, list of management procedures and element comparison schedule to establish compliance with ISO 9001 system. Roles and responsibilities of Key Personnel and Other Professional Personnel specified at Annex-13 shall be expanded and detailed by the Consultant so as to make each Professional Personnel responsible for specific items in a manner that all items of the Terms of Reference are distinctively covered.

6.2 Management Procedures for Consultancy

The Consultant shall deliver detailed management procedures as listed in the quality assurance plan within 42 days of the commencement of the Consultancy. These procedures will describe how the Consultant will carry out the scope of Services and discharge its responsibility contained in the TOR. The management procedures shall be prepared for various Consultancy management activities including but not limited to personnel recruitment, training, document control, work inspections, material inspections, measurement checks, quality control, and design control.

6.3 Model Project Quality Management Framework

The Consultant shall prepare and deliver model Project quality management framework consisting of management plan and procedures to be followed by the Contractor(s) within 56 days of the commencement of the Consultancy.

6.4 Project Systems and Procedures

Within 70 days of the commencement of the Consultancy, the Consultant shall prepare and deliver formats for method statements, work procedures, inspection and testing procedures which shall be followed by the Contractor(s) for preparing their own documents.

7. Consultancy Team and Project Office

7.1 The Consultancy Team consisting of Key Personnel, Other Professional Personnel and Support Personnel as specified in the Annex-5 of the Contract. The Chief Resident Engineer shall be the Team Leader of the Consultancy Team and he shall be authorised by the Consultant through a Power of Attorney for taking all necessary actions on behalf of the Consultant for successfully carrying out the Services under the Consultancy and for all the day to day communication with the Railway.

7.2 The Consultant shall deploy all his Key Personnel and technical experts at the Project office (the **"Project Office"**) located at a place agreed with the Engineer-in-Charge as per deployment schedule at the Annex-12 of the Contract. Field engineers e.g. Design Engineers, Section Engineers and Site Engineers and Support Personnel may be deployed either at the Project Office or site offices (the **"Site Office(s)"**) as agreed by the Engineer-in-Charge. The Railway may change the Deployment Schedule. The Railway will provide at least one month notice for deployment of Personnel in case of change in the Deployment Schedule and the Consultant shall deploy such Personnel within this period. The Consultant shall deploy any Personnel only after the CV of such Personnel has been approved by the Railway in advance.

7.3 The Engineer-in-Charge or the Engineer of the Railway or any representative thereof may visit the Consultant's Project Office or the Site Office(s) any time during office hours for inspection and interaction with the Consultant's Personnel. It is expected of the Consultant to carry out the operations from its Project Office and Site Office(s). The management of the Consultant or its senior personnel would provide support to the Consultancy Team, as and when so required, from the headquarter office or other offices of the Consultant. Costs of man days of all such personnel and headquarter support services on the Consultancy shall be deemed to be covered under the Overhead costs specified in the Annex-4 of the Contract.

7.4 Meetings with the Railway

The Team Leader shall report to the Engineer-in-Charge of the Railway for all matters arising out of the Consultancy. Close interaction of the Team Leader with the Engineer-in-Charge is required for timely inputs, feedbacks on proposals, confirmation of operational requirements and approval of intermediate stages. The Team Leader along with selected Key Personnel shall interact with the Engineer-in-Charge, the Engineer and other supervisory staff of the Railway (the **"Project Team"**) once a week for weekly review meetings in which weekly progress reports, four week rolling Program and other reports shall be discussed. The Consultant's team of Personnel shall present its monthly progress report in a meeting with senior officers of the Railway at the Railway's Headquarters office or at a place mutually convenient to both the Parties once a month. Final decision regarding the location of any such monthly

meeting shall rest with the Engineer-in-Charge from the Railway. Apart from other reports, four month rolling Program submitted by the Consultant shall also be discussed in the monthly meeting. Team Leader must participate in every Monthly meeting unless he is unavailable due to sickness. Team Leader may participate in alternate weekly meetings. In the absence of the Team Leader, the Consultancy Team shall be lead by the Resident Engineer in such meetings. In addition, the Team Leader or respective Key Personnel shall make formal presentations to the Railway in such meetings as part of the interactive process as and when mutually agreed upon. Inputs and response provided by the Project Team or the Railway in these presentations shall be minuted by the Consultant, got it approved by the Engineer-in-Charge, and be considered as the Railway's tentative response. The Consultant shall submit the draft report of all important deliverables at least two weeks in advance of their proposed formal submission. Consultant shall actively associate in the Project Team's reviews of various submissions and provide necessary clarifications, documents and backup information for conducting the reviews. Further, the Railway will send brief formal responses within two weeks of the Consultant's request for certain decisions and also to the formal submissions. These should be considered and reflected in the final report of the respective reports/documents/deliverables.

8. Equipments and Services to be provided by the Railway

The Railway will provide certain equipments, office accommodation, office consumables etc. as specified in the Annex-11 of the Contract free of cost. These will be provided either directly or through the works Contractor. During the period office space and office consumables are provided to the Consultant the payment against respective items of Annex-6 and Annex-9 shall not be paid to it. However if the Railway is not able to provide offices and office consumables, partly or fully, the Consultant shall be paid as per the Schedule of rates specified in Annex-6 and Annex-9 for such additional period, subject to such additional period not being more than 50% of those provided therein.

9. Measurement of Works of Contractor

9.1 Measurement and preparation of bill etc. would be undertaken by the works Contractor[1] and submitted in serially numbered measurement sheets in the approved format supplied by the Railway. Measurements recorded by the Contractor shall be checked by the Consultant as following:

a. 100% measurements shall be checked by the Section Engineer/Site Engineer of the Consultant who supervised the respective works;

[1] Necessary provisions for measurement and preparation of bills by the contractor must be provided in the works contract.

b. 20% of the measurements (at random) shall be re-checked by the Resident Engineer of the Consultant.

In the event of the Consultant discovering a mistake in any measurement recorded by the Contractor, which is not a minor one or a matter of misjudgment by the Contractor's engineer recording it, the Consultant shall inform each such instance to the Engineer-In-Charge for necessary action by the Railway against the Contractor in accordance with the works contract[2]. The Consultant shall arrange for joint correction with the Contractor's project manager of all such mistakes in the recorded measurements but not before the Contractor has taken suitable action against his engineer who recorded such measurements in the first place.

9.2 Further the Railway shall carry out representative test checks of the measurements checked, verified and corrected by the Consultant as described above. All the men and materials required for such test checks by the Railway official shall be provided by the Consultant. The nominated Engineer of the Railway shall carry out a test check of not less than 10% of the measurements. These test checks will not overlap with test checks done by the Resident Engineer as specified in Clause 9.1 b. The Engineer-In-Charge of the Railway may also exercise random checks so as to ensure that the prescribed procedure has been followed and that there are no excess payment on account of incorrect/irregular measurements in the bill submitted to the Railway for payment. In case any incorrect/irregular measurement is noticed by the Railway in the bill forwarded by the Consultant which is attributable to the collusion of the Consultant's Personnel with the Contractor's personnel, such Personnel shall be immediately removed from the Project and the Consultancy and shall be blacklisted for working in any Consultancy on the Indian Railways. In case the noticed incorrect/irregular measurement is attributable to the carelessness of the Consultant's Personnel such Personnel shall be removed immediately from the Consultancy/Project and suitable substitute has to be arranged by the Consultant. Further, for any mistake leading to excess billing in favor of the Contractor, either due to oversight of the Consultant's Personnel or done intentionally with the collusion of the Consultant's Personnel, liquidated damages not exceeding an amount equal to 10% (ten percent) of the amount of excess payment shall be levied on the Consultant.

9.3 For hidden items, which cannot be verified later on even through the latest non-destructive testing methods such as initial levels before the earthwork, the test checks shall be more comprehensive and stringent than those prescribed under the clause 9.2 above and further these shall be recorded in the presence of the Railway's representative. The Railway will notify such procedure from time to time.

[2] The works contract must have provisions for recovering from the Contractor the excess payment made due to wrong measurements along with a penalty @4 times of the amount of excess payment. The penalty shall be applicable even in the cases where excess payment has not been paid to the Contractor due to the error being noticed by the Consultant during checking of measurements.

9.4 The Consultant shall indemnify the Railway for excess billing claimed by the Contractor and paid by the Railway, either due to oversight of the Consultant's Personnel or done intentionally with the collusion of the Consultant's Personnel. The Consultant shall take out and maintain insurance at his own cost against this risk and for fulfilling its responsibility against this indemnity. Any such excess billing to the Contractor shall be first recovered from the Security Deposit and the Performance Guarantee and the balance amount, if any, shall be recovered by claiming benefit from the professional insurance of the Consultant.

10. Field Inspections

Regular inspection of Contractor's works in the field is the most important element for achieving the Objective of this Consultancy. Each Professional Personnel of the Consultancy Team shall carry out regular field inspections as per the minimum frequency specified below:

a. The Team Leader shall inspect every work site at least once a fortnight and further whenever his services are required at the Project site either by the Railway or the Consultant's Personnel. His field inspections shall be for ascertaining that the Section Engineers and Site Engineers are carrying out their work as per the Quality Assurance System, accompanying the field inspection by the Engineer-in-Charge and his senior officers from the Railway to receive instructions from them and ensuring that the Contractor is carrying out works as specified in the method statements, procedures and specifications and also for studying the problems on the spot and giving necessary clarification/direction.

b. The Resident Engineer shall inspect every work site at least once a week and whenever his services are required at the Project site either by the Railway or the Consultant's Personnel. His field inspections shall be for ascertaining that the Section Engineers and Site Engineers are carrying out their work as per the Quality Assurance System, carrying out test checks of measurements, accompanying the field inspection by the Engineer and his senior officers from the Railway to receive instructions from them and ensuring that the Contractor is carrying out works as specified in the method statements, procedures and specifications and coordinating with the Contractor's project manager for successful execution of the Project.

c. Section Engineer shall inspect every work site under his supervision at least once a day and whenever his services are required at the Project site either by the Railway or the Consultant's Personnel. His field inspections shall be for ascertaining that the Site engineers are carrying out their work as per the Quality Assurance System, carrying out checks on measurements, accompanying the field inspection by the Railway's supervisory staff and his senior officers

from the Railway to receive instructions from them and ensuring that the Contractor is carrying works as specified in the method statements, procedures and specifications and witnessing important works like concreting, reinforcement lowering, surveying etc.

d. Site engineer shall inspect every work site under his supervision at least twice a day and shall remain at the work site during each important construction activity such as concreting, reinforcement lowering, testing, etc. He shall accompany each inspection by any of the Consultant's Personnel or Railway's officers or supervisors. He will ensure that the Contractor's engineers and staff are available at site and are carrying out all necessary checks, tests and procedures.

e. Sector Expert, Design Review Manager, Program Expert and other experts shall inspect every work site at least once a month and as and when necessity arises or requests are received from Section Engineer/ Site Engineers or are instructed by the Team Leader or the Railway to do so as to solve specific issues at site.

f. Quality Assurance Manager and Environment, Health and Safety Manager shall inspect each work site at least once a week and whenever their services are required for ascertaining that the Quality Assurance System is being followed by the Consultant's field Personnel and the Contractor and checking the compliances of the earlier site instructions, non-conformance notices, incident reports and sub-standard safety condition reports. They shall accompany each inspection by the Team Leader, Engineer-in-Charge and other officers of the Railway as and when requested.

11. Schedule of Payment

The Consultant shall raise periodic on-account bills, not more than once a month, for the Services rendered by it under this Consultancy. Such bills will consist of expenditure incurred by the Consultant against various items of Services under sub heads A, B and C of the Schedule of Costs for Services at Annex-4 of the Contract. The payable rates for Personnel, office, vehicles, meetings and office consumables shall be as agreed under respective Schedules placed at Annexes 5 to 9 of the Contract. The Railway shall make payment to the Consultant against such bills in the manner and in installments specified in the SCC. Overhead Expenses and Service tax shall be paid at the rates agreed in the Annex-4 of the Contract over the sub-total of sub-heads A, B and C.

12. Duration and Completion of Services

12.1 The Consultancy shall be completed on successful commissioning of the Project(s) and submission by the Consultant of all as-built drawings and other

reports of the Project and the Consultancy to the Railway. All such drawings and reports shall remain the property of the Railway and shall not be used for any purpose other than that intended under these Terms of Reference. The Consultancy services shall stand completed on acceptance of all the required deliverables of the Consultant by the Railway and issue of Completion Certificate by the Railway to Consultant.

12.2 Duration of Services

The Services shall have to be completed in all respect by the Consultant within a time period of _____ months. However in the event of delay in the completion of the Project not attributable to the Consultant, the Engineer-in-Charge may grant such extension of time as in his opinion is reasonable having regard to the extension of time granted to the Contractor(s)from time to time. Further the Railway may also grant extension of time along with liquidated damages if the delay is attributable to the Consultant. In case of any extension of time, with or without damages, the Consultant shall complete the Services in all respect within such extended time.

_____END OF TERMS OF REFERENCE_____

VOLUME II

(VARIABLE)

SCHEDULE IV

SPECIAL CONDITIONS OF CONTRACT

(SCC)

SPECIAL CONDITIONS OF CONTRACT

1. GENERAL

1.1 Definitions and Interpretation

1.1.1 The words and expressions beginning with capital letters and defined in this Contract shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

(a) "Applicable Laws" means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;

(b) "City" means the town/city of _____;

(c) "Contract" means this Contract, together with all the Annexes;

(d) "Contract Value" shall have the meaning set forth in the Agreement;

(e) "Confidential Information" shall have the meaning set forth in Clause 3.3;

(f) "Conflict of Interest" shall have the meaning set forth in Clause 3.2 read with the provisions of Tender Document;

(g) "Dispute" shall have the meaning set forth in Clause 10.2.1;

(h) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause 2.1;

(i) "Government" means the Government of India;

(j) " INR, Re. or Rs." means Indian Rupees;

(k) "Member", in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, and "Members" means all of these entities;

(m) "Personnel" means persons hired by the Consultant as employees and assigned to the performance of the Services or any part thereof;

(n) "Party" means the Railway or the Consultant, as the case may be, and Parties means both of them;

(o) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in the Terms of Reference hereto;

(p) "Tender Document" means the tender document in response to which the Consultant's tender for providing Services was accepted; and

(q) "Third Party" means any person or entity other than the Government, the Railway or the Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the Tender Document.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Railway and the Consultant. The Consultant shall, subject to this Contract, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

The mutual rights and obligations of the Railway and the Consultant shall be as set forth in the Contract; in particular:

(a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and

(b) The Railway shall make payments to the Consultant in accordance with the provisions of the Contract.

1.4 Governing law and jurisdiction

This Contract shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at the City shall have jurisdiction over matters arising out of or relating to this Contract.

1.5 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Contract shall be in writing and in English language.

1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Contract are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Contract.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Contract shall be in writing and shall:

(a) in the case of a notice meant for the Consultant, be given by fax and by letter delivered by courier, post or hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Railway;

(b) in the case the Consultant issues a notice to the Railway, it could be given by fax and by letter delivered by hand and be addressed to the Railway with a copy delivered to the Railway Representative set out below in Clause 1.10 or to such other person as the Railway may from time to time designate by notice to the Consultant; and

(c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of Tender Document and at such locations as are incidental thereto, including the offices of the Consultant.

1.9 Authority of Member-in-charge

In case the Consultant consists of a consortium of more than one entity, the Parties agree that the Authorised Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Railway under this Contract, including without limitation the receiving of instructions and payments from the Railway.

1.10 Authorised Representatives

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Railway or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 The Railway may, from time to time, designate one of its officials as the Railway Representative. Unless otherwise notified, the Railway Representative shall be:

_____,

_____.

1.10.3 The Consultant will designate the Chief Resident Engineer, who is the Team Leader of the Consultancy Team as Consultant's Representative. Unless otherwise agreed by the Railway, the Consultant's Representative shall be:

_____

_____

Tel: _____

Fax: _____

1.11 Taxes and duties

Unless otherwise specified in the Contract, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the Railway shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Contract shall come into force and be effective from the date specified in the Letter of Acceptance of this Contract (the **"Effective Date"**).

2.2 Commencement of Services

The Consultant shall commence the Services within the period specified in either the Letter of Acceptance or the Notice to Proceed, unless otherwise agreed by the Parties.

2.3 Termination of Contract for failure to commence Services

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, the Railway may, by not less than 2 (two) weeks' notice to the Consultant, declare this Contract to be null and void, and in the event of such a declaration, the EMD, the Security Deposit and the Performance Guarantee of the Consultant shall stand forfeited.

2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause 2.9 hereof, this Contract shall expire when the Services have been completed, all payments due under this Contract have been made and a period of one month has elapsed after expiry of the Defect Liability Period.

2.5 Entire Contract

2.5.1 This Contract, the LOA, the NTP, the GCC, the SCC, the Terms of Reference and other Annexes together constitute a complete and exclusive statement of the terms of the Contract between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Contract are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the Tender Document shall continue to subsist and shall be deemed as part of this Contract.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Contract, the provisions of Tender Document shall apply.

2.6 Modification of Contract

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

(a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Contract and (B) avoid or overcome in the carrying out of its obligations hereunder.

(c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be taken

(a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.

(b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature

and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

(c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 Payments

During or any time after the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall not be reimbursed any costs incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than thirty (30) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Contract

The Railway may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Contract or shall fail to perform any of its obligations under this Contract, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

2.9 Termination of Contract

2.9.1 The Railway may, by not less than thirty (30) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Contract if:

(a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Railway may have subsequently granted in writing;

(b) the Consultant becomes insolvent or bankrupt or enters into any Contract with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;

(c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 10 hereof;

(d) the Consultant submits to the Railway a statement which has a material effect on the rights, obligations or interests of the Railway and which the Consultant knows to be false;

(e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;

(f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(g) the Railway, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 Upon termination of this Contract pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Contract pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in Clause 3.6 (ii) hereof, and any right or remedy which a Party may have under this Contract or the Applicable Law. Upon termination of this Contract pursuant to Clauses 2.3 or 2.9 hereof, the Security Deposit and the Performance Guarantee shall be forfeited by the Railway.

2.9.3 Cessation of Services

Upon termination of this Contract pursuant to Clauses 2.9.1 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Railway, the Consultant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.4 Payment upon Termination

Upon termination of this Contract pursuant to Clauses 2.9.1 hereof, the Railway shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to the Railway):

(i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;

(ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and

(iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultant's personnel.

2.10 Supersession of the Consultant

In case a situation so arise, the Railway may supersede any or all of the instructions issued by the Consultant to the Contractor(s) during a particular period of time by issuing its own fresh instructions to the Contractor(s). Further the Railway may take over any or part of activities hitherto being carried out by the Consultant and this may cause removal of certain Personnel from the Project(s) by the Consultant. The Consultant shall not be entitled for any compensation over any of the actions of Railway specified under this Clause.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Railway, and shall at all times support and safeguard the Railway's legitimate interests in any dealings with Third Parties.

3.1.2 Terms of Reference

The scope of Services to be performed by the Consultant is specified in the Terms of Reference (the "**TOR**") at Annex-3 of this Contract. The Consultant shall provide the deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Personnel and agents of the Consultant comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Contract.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Personnel shall engage, either directly or indirectly, in any of the following activities:

(a) during the term of this Contract, any business or professional activities which would conflict with the activities assigned to them under this Contract;

(b) after the termination of this Contract, such other activities as may be specified in the Contract; or

(c) at any time, such other activities as have been specified in the Tender Document as Conflict of Interest.

3.2.4 Consultant not to benefit from commissions discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any of its Personnel or agents, similarly shall not receive any such additional remuneration.

3.2.5 The Consultant and its Personnel shall observe the highest standards of ethics and have not engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the **"Prohibited Practices").** Notwithstanding anything to the contrary contained in this Contract, the Railway shall be entitled to terminate this Contract forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection

Process or before or after entering into of this Contract. In such an event, the Railway shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Railway towards, inter alia, time, cost and effort of the Railway, without prejudice to the Railway's any other rights or remedy hereunder or in law.

3.2.6 Without prejudice to the rights of the Railway under Clause 3.2.5 above and the other rights and remedies which the Railway may have under this Contract, if the Consultant is found by the Railway to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Contract, the Consultant shall not be eligible to participate in any tender or Tender Document issued during a period of 2 (two) years from the date the Consultant is found by the Railway to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) **"corrupt practice"** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Railway who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Contract before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Railway, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Contract, who at any time has been or is a legal, financial or technical adviser the Railway in relation to any matter concerning the Project;

(b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;

(c) **"coercive practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Railway under this Contract;

(d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Railway with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and

(e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Tenderers with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

The Consultant or its Personnel shall not, either during the term or within two years after the expiration or termination of this Contract, disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Railway to the Consultant and its Personnel; any information provided by or relating to the Railway, its technology, technical processes, business affairs or finances or any information relating to the Railway's employees, officers or other professionals or suppliers, customers, or contractors of the Railway; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Contract ("**Confidential Information**"), without the prior written consent of the Railway.

Notwithstanding the aforesaid, the Consultant or its Personnel may disclose Confidential Information to the extent that such Confidential Information:

(i) was in the public domain prior to its delivery to the Consultant and its Personnel become a part of the public knowledge from a source other than the Consultant and its Personnel;

(ii) was obtained from a third party with no known duty to maintain its confidentiality;

(iii) is required to be disclosed by Law or judicial or administrative or arbitral process or by any Governmental Instrumentalities, provided that for any such disclosure, the Consultant and its Personnel shall give the Railway, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment;

(iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Personnel, as is reasonable under the circumstances; provided, however, that the Consultant or its Personnel, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Consultant

3.4.1 The Consultant's liability under this Contract shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 Consultant's liability towards the Railway

The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Railway for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it. The authority to decide and quantify the Consultant's liability in terms of this Clause shall rest with the Railway. However, this authority shall be exercised by an officer of rank not less than the Chief Administrative Officer (CAO) of the Railway.

3.4.3 The Parties hereto agree that in case of negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Railway's property, shall not be liable to the Railway:

(i) for any indirect or consequential loss or damage; and

(ii) for any direct loss or damage that exceeds (a) the Contract Value set forth in Clause 6.1.2 of this Contract, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.

3.4.4 **Indemnity**

The Consultant shall, subject to the provisions of the Contract, indemnify the Railway for any direct loss or damage that is caused due to any deficiency in the Services including any excess billing claimed by the Contractor and paid by the Railway either due to oversight of the Consultant's Personnel or done intentionally with the collusion of the Consultant's Personnel. The Consultant shall take out and maintain professional insurance at his own cost for the amount specified in Clause 3.5 towards this end. This shall be over and above the Security Deposit and Performance Guarantee specified in Clause 7.1.

3.5 Insurance to be taken out by the Consultant

3.5.1 (a) The Consultant shall take out and maintain, at its own cost but on terms and conditions approved by the Railway[3], following insurance policies against and for

[3] Guidance note on Insurance Policy is provided at Appendix-III for the use of the Railway for ensuring that not only the Consultant but also the works contractor whose work is to be supervised by the Consultant takes the required insurance policy.

the coverage of risks in accordance with good industry practice including but not limited to those specified here below:

(i) Professional Indemnity Cover by the Consultant

The (PMC) Consultant should take a Professional Indemnity Insurance policy, with the name of Railway as beneficiary of the insurance proceeds, to cover the following risks:

- Negligence, Errors and Omissions by the Personnel of the (PMC) Consultant
- Failure of the (PMC) Consultant to perform the Services

The limit of indemnity to be obtained should be at least 10 times the value of the Consultancy Contract.

(ii) Fidelity Guarantee covers by the Consultant

The consultant will buy a policy with the name of Railway as beneficiary of the insurance proceeds against infidelity by any or all the employees supervising the Contractor's works on behalf of the Consultant to cover the direct financial loss to the Railway due to excess payment to the contractors/suppliers due to intentional collusion with Contractors/Suppliers resulting in raising/passing of bills in excess of the works executed at the site. The limit of indemnity should be at least 5 times of the value of the Consultancy Contract.

(iii)Employer's liability and Workmen's Compensation Insurance

The Contractor and Consultant should take separate appropriate Insurance policies as required by law with the name of the Consultant as beneficiary of the insurance proceeds and submit copy of such policies to the Railway.

(b) Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Consultant shall furnish to the Railway, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Contract.

(c) If the Consultant fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the Railway shall, apart from having other recourse available under this Contract, have the option, without prejudice to the obligations of the Consultant, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premia and recover the costs thereof from the Consultant, and the Consultant shall be liable to pay such amounts on demand by the Railway.

(d) Except in case of Third Party liabilities, the insurance policies so procured shall mention the Railway as the beneficiary of the Consultant and the Consultant shall procure an undertaking from the insurance company to this effect; provided that in the event the Consultant has a general insurance policy that covers the risks specified in this Contract and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not mention the Railway as the sole beneficiary of the Consultant or require an undertaking to that effect.

3.5.2 The Parties agree that the risks and coverages shall include but not be limited to the following:

(a) Third Party liability insurance as required under Applicable Laws but with minimum coverage of twice the Contract Value.

(b) The indemnity to the Railway against excess billing claimed by the Contractor and paid by the Railway, either due to oversight of the Consultant's Personnel or done intentionally with the collusion of the Consultant's Personnel.

(c) Employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and all insurances and policies should start no later than the date of commencement of Services and remain effective as per relevant requirements of the Contract.

(d) Direct loss to the Railway due to deficiency in the Services rendered by the Consultant under this Contract including but not limited to defects in design cleared, defects in construction allowed, wrong procedures adopted and inadequate control exercised on the quality and safety of works of the Contractor by the Consultant or any of its Personnel.

(e) The total coverage of insurance for indemnity to the Railway shall be not less than 10 (ten) times the Contract Value. Insurance cover for risks specified in sub-clauses (a) and (c) here above shall be additional. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.

3.6 Accounting, inspection and auditing

The Consultant shall,

(i) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Consultant's costs and charges), and

(ii) permit the Railway or its designated representative periodically, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Railway.

3.7 Consultant's actions requiring the Railway's prior approval

The Consultant shall obtain the Railway's prior approval in writing before taking any of the following actions:

(a) appointing such members of the Professional Personnel as are not listed in Annex–5, or

(b) any other action that may be specified in this Contract.

3.8 Reporting obligations

The Consultant shall submit to the Railway the reports and documents specified in the Contract, in the form, in the numbers and within the time periods set forth therein.

3.9 Documents prepared by the Consultant to be property of the Railway

3.9.1 All plans, drawings, specifications, designs, reports and other documents prepared by the Consultant in performing the Services shall become and remain the property of the Railway, and the Consultant shall, not later than termination or expiration of this Contract, deliver all such documents to the Railway, together with a detailed inventory thereof. The Consultant may retain a copy of such documents. Restrictions about the future use of these documents shall be as specified in the Contract.

3.9.2 The Consultant shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Railway.

3.10 Equipment and materials furnished by the Railway

Equipment and materials made available to the Consultant by the Railway shall be the property of the Railway and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall furnish forthwith to the Railway, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Railway. While in possession of such equipment and materials, the Consultant shall, unless otherwise instructed by the Railway in writing, insure them in an amount equal to their full replacement value.

3.11 Providing access to Project Office and Personnel

The Consultant shall ensure that the Railway, and officials of the Railway having authority from the Railway, is provided unrestricted access to the Project Office and to all Personnel during office hours. the Railway's any such official shall have the right

to inspect the Services in progress, interact with Personnel of the Consultant and verify the records for his satisfaction.

3.12. Accuracy of Documents

The Consultant shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Railway against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practices. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey/ investigations.

4 CONSULTANT'S PERSONNEL

4.1 General

The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2 Deployment of Personnel

4.2.1 The designations, names and the estimated periods of engagement in carrying out the Services by each of the Consultant's Personnel and their respective Man Month rates are described in Annex-5 of this Contract.

4.2.2 The Railway expects all the Key Personnel to be available during the first year (12 months) of implementation of the Contract. The Railway will not consider substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to a maximum of 20% Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Railway. As a condition to such substitution, a sum equal to 20% of the remuneration specified for the Key Personnel in the Contract at the time of such replacement (last drawn remuneration) shall be deducted from the payments due to the Consultant till 12 months of the implementation of the Contract or six months of deployment of the new Key Personnel, whichever is later. Such deduction of 20% of the remuneration till six months of deployment of the new Key Personnel shall also be applicable in cases where replacement of Key Personnel has either been requested by the Railway pursuant to Clause 4.2.3 and 4.2.4 or the Consultant itself has made the substitution after the first 12 months of the implementation of the Contract. Substitution of the Team Leader will not normally be considered during the first year (12 months) and may lead to termination of the Contract.

4.2.3 The Railway may direct the Consultant to replace any Key Personnel at any time during the implementation of the Contract on the basis of non-satisfactory

performance or otherwise and the Consultant shall have to replace the Key Personnel with equally or more competent and experienced personnel to the satisfaction of the Railway.

4.2.4 In the event that any of the personnel is found by the Railway to be incompetent, guilty of misbehavior, or incapable in discharging the assigned responsibilities, the Railway may direct the Consultant, at the expense of the Consultant, to forthwith provide a replacement with suitable qualifications and experience meeting with the minimum eligibility specified in the Contract and acceptable to the Railway. Each replacement for a Personnel at any time during the implementation of the contract, either on the request of the Railway pursuant to the provisions specified in the Clause or by the Consultant on its own, shall cause a deduction of 20% of the remuneration specified for the Personnel in the Contract at the time of such replacement till 12 months of the implementation of the Contract or six months of the deployment of the new Key Personnel, whichever is later.

4.2.5 The Railway may instruct the Consultant for continuation of a maximum of 20% of the Professional Personnel deployed beyond the first year (12 months) on the basis of their performance and need for their continuation in the interest of the Project(s). If the Consultant accepts such request, the Man Month rate of such Personnel shall get increased by 10% with effect from the 13th Month of deployment. Such extension may be requested by the Railway every subsequent year for the same or different set of Professional Personnel till the Completion of the Consultancy and each such time the Man Month rate of such Personnel will increase by 10%. However each year the number of such Professional Personnel shall not be more than 20% of the number of Professional Personnel deployed. However if any of such Professional Personnel, whose Man Month Rate has been increased as aforesaid or who has been requested by the Railway for continuation, leaves the Consultancy the respective Man Month rate shall revert back to those originally specified in the Contract.

4.2.6 If additional work is required beyond the scope of the Services specified in the Terms of Reference and the variations in man months allowed as per Annex-5 (Schedule of Personnel and Man Month Rates), the estimated periods of man months of Personnel and other costs set forth in the Annexes of the Contract may be increased by agreement in writing between the Railway and the Consultant, provided that total increase in payments under this Contract in no case shall not exceed the Contract Value by more than 50%.

4.3 Approval of Personnel

The Professional Personnel listed in Annex-5 of the Contract are approved by the Railway. No other Professional Personnel shall be engaged without prior approval of the Railway.

4.4 Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Contract, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the mandays of service set forth in Annex-2. Any taking of leave by any Personnel for a period exceeding 7 days shall be subject to the prior approval of the Railway, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

4.5 Team Leader

The Chief Resident Engineer shall be designated as the Team Leader of the Consultancy Team and he shall be responsible for the coordinated, timely and efficient functioning of all Personnel.

4.6 Training of Personnel

4.6.1 All Professional Personnel shall have at least one year work experience in railway related works in the disciplines relevant to the Project. Each such Professional Personnel who doesn't have this experience shall undergo compulsory training at the Indian Railways Institute of Training (IRICEN), Pune or such other training institutes on Indian Railways which are notified by the Railway for such training, within six months of the deployment of such Professional Personnel. The cost of training and other incidental expenditure in this regard shall be borne by the Consultant and shall be deemed to be included in the overhead expenses of the Consultant. Railway Board issues instructions regarding the cost of the training to be charged by IRICEN from time to time and the latest instruction in this regard is contained in Railway Board letter no._____, copy of which could be obtained from the Railway.

4.6.2 The Consultant shall deploy a minimum of 50% of the Professional Personnel who are not retired Railway employees. The Consultant is encouraged to propose fresh engineering graduates/diplomas holders as Design Engineer, Section Engineer and Site Engineers. However in such cases the Railway may allow such Personnel to be deployed subject to their number not being larger than 50% of total Personnel in each such category and further subject to such Personnel being kept under training for the first six months of deployment during which period such Personnel shall be paid at 50% of the Man Month rate specified at Annex-5 of the Contract. Continuation and confirmation of deployment of such Personnel kept under training shall be subject to the Personnel successfully completing the compulsory training specified in Clause 4.6.1 and further subject to the approval of the Engineer-in-Charge.

5. OBLIGATIONS OF THE RAILWAY

5.1 Assistance in clearances etc.

Unless otherwise specified in the Contract, the Railway shall make best efforts to ensure that the Government shall:

(a) provide the Consultant and its Personnel with work permits and such other documents as may be necessary to enable the Consultant or its Personnel to perform the Services;

(b) facilitate prompt clearance through customs of any equipment/article required to be imported for the Services; and

(c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;

5.2 Access to land and property

The Railway assures that the Consultant shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services.

5.3 Change in Applicable Law

If, after the date of this Contract, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two percent) of the Contract Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by Contract between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Contract Value.

5.4 Payment

In consideration of the Services performed by the Consultant under this Contract, the Railway shall make to the Consultant such payments and in such manner as is provided in Clause 6 of this Contract.

6. PAYMENT TO THE CONSULTANT

6.1 Cost estimates and Contract Value

6.1.1 The Contract Value towards the cost of the Services shall be as specified in the recital of the Contract. Estimates of the cost of the Services and rates thereof payable to the Consultant is set forth in Annex-4 through Annex-9 of the Contract.

6.1.2 Except as provided under Clause 4.2.5 and Annex-5 (Schedule of Personnel and Man Month Rates) or as may be otherwise agreed under Clause 4.2.6 the payments under this Contract shall not exceed the Contract value.

6.2 Currency of payment

All payments shall be made in Indian Rupees. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3 Mode of billing and payment

6.3.1 A Mobilisation Advance for an amount upto 10% (ten percent) of the Contract Value shall be paid to the Consultant on request and against a Bank Guarantee for the amount of Mobilisation Advance from a Scheduled Bank in India. Chargeable interest on the advance, recoveries and other conditions governing the mobilization advance shall be as per extant rules of works contract on Indian Railways.

6.3.2 The Consultant shall be paid for the Services as per the Payment Schedule at Annex-4 through Annex-9 of this Contract.

6.3.3 Payment for Personnel shall be made to the Consultant in the manner explained below:-

(i) The monthly payment shall be made @ 80% of the accepted man month rates as per actual deployment of Personnel duly certified by the Engineer-In-Charge.

(ii) 10% of the accepted man month rates shall be released proportionately to the average financial progress of the construction contract(s) for which the Consultant has been appointed.

(iii) Balance 10% of the accepted man month rates shall be released on successful commissioning of the project as under:

a) Along with passing of the Final bill – 6%

b) During defect liability period on quarterly basis-@ 1% for each quarter.

(iv) In case any of the relevant Key Personnel/Technical staff remains unavailable during important activities, like Pre-Non interlocking, Non-interlocking work and commissioning of project, recovery will be made @ three times the payable remuneration and the decision of the Railway in this regard will be final and binding.

6.3.4 In case currency of the Contract is extended for reasons not attributable to the Performance of the Consultant, the remuneration per month in the extended period shall be made based on accepted man month rates and actual deployment of staff in the manner specified in Clause 6.3.3.

6.3.5 In case the Contract is extended due to reasons attributed to the Consultant, the payment per month in the extended period shall not be made; however, all Personnel as per deployment schedule shall continue to be provided by the Consultant. The part of the money held back earlier in terms of the Clause 6.3.3 will continue to be released based on actual financial progress of work. In case the Consultant fails to deploy any Personnel during such extended period the equivalent amount will be recovered from the Security Deposit and/or the Performance Guarantee or any other sums due to the Consultant.

6.3.6 In case the Contract is completed ahead of schedule, then the part of the payment specified in Clause 6.3.3 (i) and (ii) will be restricted up to the month in which the Contract is concluded. The part of the payment specified in Clause 6.3.3 (iii) will be released in full for the entire stipulated duration of the contract as an incentive for ensuring early completion.

6.3.7 In the event of fore-closure/termination of construction contract for supervision of which the Consultant has been appointed, no further payment beyond 30 days from the date of such fore-closure/termination of construction contract shall be made to the Consultant. In all such cases, further continuance of the Consultant's Contract would be determined by the Railway and the Railway's decision would be final.

6.3.8 Payments against various items other than Man Months of Personnel of Annex-4 of the Contract shall be made on reimbursement basis on submission of Statement of Expenses by the Consultant. However at no point of time the percentage payment against any item shall be more than the cumulative percentage of the Professional Personnel Man Months already spent on the Consultancy.

6.3.9 Remuneration for Personnel shall be determined on the basis of time spent by the Personnel in performance of the Services after the Effective Date as per accepted rates of the Contract. Unless otherwise specifically provided for in Contract, such rates shall be fixed for the duration of the Contract.

6.3.10 Remuneration for periods of less than one month shall be calculated on a calendar day basis for the time spent in the field for part of the month. The personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave. The Personnel's remuneration shall be deemed to cover these items. Any taking of leave by Personnel shall be subject to the prior approval of the Railway and the Consultant shall ensure that such absence will not delay the progress and adequate supervision of the Services. The period for which the Consultant's Personnel will be on leave shall not be charged on the bill and the bill must be accompanied with the attendance record for the period. The working hours of the personnel of the Consultant will have to be adjusted for proper supervision at all times when the work is in progress, without any over time, according to the requirement at site.

6.3.11 Consultant's Personnel can avail one day weekly rest and also National holidays declared at Railway's Headquarters office for which no deduction in their remuneration will be made. If required the Personnel shall stagger/defer such weekly rest or availing National Holiday during exigencies, so as to ensure uninterrupted progress of works.

6.3.12 The final 10% part payment under the Clause 6.3.3 shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Railway. The Services shall be deemed to have been completed and finally accepted by the Railway and the final report and final statement shall be deemed to have been approved by the Railway as satisfactory

upon expiry of 90 (ninety) days after receipt of the final report and final statement by the Railway unless the Railway, within such 90 (ninety) day period, gives written notice to the Consultant specifying in detail, the deficiencies in the Services, the final report or final statement, as the case may be. The Consultant shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated.

6.3.13 Any amount which the Railway has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Railway within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Railway for reimbursement must be made within 1 (one) year after receipt by the Railway of a final report and a final statement in accordance with Clause 6.3.12. Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten percent) per annum.

6.3.14 All payments under this Contract shall be made to the account of the Consultant as may be notified to the Railway by the Consultant.

6.3.15 The consultant shall submit their invoice/s to the Person/s authorized by the MOR Representative for certifying and causing payment.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Security Deposit and Performance Guarantee

7.1.1 EMD of the successful Tenderer who is awarded the Consultancy shall be retained by the Railway as part of security for the due and faithful fulfillment of the Contract (the **"Security Deposit"**) by the Consultant. The amount of the Security Deposit shall be 5% of the Contract Value. The balance amount to make up the Security Deposit for this Consultancy may be deposited by the Consultant in advance otherwise it will be recovered from the Consultant's running bills @ 10% deduction from each such bill. Further the Consultant shall deposit a performance guarantee (the **"Performance Guarantee"**) for an amount not less than 5% of the Contract Value in the form of a Bank Guarantee in the Format at Annex-10 of Form of Contract prior to or at the time of execution of the Contract. Security Deposit will be appropriated and Performance Guarantee will be encashed, partly or fully, against breach of this Contract or for recovery of liquidated damages as specified in Clause 7.2 herein. The Consultant shall recoup the Performance Guarantee within one month of any encashment by the Railway. The balance remaining out of the Security Deposit and the Performance Guarantee shall be returned to the Consultant at the end of the Defect Liability Period as specified in Clause 8 hereunder.

7.2 Liquidated Damages

7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Railway in a reasonable manner and recovered from the Consultant by way of liquidated damages, subject to a maximum of 10% (ten percent) of the Contract Value.

7.2.2 Liquidated Damages for delay

In case of delay in commissioning of the Project leading to delay in completion of Services, due to reasons not attributable to the Railway, and the Railway imposes liquidated damages on the Contractor, liquidated damages not exceeding an amount equal to 0.05% (zero point zero five percent) of the Contract Value per day, subject to a maximum of 5% (five percent) of the Contract Value will be imposed on the consultant and shall be recovered by appropriation from the Security Deposit or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

7.2.3 Liquidated Damages for Excess Billing to the Contractor (s)

In case of any excess billing to the Contractor(s), either due to oversight of the Consultant's Personnel or done intentionally with the collusion of the Consultant's Personnel, liquidated damages not exceeding an amount equal to 10% (ten percent) of the amount of excess billing shall be levied on the Consultant and shall be recovered by appropriation from the Security Deposit or otherwise.

7.2.4 Encashment and appropriation of Security Deposit and Performance Guarantee

The Railway shall have the right to invoke and appropriate the Security Deposit and Performance Guarantee, in whole or in part, without notice to the Consultant in the event of breach of this Contract or for recovery of liquidated damages specified in this Clause 7.2. In the event any portion of the Security Deposit is appropriated by Railways, then immediately following such appropriation, the Consultant shall replenish the Performance Guarantee within 1 (one) month of its appropriation, and in the event of default by the Consultant, Railways shall have the right to take such steps as it may deem necessary, including termination of this Agreement.

7.3 Penalty for deficiency in Services

In addition to the liquidated damages as specified in Clause 7.2, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Railway, other penal actions including temporarily withholding of part payment from on account bills, penalty recoverable from on account bills, and debarring for a specified period may also be initiated as per policy of the Railway.

8. Defect Liability Period

The defect liability period (the **"Defect Liability Period"**) for the Consultancy shall be one year from the date of final payment made to the Consultant on completion of Services or the Maintenance Period of the works Contract(s) whichever is later. The Consultant shall continue to be liable during the Defect Liability Period for any deficiency in Services rendered by it, any defect noticed in the works which is attributable to such deficiency in Services, or any excess payment made to the Contractor(s) due to improper check by the Consultant's Personnel. The Consultant shall continue to assist the Railway during the Defect Liability Period, as and when need arises, on any matter related to the Project(s) that is incidental to the Services rendered by the Consultant. Such assistance shall be including but not limited to as follows:

[specify]

Security Deposit and Performance Guarantee shall continue to remain with the Railway and the Professional Insurance taken by the Consultant for this Contract shall continue to remain applicable during the Defect Liability Period. The Security Deposit and the Performance Guarantee shall be returned to the Consultant after expiry of the Defect Liability Period provided the Railway has no claim against the Consultant.

9. FAIRNESS AND GOOD FAITH

9.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

9.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 10 hereof.

10. SETTLEMENT OF DISPUTES

10.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

10.2 Dispute resolution

10.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Contract (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the **"Dispute"**) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 10.3.

10.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Contract promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

10.3 **Conciliation**

In the event of any Dispute between the Parties, either Party may call upon the General Manager of Zonal Railway having jurisdiction over the Station and the Chairman of the Board of Directors of the Consultant for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 10.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of GCC.

_____END OF SCC_____

VOLUME II

(VARIABLE)

APPENDICES

(Forms for Tenders)

APPENDIX-I

Technical Offer Forms

Form-1

LETTER OF OFFER

(On Sole Firm or Authorised Member's letter head)

(Date and Reference)

To,

_____,
_____,
_____.

Sub: Appointment of Consultant for Project Management Consultancy for _____

Dear Sir,

With reference to your Tender Document dated *****, I/We, having examined all relevant documents and understood their contents, hereby submit our Tender for selection as Consultant for Project Management Consultancy for _____. The proposal is unconditional and unqualified.

2. All information provided in the Tender and in the Appendices is true and correct and all documents accompanying such Tender are true copies of their respective originals.

3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.

4. I/We shall make available to the Railway any additional information it may deem necessary or require for supplementing or authenticating the Tender.

5. I/We acknowledge the right of the Railway to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.

6. We certify that in the last one year, we/ any of the consortium members have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.

7. I/We declare that:

   (a) I/We have examined and have no reservations to the Tender Documents, including any Addendum issued by the Railway;

   (b) I/We do not have any conflict of interest in accordance with Clause 2.2.8 of the Tender Document;

   (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the Tender document, in respect of any tender or request for proposal issued by or any Contract entered into with the Railway or any other public sector enterprise or any government, Central or State; and

   (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the Tender, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Tender that you may receive nor to select the Consultant, without incurring any liability to the Tenderers in accordance with Clause 2.32.2 of the Tender document.

9. I/We declare that We/any member of the consortium, are/is not a Member of a/any other Consortium applying for Selection as a Consultant.

10. I/We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.

11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.

12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/employees.

13. I/We hereby irrevocably waive any right which we may have at any stage of law or howsoever otherwise arising to challenge or question any decision taken by the Railway and/ or the Government of India in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.

14. The EMD of Rs. _____ (Rupees _____ only) in the form of _____ is attached, in accordance with the Tender document.

15. I/We agree and understand that the proposal is subject to the provisions of the Tender document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened.

16. I/We agree to keep this offer valid for 120 (one hundred and twenty) days from the Tender Due Date specified in the Tender.

17. A Power of Attorney in favour of the authorised signatory to sign and submit this Tender and documents is attached herewith in Form 4.

18. In the event of my/our being selected as the Consultant, I/we agree to enter into a Contract in accordance with the format Schedule–II of the Tender. We agree not to seek any changes in the aforesaid form and agree to abide by the same.

19. I/We have studied Tender and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Contract, we shall have no claim, right or title arising out of any documents or information provided to us by the Railway or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.

20. The Financial Offer is being submitted in a separate cover. This Technical Tender read with the Financial Tender shall constitute the Application which shall be binding on us.

21. I/We agree and undertake to abide by all the terms and conditions of the Tender Document. In witness thereof, I/we submit this Tender under and in accordance with the terms of the Tender Document.

Yours faithfully,

(Signature of the Authorised Signatory)

(Name and designation of the Authorised Signatory)

(Name and seal of the Tenderer / Authorised Member)

Note: The cost of Tender document Rs.***** has been remitted through demand draft no _____ dated _____ drawn on _____ (Name of Bank) in favour of ***** at ****.

APPENDIX-I

Form-2

Particulars of the Tenderer

1.1	Title of Consultancy: PROJECT MANAGEMENT CONSULTANCY
1.2	Title of Project(s): _____
1.3	State whether applying as Sole Firm or Consortium of firms: Sole Firm or Consortium
1.4	State the following for the Lead Member, Authorised Member and other Members separately: Name of Company or Firm: Legal status (e.g. incorporated private company, unincorporated business, partnership etc.): Country of incorporation: Registered address: Year of Incorporation: Year of commencement of business: Principal place of business: Brief description of the Company including details of its main lines of business
1.5	Name, Designation, Address and Phone Numbers of Authorised Signatory of the Tenderer: Name: Designation: Company: Address: Phone No.: Fax No. E-mail address:

1.6	For the Tenderer, (in case of a consortium, for each Member), state the following information: i) In case of non Indian company, does the company have business presence in India? Yes/No If so, provide the office address (es) in India. ii) Has the Tenderer or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years? Yes/No iii) Has the Tenderer/ Member ever failed to complete any work awarded to it by any public authority/ entity in last five years? Yes/No iv) Has the Tenderer or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No v) Has the Tenderer or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years? Yes/No **Note: If answer to any of the questions at ii) to v) is yes, the Tenderer is not eligible for this consultancy assignment.**
1.7	Does the Tenderer's firm/company (or any member of the consortium) combine functions as a consultant or adviser along with the functions as a contractor and/or a manufacturer? Yes/No If yes, does the Tenderer (and other Member of the Tenderer's consortium) agree to limit the Tenderer's role only to that of a consultant/ adviser to the Railway and to disqualify themselves, their Associates/ affiliates, subsidiaries and/or parent organization subsequently from work on this Project in any other capacity. Yes/No

APPENDIX-I

Form-3

Statement of Legal Capacity

(To be forwarded on the letter head of the Tenderer/ Authorised Member)

Ref. Date:

To,

_____,

_____.

Dear Sir,

Sub: Tender for Project Management Consultancy for _____(name of the Project(s))

We hereby confirm that we, the Tenderer (along with other members in case of consortium, constitution of which has been described in the Joint Bidding Agreement annexed with the Tender*), satisfy the terms and conditions laid down in the Tender document.

We have agreed that _____ (insert Lead Member's name) will act as the Lead Member of our consortium and _____(insert Authorised Member's name) will act as the Authorised Member of our Consortium.

We have agreed that _____ (insert individual's name) will act as our Authorised Signatory/ will act as the Authorised Signatory of the consortium on our behalf and has been duly authorized to submit our Tender. Further, the Authorised Signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

Authorised Signatory

For and on behalf of _____

**Please strike out whichever is not applicable*

APPENDIX-I

Form-4

Power of Attorney for Authorized Signatory

(To be executed by the Tenderer in case of sole firm/ Authorised Member)

Know all men by these presents, We_____ (name of the Tenderer in case of sole firm/Authorised Member and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), _____ son/daughter/wife of _____and presently residing at _____, who is presently employed with us and holding the position of _____, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Tender for Project Management Consultancy for _____ (name of the Project(s)) in response to the Tender invited by the _____ (the "Railway") including but not limited to signing and submission of all tenders and other documents and writings, participate in pre-tender and other conferences and providing information/ responses to the Railway, representing us in all matters before the Railway, signing and execution of the Contract and undertakings consequent to acceptance of our Tender, and generally dealing with the Railway in all matters in connection with or relating to or arising out of our tender for the said Project(s) and/ or upon award thereof to us and/or till the entering into of the Contract with the Railway.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,_____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ____ DAY OF _____, 2***

Appendix I

Form 4

For ----------

(Name of Tenderer in case of sole firm/ Lead Member)

(Signature)

(Name, Title and Address)

Witnesses:

1.

Notarised

2.

Accepted

_____

(Signature)

(Name, Title and Address
of the Attorney)

Notes:

- *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 executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also the Tenderer/ Authorised Member should attach a copy of the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the required delegation of power and the authority to execute this Power of Attorney on behalf of the Tenderer/ Authorised Member.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.*

APPENDIX-I

Form-5

Power of Attorney for Authorised Member of Consortium

(To be executed jointly by all the Members of Consortium)

Whereas the President of India acting through the _____ ("the Railway") has invited tenders from interested parties for the Project Management Consultancy for _____ (name of the Project(s)) ("the Consultancy").

Whereas,_____, _____, _____ and _____ (collectively the "Consortium") being Members of the Consortium are interested in tendering for the Consultancy in accordance with the terms and conditions of the Tender Document in respect of the Consultancy, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Authorised Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's tender for the Consultancy and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, M/s. _____ having our registered office at_____, M/s. _____ having our registered office at_____, M/s. _____ having our registered office at _____, and M/s. _____ having our registered office at_____, [the respective names and addresses of the registered office] (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s_____ having its registered office at _____, being one of the Members of the Consortium, as the Authorised Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the tendering process and, in the event the Consortium is awarded the contract, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds

or things as are necessary or required or incidental to the selection of the Consortium including but not limited to signing and submission of all tenders and other documents

and writings, participate in pre-tender and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of tender of the Consortium and generally to represent the Consortium in all its dealings with the Railway, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's tender for the Consultancy and/ or upon award thereof till the Contract is entered into with the Railway.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____2***

For _____ (Name of Member 1)
(Signature)

_____
(Name & Title)

For _____ (Name of Member 2)
(Signature)

_____
(Name & Title)

Accepted:
For _____ (Name of Lead Member)
(Signature)

_____
(Name & Title)

Appendix III
Page 3

Witnesses:

1.
2.

_____

(Executants)
(To be executed by all the Members of the Consortium)

Notes:

- *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 executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also each Consortium Member should attach a copy of the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power and the authority to execute this Power of Attorney on behalf of the Consortium Member .*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.*

APPENDIX-I

Form-6

Joint Bidding Agreement

(To be executed jointly by all the Members of Consortium)

Whereas, President of India, acting through _____, (hereinafter referred to as the "Railway", which expression shall, unless it be repugnant to the subject or context thereof, include its, successors and assigns) has invited tenders (the "Tenders") for Project Management Consultancy for _____ (name of the Project(s)) (the "Consultancy").

Whereas,_____, _____, _____ and _____ are interested in jointly bidding for the Consultancy in accordance with the terms and conditions of the Tender Document in respect of the Consultancy, and

Whereas, it is necessary as per the Tender Document for constitution of a consortium among all the firms jointly applying for the Consultancy and entering into an agreement for jointly bidding for the Project.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

1. We, M/s. _____ having our registered office at_____, M/s. _____ having our registered office at_____, M/s. _____ having our registered office at _____, and M/s. _____ having our registered office at_____, [the respective names and addresses of the registered office] (hereinafter individually referred to as the "Members" which expression shall, unless it be repugnant to the subject or context thereof, include the respective successors and assigns) do hereby irrevocably decide and constitute a consortium (the "Consortium") for the purposes of jointly applying and participating in the bidding process for the Consultancy.

2. Members hereby undertake that if the Consortium is selected for the Consultancy, they would jointly enter into the Contract with the Railway and subsequently carry out all the responsibilities as the Consultant in terms of the Contract for the Consultancy.

Appendix I
Form-6

3. Members do further undertake to have the shareholding in the Consortium/JV as follows:

* * * * *

Members do hereby undertake that a minimum of 51% equity in the Consortium/JV shall be held by the Lead Member and a minimum of 20% equity by each of the other Members (whose experience has been utilized by the Consortium for selection for the Project in terms of the Tender Document) till the signing of the Contract for the Consultancy.

4. Members hereby undertake to have roles and responsibilities as described below:

(i) Lead member: _____ (name of the Lead Member)

Responsibilities: _____

Key Personnel Provided: 1. _____

2. _____

(ii) Authorised Member: _____ (name of the Member)

Responsibilities: _____

Key Personnel Provided: 1. _____

2. _____

(ii) Other Member(s): _____ (name of the Member)

Responsibilities: _____

Key Personnel Provided: 1. _____

2. _____

(Note: Authorised Member may be either the Lead Member or any other Member and shall have the power of attorney of all Members

Appendix I
Form-6

for conducting all business for and on behalf of the Consortium during the bidding process and after award of the Consultancy.)

5. Members do hereby undertake to be jointly and severally responsible for all obligations relating to the Consultancy in accordance with the terms and conditions of the Tender Documents till the execution of the Contract and thereafter jointly execute the Contract if the Consultancy is awarded to the Consortium.

6. Members do hereby undertake to participate in the tendering process only through this Consortium and not participate in any other consortium constituted for this Consortium either directly or indirectly through any of their associates, so that a conflict of interest doesn't get created in terms of the Tender Document.

7. This Agreement shall be valid till the time Consortium gets the Consultancy awarded to it and executes the Contract jointly. However, in case Consortium either doesn't get selected for the award of the Consultancy leading to return of the EMD by the Railway, the Agreement will stand dissolved on return the EMD by the Railway.

IN WITNESS WHEREOF WE THE MEMBERS ABOVE NAMED HAVE EXECUTED THIS AGREEMENT ON THIS _____ DAY OF _____2***

For _____ (Name of Lead Member)
(Signature)

_____
(Name & Title)

For _____ (Name of Authorised Member)
(Signature)

_____
(Name & Title)

For _____ (Name of Other Member(s))
(Signature)

_____
(Name & Title)

Witnesses:
1.
2.

_____
(Executants)
(To be executed by all the Members of the Consortium)

Notes:

- The mode of execution of the Consortium Agreement 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.
- Also each Consortium Member should attach a copy of the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and the authority to execute this Agreement on behalf of the Consortium Member.
- For a Consortium Agreement executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.
- In terms of Clause 2.2.9, the copy of Railway Board's letter no. 2002/CE-1/CT/37 dated 02.09.2008 is attached hereunder:

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

No. 2002/CE-1/CT/37 New Delhi, dated 2.9.2008.

To,

As per list attached.

Subject:- Participation of Joint Venture Firms in Works Tenders

Reference:- Railway Board's letter No. 2002/CE-I/CT/37 dated 2.8.2006.

Board vide letter referred above had issued instructions to the Railways that adequate clauses may be incorporated in major tenders to facilitate participation of Joint Venture Firms in works tenders. Since different zonal Railways adopt different procedures/clauses in this regard, Board have been considering for some time to issue guidelines in the matter to bring in uniformity in the procedure. Accordingly, in consultation with Ministry of Law & Justice, guidelines are issued herewith(annexure enclosed) for incorporating suitable clauses in works tenders of value more than Rs. 5.0 crore (Rupees five crore) each to facilitate participation of JV Firms.

2. This issues with the concurrence of Finance Directorate of Ministry of Railways.

3. Please acknowledge receipt.

DA: One(six pages)

(T. GUPTA)
Exe. Director Civil Engg(G)
Railway Board.

No. 2002/CE-1/CT/37 New Delhi, dated 2.9.2008.

Copy forwarded for information to:-

(i) FA & CAOs, All Indian Railways.
(ii) Dy. Comptroller and Auditor General of India(Railways), Room No. 224, Rail Bhavan, New Delhi (with 46 spares)

For Financial Commissioner/Railways

Annexure to Rly Board letter No. 2002/CE-I/CT/37 dt. 2/9/08

GUIDELINES FOR PARTICIPATION OF JOINT VENTURE FIRMS IN WORKS TENDER

1. Separate identity/name shall be given to the Joint Venture firm.

2. Number of members in a JV firm shall not be more than three if the work involves only one department (say Civil or S&T or Electrical) and shall not be more than five if the work involves more than one department.

3. A member of JV firm shall not be permitted to participate either in individual capacity or as a member of another JV firm **in the same tender.**

4. The tender form shall be purchased and submitted only in the name of the JV firm and not in the name of any constituent member.

5. Normally EMD shall be submitted only in the name of the JV and not in the name of constituent member. However, in exceptional cases EMD in the name of lead partner can be accepted subject to submission of specific request letter from lead partner stating the reasons for not submitting the EMD in the name of JV and giving written confirmation from the JV partners to the effect that the EMD submitted by the lead partner may be deemed as EMD submitted by JV firm.

6. One of the members of the JV firm shall be the lead member of the JV firm who shall have a majority (at least 51%) share of interest in the JV firm. The other members shall have a share of not less than 20% each in case of JV firms with upto three members and not less than 10% each in case of JV firms with more than three members. In case of JV firm with foreign member(s), the lead member has to be an Indian firm with a minimum share of 51%.

7. A copy of Memorandum of Understanding (MOU) executed by the JV members shall be submitted by the JV firm along with the tender. The complete details of the members of the JV firm, their share and responsibility in the JV firm etc. particularly with reference to financial technical and other obligations shall be furnished in the MOU. (The MOU format for this purpose shall be finalized by the railway in

consultation with their law branch and shall be enclosed along with the tender).

8. Once the tender is submitted, the MOU shall not be modified/altered/terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited. In case of successful tenderer, the validity of this MOU shall be extended till the currency of the contract expires.

9. Approval for change of constitution of JV firm shall be at the sole discretion of the Employer(Railways).The constitution of the JV firm shall not be allowed to be modified after submission of the tender bid by the JV firm except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. In any case the Lead Member should continue to be the Lead Member of the JV firm. Failure to observe this requirement would render the offer invalid.

10. Similarly, after the contract is awarded, the constitution of JV firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.

11. On award of contract to a JV firm, a single Performance Guarantee shall be required to be submitted by the JV firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization advance, machinery Advance etc. shall be accepted only in the name of the JV firm and no splitting of guarantees amongst the members of the JV firm shall be permitted.

12. On issue of LOA, an agreement among the members of the JV firm (to whom the work has been awarded) has to be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar / Sub-Registrar under the Registration Act, 1908. This agreement shall be submitted by the JV firm to the Railways before signing the contract agreement for the work. (This agreement format should invariably be part of the tender condition). In case the tenderer fails to observe/comply with this stipulation, the full

Earnest Money Deposit(EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This joint venture agreement shall have, inter-alia, following clauses :

12.1 **Joint and several liability** - The members of the JV firm to which the contract is awarded, shall be jointly and severally liable to the Employer (Railways) for execution of the project in accordance with General and Special conditions of the contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.

12.2 **Duration of the Joint Venture Agreement** - It shall be valid during the entire currency of the contract including the period of extension if any and the maintenance period after the work is completed.

12.3 **Governing Laws** - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.

13. **Authorized Member** - Joint Venture members shall authorize one of the members on behalf of the Joint Venture firm to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorised member of the JV firm.

14. No member of the Joint Venture firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the employer (Railways) in respect of the said tender/contract.

15. Documents to be enclosed by the JV firm along with the tender:

15.1 In case one or more of the members of the JV firm is/are partnership firm(s), following documents shall be submitted:

(a) Notary certified copy of the Partnership Deed,

(b) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value(in original).

(c) Power of Attorney(duly registered as per prevailing law) in favour of one of the partners to sign the MOU and JV Agreement on behalf of the partners and create liability against the firm.

15.2 In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:

Affidavit on Stamp Paper of appropriate value declaring that his Concern is a Proprietary Concern and he is sole proprietor of the Concern OR he is in position of "KARTA" of Hindu Undivided Family and he has the authority, power and consent given by other partners to act on behalf of HUF.

15.3 In case one or more members is/are limited companies, the following documents shall be submitted :

(a) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign MOU, JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.

(b) Copy of Memorandum and articles of Association of the Company.

(c) Power of Attorney(duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the para (a) above.

15.4 All the members of the JV shall certify that they have not been black listed or debarred by Railways or any other Ministry/Department of the Govt. of India/State Govt. from participation in tenders/contract in the past either in their individual capacity or the JV firm or partnership firm in which they were members / partners.

16. **Credentials & Qualifying criteria**

Technical and financial eligibility of the JV firm shall be adjudged based on satisfactory fulfillment of the following criteria:

16.1 **Technical eligibility criteria :**

Either the JV firm or any one of the members of the JV firm must have satisfactorily completed in the last three previous financial years and the current financial year up to the date of opening of the tender, one similar single work for a minimum value of 35% of advertised tender value.

OR

In case of composite works (e.g. works involving more than one distinct component such as Civil Engineering works, S&T works, Electrical works, OHE works etc. and in the case of major bridges, substructure and superstructure etc.), at least 35% of the value of each such component of similar nature should have been satisfactorily completed by the JV firm or any one of the members of the JV firm in the previous three financial years and the current financial year up to the date of opening of tender. In such cases, what constitutes a component in a composite work shall be clearly defined as part of the tender condition without any ambiguity.

NOTE :

Value of a completed work done by a Member in an earlier partnership firm or a JV firm shall be reckoned only to the extent of the concerned member's share in that partnership firm/JV firm for the purpose of satisfying his compliance of the above mentioned technical eligibility criteria in the tender under consideration.

16.2 **Financial eligibility criteria:**

The contractual payments received by the JV firm or the arithmetic sum of contractual payments received by all the members of JV firm in the previous three financial years and the

current financial year up to the date of opening of tender shall be at least 150% of the estimated value of the work as mentioned in the tender.

NOTE:

Contractual payment received by a Member in an earlier JV firm shall be reckoned only to the extent of the concerned member's share in that JV firm for the purpose of satisfying compliance of the above mentioned financial eligibility criteria in tender under consideration.

APPENDIX-I

Form-7

Financial Capacity of the Single Entity Tenderer/ Lead Member

S. No.	Financial Year	Annual Revenue from Consultancy (Rs. in lakh)	Annual Profit (Rs. in lakh)
1.			
2.			
3.			

Certificate from the Statutory Auditor

This is to certify that _____ (name of the Sole Firm/ Lead Member) has received the payments on account of consultancy fees and has realized annual profits shown above against the respective years.

Name of Authorised Signatory:

Designation:

Name of firm:

(Signature of the Authorised Signatory)

Seal of the Firm

Note:

1. Please do not attach any printed Annual Financial Statement.

APPENDIX-I

Form-8

Particulars of Key Personnel

Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments[#]
				Name of Firm	Employed Since	
Team Leader						
Resident Engineer						
Sector Expert						
Design Review Manager						
Program Expert						
Quality Manager						
Environment, Health and Safety Manager						

[#]Refer Form 9 of Appendix I Experience of Key Personnel

APPENDIX-I

Form-9

Proposed Methodology and Work Plan

The proposed methodology and work plan shall be described as follows:

1) Understanding of TOR (not more than two pages)

The Tenderer shall clearly state its understanding of the TOR and also highlight its important aspects. The Tenderer may supplement various requirements of the TOR and also make precise suggestions if it considers this would bring more clarity and assist in achieving the Objectives laid down in the TOR.

2) Methodology and Work Plan (not more than three pages)

(i) The Tenderer will submit its methodology for carrying out this assignment, outlining its approach toward achieving the Objectives laid down in the TOR. (not more than one page)
(ii) The Tenderer will submit a brief write up on its proposed team and organization to explain how best it has composed its team. (not more than one page)
(iii) In case the Tenderer is a consortium, it should specify how the expertise of each firm is proposed to be utilised for this assignment. (not more than one page)
(iv) The Tenderer will specify Responsibility Matrix for the Proposed Key Personnel over and above what has been provided in the Tender Document. (not more than one page)
(v) The Tenderer will specify its Quality Assurance System for the Consultancy Assignment. (not more than one page)

Note: Marks will be deducted for writing lengthy and out of context responses.

APPENDIX-I

Form-10

Experience of the Tenderer[#]

(Refer Clause 3.1)

Tenderer Type*	Assignment Code**	Name of Project	Contracted value of the Consultancy Assignment	Payment[##] received by the Tenderer (in Rs lakh)
			4)	(5)
Single entity Tenderer	a			
	b			
	c			
	d			
Consortium Lead Member	1a			
	1b			
	1c			
	1d			
Consortium Member 2	2a			
	2b			
	2c			
	2d			
5				
Aggregate No. of Eligible Projects:				

Certificate from the Statutory Auditor

This is to certify that _____ (name of the Tenderer) has received the payments shown above against the respective projects on account of the consultancy services rendered by the Tenderer.

Name of Authorised Signatory:

Designation:

Name of Firm:

(Signature of the Authorised Signatory)

Seal of the Firm

* A Tenderer consisting of a single entity should fill in details as per the row titled Single entity Tenderer and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Applicant may be ignored.

**Refer Form-12 of Appendix-I. Add more rows if necessary

The Tenderer should provide details of only those projects that have been undertaken by it under its own name.

Exchange rate should be taken as Rs. **** per US $ for converting to Rupees.

* The names and chronology of Eligible Projects included here should conform to the project-wise details submitted in Form-10 of Appendix-I.

APPENDIX-I

Form-11

Experience of Key Personnel@

(Refer Clause 3.1)

Name of Key Personnel: Designation:

S.No	Name of Project	Contracted value of the Consultancy Assignment in Rs. million	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the project	Date of completion of project assignment	Number of Months Completed
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						
4						
Aggregate No. of Eligible Assignments:						
(Signature of the Key Personnel) (Counter Signature of the Authorised Signatory) Seal of the Firm						

@ Use separate Form for each Key Personnel.

APPENDIX-I

Form-12

Eligible Assignments of Tenderer

(Refer Clause 3.1.3)

Assignment Code:

Name of Member (in case of Consortium):	
Name of the Project:	
Description of services performed by the firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Contracted value of the Assignment (in Rs million):	
Payment received by the firm prior to TSD (in Rs. million):	
Start date of the assignment (month/ year):	
Finish date of the assignment (month/ year):	
Brief description of the project:	

Notes:

Use separate sheet for each Eligible Assignment. Attach certificate from Client or photocopy of the agreement as proof of carrying out the assignment.

Exchange rate should be taken as Rs.**** per US $ for converting to Rupees.

APPENDIX-I

Form-13

Eligible Assignments of Key Personnel

(Refer Clause 3.1.3)

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Contracted value of the Assignment (in Rs million):	
Number of Months completed at the Assignment	
Start date of the personnel's services (month/ year):	
Finish date of the personnel's services (month/ year):	
Brief description of the project:	

Notes: Use separate sheet for each Eligible Project.

Exchange rate should be taken as Rs. **** per US $ for converting in Indian Rupees.

APPENDIX-I

Form -14

Curriculum Vitae (CV) of Professional Personnel

1. Proposed Position:

2. Name of Personnel:

3. Date of Birth:

4. Nationality:

5. Educational Qualifications:

6. Employment Record:

(Starting with present position, list in reverse order of every employment held.)

7. List of projects on which the Personnel has worked

Project Name	Description of assignment performed

8. Details of the current assignment and the time duration for which services are required for the current assignment.

Certification:

1 I am willing to work on the Project and I will be available for the entire duration of the Project assignment as required.

2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

Signature of the Professional _____

Date _____ Place _____

Signature of the Personnel Signature of the Authorised Signatory

Notes: Use separate form for each Professional Personnel

Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Tenderer firm along with the seal of the firm. Photocopies will not be considered for evaluation.

APPENDIX-I

Form - 15

Particulars of Other Professional Personnel

Designation of Site Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments[#]
				Name of Firm	Employed Since	
Sector Expert (Bridge)						
Sector Expert (S&T)						
Sector Expert (OHE)						
Design Engineer						
Section Engineer						
Site Surveyor						
Site Engineer						

[#] This detail is for judging the suitability of the Site Personnel.

APPENDIX-II

FINANCIAL OFFER FORMS

Form - 16

Covering Letter

(On Tenderer's/ Authorised Member's letter head)

(Date and Reference)

To,

_____,
_____.

Dear Sir,

Subject: Appointment of Project Management Consultant for Projec(s) _____

I/We, _____ (Tenderer's name) herewith enclose the Financial Offer for selection of my firm/our consortium as Consultant for above.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the Tender Submission Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Authorised Representative)

Name:
Designation:
Address:

Note: The Financial Offer is to be submitted strictly as per forms given in the Tender Document.

APPENDIX-II

Form - 17

Schedule of Costs for Services

Item No.	Description	Amount (Rs.)
A.	**PERSONNEL COSTS**	
I II III	Remuneration for Key Personnel (as per item I Form-18) Remuneration of Other Professional Personnel (as per item II Form-18) Remuneration of Support Personnel (as per item III Form-18)	
	Subtotal Personnel Costs (A):	
B.	**OTHER ITEM RATE COSTS**	
I II III IV	Provision and Maintenance of Office (as per Form-19) Hiring of Vehicles (as per Form-20) Payment for Attending Meetings (as per Form-21) Payment for Office Consumables (as per Form-22)	
	Subtotal Other Item Rate Costs (B):	
C.	**LUMP SUM COSTS**	
I	Miscellaneous Expenses (lump sum) if any not already covered under (A) & (B)	
D	**SUBTOTAL OF A+B+C**	
E	**OVERHEAD EXPENSES @----- % of (D)**	
F	**SERVICE TAX**	
G	**TOTAL COST OF THE CONSULTANCY (including taxes) (D+E+F)** In Indian Rupees in figures in words_____	

Note:

1. The financial evaluation shall be based on the above Financial Offer including taxes. The total in Item G shall, therefore, be the amount for purposes of evaluation.

2. Estimate of Costs for Item A I, A II, A III, B I, B II, B III and B IV shall be as per Form-18 to Form-22.

3. Miscellaneous Expenses in Item C I shall not exceed 15% (fifteen percent) of the total amount in Item D.

4. All costs shall be reimbursed on production of a Statement of Expenses, duly certified by the Team Leader. However, no details of expenditures would be sought for overhead expenses, which will be reimbursed in proportion to the total expenses under Item D.

5. The reimbursement of expenses shall be limited to the amounts indicated above except as varied in accordance of the Contract.

6. Savings of upto 20% (twenty percent) under any head of expenditure specified in the summary of Financial Offer may be re-appropriated by the Consultant and added to any other head of expenditure, subject to a ceiling of 10% (ten percent) in respect of the recipient head of expenditure. Upon Notification of such re-appropriation to the Railway, the Financial Offer shall be deemed to be amended, and payment shall be made accordingly.

7. No escalation on any account will be payable on the above amounts except for increase in number of Personnel or Man Months as instructed by the Railway as provided in Form-18.

8. Insurance and any other charges not shown here are considered included in the individual rates/ overhead/ miscellaneous expenses.

9. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws withholding taxes if any.

10. For the purposes hereof "**Statement of Expenses"** means a statement of the expenses incurred on each of the heads indicated in the Financial Offer; provided that in relation to expenses on Personnel, the Statement of Expenses shall be accompanied by the particulars of Personnel and the Man Months spent on the Consultancy.

APPENDIX-II

Form - 18

Schedule of Personnel and Man Month Rates

Sl No.	Type of Personnel	Nos.	Unit	Rate in INR		Amount in INR
				In Fig.	In Words	
(I)	**Key Personnel**					
1	Team Leader		Man Month			
2	Construction Manager/ Resident Engineer		Man Month			
3	Sector Expert (Track)		Man Month			
4	Design Review Manager		Man Month			
5	Program Expert		Man Month			
6	Quality Assurance/ Control Manager		Man Month			
7	Environment, Health and Safety Manager		Man Month			
					Sub-Total (I)	
(II)	**Other Professional Personnel**					
8	Sector Expert (S&T)		Man Month			
9	Sector Expert (OHE)		Man Month			
10	Sector Expert (Bridges)		Man Month			
11	Design Engineer		Man Month			
12	Section Engineer		Man Month			
13	Site Surveyor		Man Month			
14	Site Engineer		Man Month			
					Sub-Total (II)	
(III)	**Support Personnel**					
11	Office Assistant		Man Month			
12	CAD Operator		Man Month			
13	Office Attendant		Man Month			
14	Chain men/Staff men		Man Month			
					Sub-Total (III)	
					Grand Total (I+II+III)	

Total amount in words: Rupees _____ _____only

Note :

1. The Man Month rates shall include all personnel allowances, except Service Tax and other reimbursable expenditures as stipulated in Form-19 to Form-22, which will be paid separately over and above this.

2. For the purposes of arriving at payment for services rendered by a Personnel a part of a month, the Man Month rate shall be divided by 30 and multiplied by the number days.

3. The Railway may instruct the Consultant to mobilize additional Site Personnel or Support in any category specified here above or to increase the total Man Months against any category subject to such variation not being more than 25% of the Man Months in that category. For all such additional Man Months the Consultant shall be paid at the rates specified here above and the total cost of services shall get modified accordingly.

4. The Railway reserves the right to reduce the number and/or estimated Man Months of any Personnel without any claim on either side.

Authorised Signatory

Name …….

Address……

Seal……

APPENDIX-II

Form - 19

Schedule for Provision & Maintenance of Offices

S. No.	Item	Unit	Quantity	Unit Rate in INR		Amount in INR
				In Figs	In Words	
1.	Provision of Temporary site office for the Consultant with all required facilities /Amenities (Equipments as mentioned in Annex-11 of Form of Agreement shall be provided by the Works Contractor) including Maintenance of site office including watch and ward, housekeeping and provision of potable drinking water.	Per week				
					Total	

Total in words: Rupees _____ only.

Note : Arrangement for site office is to be made by the Consultant for the supervision of work for the period before the construction contractor makes available the stipulated site office.

Authorised Signatory

Name …….

Address……

Seal…….

APPENDIX-II

Form - 20

Schedule of Hiring of Vehicles

S. No.	Item	No. of vehicles	No. of months	Unit Rate in INR for per vehicle month		Amount in INR
				In Figs	In Words	Col.3 xCol.4 xCol.5
1	2	3	4	5	6	7
1.	Hiring of vehicles for the purpose of supervision of work by PMC Personnel (the vehicle to be hired by Consultant shall include the cost of rental, drivers, operation, maintenance/repair, Insurance and other incidental charges etc. complete)					
					Total	

Total in words: Rupees _____ only.

Authorised Signatory

Name …….

Address……

Seal…….

APPENDIX-II

Form - 21

Schedule of Payment for Attending Meetings

S. No.	Item	Unit	Quantity	Unit Rate in INR		Amount in INR
				In Figs	In Words	Col.3 xCol.4 xCol.5
1	2	3	4	5	6	7
1.	Payment for attending meetings at the Headquarters of the Railway as per specific request from the Railway	Per Person Per Meeting				
					Total	

Note : I) Normally one quarterly meeting may be required to be attended by the Team Leader along with one more Key personnel as identified and desired by the Railway.

II) The payment for attending meetings shall include travel expenses, boarding/lodging, food, local transportation and other out of pocket expenses complete and no other payment for reimbursement will be made by Railway for this purpose.

Authorised Signatory

Name …….

Address……

Seal…….

APPENDIX-II

Form - 22

Schedule of Payment for Office Consumables

S. No.	Item	Unit	Quantity	Unit Rate in INR		Amount in INR
				In Figs	In Words	Col.3 xCol.4 xCol.5
1	2	3	4	5	6	7
1.	Payment for day-to-day expenditure on office consumables like Stationery, Printer Cartridge, Photo-copying, book binding, Courier charges, out of pocket expenses, other misc. and incidental charges.	Per week				
					Total	

Authorised Signatory

Name …….

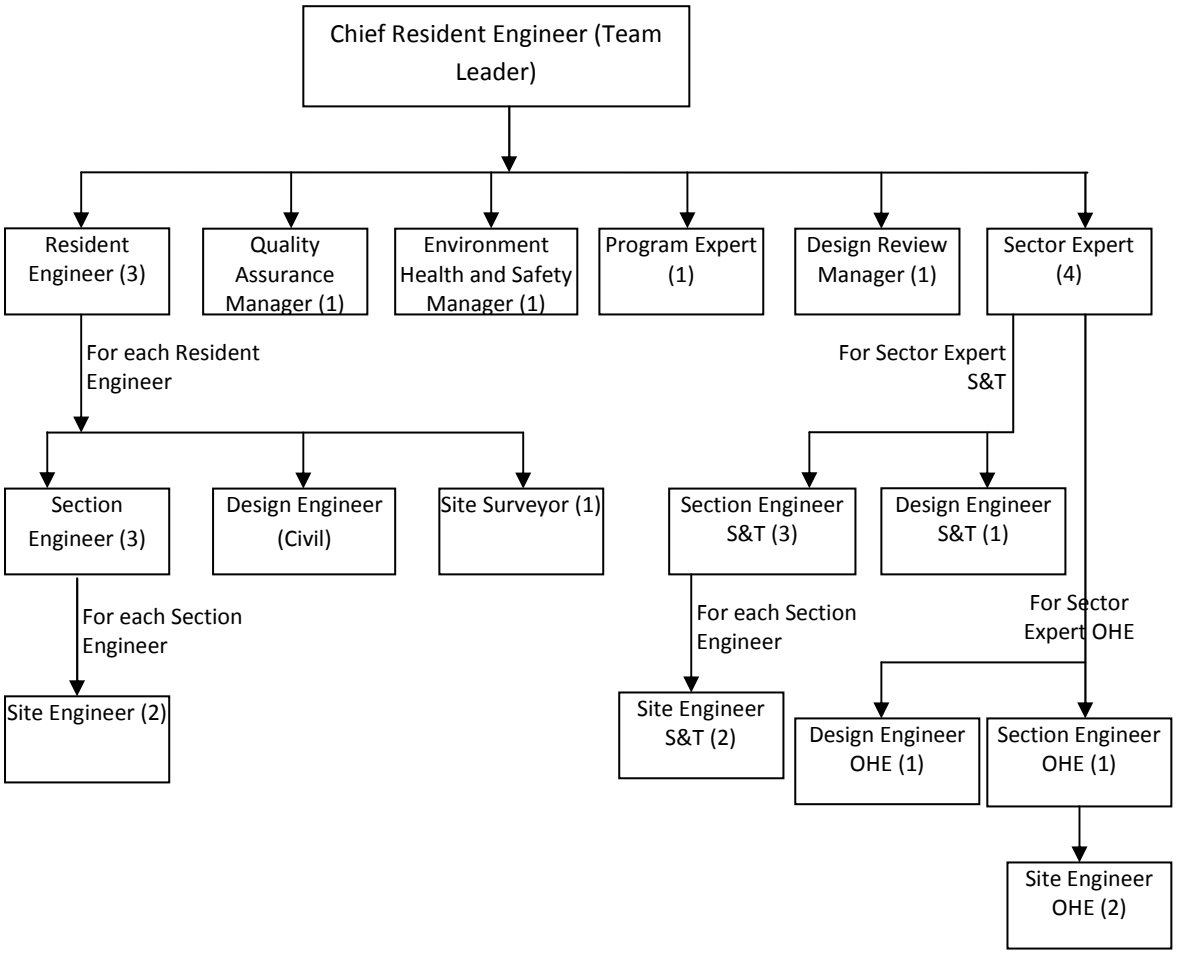
Address……

Seal…….

APPENDIX III

Guidance Notes for Zonal Railways[4]

1. Typical Organogram[5] of a PMC for a 200 km Doubling Project (Throughput Enhancement Works)



2. Step by Step Procedure for Evaluation of Tenders

Step (i) Check for receipt of Tenders before the Tender Submission Date (including any extension thereof);

Step (ii) Check if the Tender has been accompanied with a valid EMD;

[4] This Appendix III is only for the use of Zonal Railways and should not form part of the RFP document to be issued to tenders.

[5] Figures in parentheses indicate suggested number of Personnel under that category. The 4 Sector Experts are Sector Expert (Track), Sector Expert (Bridge), Sector Expert (S&T) and Sector Expert (OHE).

Step (iii) The envelope marked "Technical Offer" shall be opened and the envelope marked "Financial Offer" shall be kept sealed for opening at a later date. The Technical Offer shall be first evaluated as indicated below;

Step (iv) Check whether the Offer has been signed by the Authorised Representative (wherever required) with initials in blue ink on each page of the offer, sealed and hard bound and marked as stipulated in Clause 2.11 and 2.14;

;

Step (v) Check whether the Offer is as per format at Form-1 and details for the Tenderer is furnished in the format at Form-2 of Appendix-I (Vol. II). Check whether all other details in the formats at Forms 3 to 15 are submitted;

Step (vi) Check that the offer does not contain any condition or qualification;

Step (vii) Check whether the Offer is accompanied by Power of Attorney for Authorised Signatory in Form-4 of Appendix-I with clear evidence of authority for person signing the Power of Attorney. The Authorised Signatory should be from the Authorised Member in case of a Consortium;

Step (viii) If any of the above conditions is not met, the offer will be considered as non-responsive in terms of Clause 2.21 and will be summarily rejected. This examination process should be completed at the briefing stage itself. Examination beyond this stage should be carried out by the Tender Committee (TC);

Step (ix) Check that the Statement of legal Capacity is signed by the Authorised Representative in Form-3;

Step (x) If the Tenderer is a Consortium it is accompanied by Power of Attorney for Authorised Member of the Consortium in Form-5 of Appendix-I signed by each of the Members and accepted by the Authorised Member, with clear evidence of authority of persons signing the Power of Attorney on behalf of each Member company;

Step (xi) In case the Tenderer is a Consortium, it must be accompanied by a Joint Bidding Agreement in Form-6 of Appendix-I signed by all the Members. The signatory to this should be same as those of Form-5 for other than the Authorised Member whereas for the Authorised Member it should be signed by the Authorised Representative. This Agreement must meet the minimum requirements specified at Clause 2.2.9;

Step (xii) If any of the legal documents at Step no. (vii), (ix), (x) or (xi) referred above is not in order, clarification may be asked from the Tenderer concerned so that these legal documents are in order. If the Tenderer fails to submit the necessary clarifications the Offer shall be rejected. This examination process should be carried out by the legal cell of the Railway. Clarification may be asked by the TC without any need for putting this up to the Accepting Authority;

Step (xiii) Check Technical Capacity of each Tenderer (in case of single entity) or Lead Member (in case of a Consortium) in term of Clause 2.2.2 (A) and Clause 5.18.1 from entries in Form-10 and Form-12 submitted by the Tenderer. Form-10 provides the summary of experience of the Tenderer while Form-12 provides details of each of the Assignment claimed at Form-10.

Step (xiv) Check Financial Capacity of each Tenderer (in case of single entity) or the Lead Member (in case of a Consortium) in terms of Clause 2.2.2 (B) and Clause 5.18.2 from entries in Form-7 submitted by the Tenderer.

Step (xv) Check whether the Key Personnel meet the minimum eligibility requirements as specified at Clauses 2.2.2 (C) and 8.18.3 (ii). The Team Leader and minimum four other Key Personnel (of the total seven Key Personnel) must meet the minimum eligibility requirements specified at Clause 5.18.3.

Step (xvi) If any of the Tenderers does not pass the examination under Steps (xiii), (xiv) and (xv) above, its Offer shall be rejected and shall not be evaluated further by the TC.

Step (xvii) For those Tenderers who fulfill the requirements under Steps (i) to (xv) above, check for Conflict of Interest, if any, in terms of Clause 2.2.8 against Tenderer's declarations in the Form-1 of Appendix-I and against any available information with the zonal Railway. If any Tenderer is found to have a Conflict of Interest its Offer should be rejected and should not be evaluated further by the TC. If there is a Conflict of Interest between two Tenderers, a notice may be issued by TC to both of them so that if any of them wish to withdraw so that the Conflict of Interest is remedied, this may be allowed so that, in the interest of having maximum competition, Railway maintains maximum number of eligible Tenderers without having Conflict of Interest.

Step (xviii) Those Tenderers who satisfy the requirements indicated in the Steps upto Para (xvii) above, will be evaluated by the TC in terms of Clause 3. Technical Offers of Tenderers should be evaluated for Firm's Experience (full marks 25), Proposed Methodology and Work Plan (full marks 5), and Key Personnel's Experience (full marks 70) as specified in following Paras;

Step (xix) Proposed Methodology and Work Plan (5)

Each Tenderer has to submit their Methodology and Work Plan as required in Form-9 of Appendix-I. The purpose of this submission is to check whether the Tenderer has understood the Terms of Reference for the Consultancy. A Tenderer who does not properly understand the Consultancy work involved and is not able to lay down their Methodology and Work Plan for carrying the Consultancy should be awarded minimum marks whereas the Tenderer who has done this best shall be awarded maximum marks.

Step (xx) Firm's Experience (25)

In case of a Consortium, experience of those Members who have at least 20% share of interest in the Consortium and who have on their roll for more than 12 months, as on

the Tender Submission Date, not less than 2 Key Personnel among those proposed in the Offer as required under Clause 2.2.9. This should be verified by the TC while considering the claim of the Tenderer with reference to Form 8 of Appendix-I (Vol. II). For giving marks to the Tenderer TC has to find out the total no. of Eligible Assignments in respect of project management services or construction supervision services for each of the Tenderers. Tenderer's claim of Eligible Assignments is provided in Form-10 supported by details for each of the Assignments claimed by the Tenderer in Form-12. TC has to verify each of the Eligible Assignment by going through its detail at Form-12 and tick the respective one on the Form-10 whether it satisfies the definition and requirements for Eligible Assignment specified in Clause 3.1.3 and Clause 5.20. Weightages specified at Clauses 3.1.4 (Vol. I) should be applied while computing the number of Eligible Assignments for each Tenderer.

The total number of such verified Eligible Assignment for each of the Tenderer shall be arrived at. TC shall award full (25) marks to the Tenderer whose verified Eligible Assignments is maximum among all Tenderers and 50% (12.5) marks to the Tenderer who has the number of such verified Eligible Assignments as required for meeting the Eligibility in terms of Clause 5.18.1 (Vol.II) (which is one/ two and may be modified by the Zonal Railway as per their requirement). Other Tenderers should be awarded marks ranging between 12.5 to 25, in proportion to the number of such Tenderer's verified Eligible Assignments (EAs).

For example for four Tenderers T-1 to T-4:

If T-1 has 10 EAs, T-2 has 8 EAs , T-3 has 6 EAs, and T-4 has 2 EAs;

T-1 will get 25 Marks,

T-4 will get 12.5 marks,

T-2 will get [12.5+(8-2)x(25-12.5)/(10-2)] = 21.88, and

T-3 will get [12.5+(6-2)x(25-12.5)/(10-2)] = 18.75

In the vent of such marks being in fraction, the same shall be rounded off to two decimal places.

Step (xxi) Key Personnel's Experience (70)

Maximum marks allocation to each of the seven Key Personnel is as specified in Clause 5.19. For giving marks to the Tenderer for each Key Personnel TC has to find out the total no. of Eligible Assignments for each of the Key Personnel for each of the Tenderers. Tenderer's claim of Eligible Assignments for each Key Personnel is provided in Form-11 supported by details for each of the Assignments claimed each such Key Personnel in Form-13.

For example, if the Team Leader is being evaluated, TC has to first find out the total number of Eligible Assignment for the Team Leader of each Tenderer. For this TC has to verify each of the Eligible Assignment by going through its detail at Form-13 along with the CV furnished at Form-14 and tick the respective one on the Form-11 whether it satisfies the definition and requirements for Eligible Assignment specified in Clause 3.1.3 and Clause 5.20. Weightages specified at Clauses 3.1.4 should be applied while computing the number of Eligible Assignments for each Candidate. Thus the verified number of Eligible Assignments of Team Leader for each of the Tenderer will be arrived at. Then TC shall award full (20) marks to the Team Leader of the Tenderer whose verified Eligible Assignments is maximum among all Tenderers And 50% (10) marks should be awarded for the minimum number of Eligible Assignments specified for Eligibility at Clause 5.18.3 (ii) (which is two for every Key Personnel and may be modified by the zonal Railway as per their requirement) for the Team Leader. Team Leaders of other Tenderers should be awarded marks ranging from 10 to 20, in proportion to the number of such verified Eligible Assignments (EAs) for their Team Leaders as was done in case of Firm's experience explained at Para (xix) above.

Marks for all other Key Personnel shall also be awarded among all Tenderers against the respective full marks specified for each Key Personnel at Clause 5.19 on the same principle as explained in the Para above for the Team Leader.

Step (xxii) Total marks achieved by each Tenderer as explained at Steps (xviii), (xix) and (xx) above shall be the Technical Score (S_T) of the Tenderer. The Tenderers whose Technical score is 70 or more shall be short listed for opening of their Financial Offers. However, if number of such Tenderers is less than two, the TC may short list at least two Tenderers with highest Technical scores provided their Technical Scores is not less than 50.

Step (xxiii) The TC shall recommend the short listed Tenders as in Step (xxiii) to the accepting authority for opening of their Financial Offers. On acceptance of the recommendation by the accepting authority, all the short listed Tenders shall be informed for sending their representative on a nominated date for announcement of their Technical Scores and opening of their Financial Offers. At the same time the unsuccessful Tenderers should also be informed about rejection of their Tender.

Step (xxiv) After opening of the Financial Offers of the short listed Tenderers by the tender opening officials, the briefing note and comparative statement shall be prepared. If an Offer is qualified or is with conditions which have bearing on the cost of Consultancy such Offer shall be rejected by the TC.

Step (xxv) Under the QCBS system, on compliance of the Technical Requirements, eligibility, the lowest (L-1) Tender shall be recommended for acceptance.

Under CQCCBS, the Financial Offers should be awarded marks as specified in Clause 3.3.3 with the lowest offer getting a score of 100 while others getting a lower score in proportion to the amount by which the offer is higher than the lowest.

EXAMPLE: For example let there be four short listed Tenders (L-1, L-2, L-3 and L-4) with financial offers of Rs. 1.5 crores, 1.8 crores, 2.0 crores and 2.2 crores respectively. Then their Financial Scores (S_F) shall be as follows:

L-1 = 100

L-2 = 100x1.5/1.8 = 83.33

L-3 = 100x1.5/2 = 75

L-4 = 100x1.5/2.2 = 68.18

Let the Technical scores of the above four Tenderers be 85, 90, 75 and 80 respectively. Then their *Combined score* shall be computed as specified in Clause 3.4.1 (b) as follows:

L-1 = 85x0.7+100X0.3 = 89.5

L-2 = 90x0.7+83.33x0.3 = 88

L-3 = 75x0.7+75x0.3 = 75

L-4 = 80x0.7+68.18x0.3 = 76.45

The Tenderer having the highest combined score of 89.5 shall be recommended for award of the Consultancy.

3. Guidance Note on Insurance Cover of Works Contractor and PMC[6]

3.1 Broad Scope of the Project

This Guidance note provides Railway's requirements including good industry practices as referred at Clause 3.5 of SCC. The Guidance note is meant for construction/modification (or supervision thereof) of infrastructural railway works such as, gauge conversion, doubling, tunnels, bridges, remodeling of major stations/yards. This Guidance note needs to be modified for other similar projects such as construction/modification (or supervision thereof) of railway workshops, production units.

3.2 Major activities by the contractors to be supervised by PMC are as under:

-Site Preparation

-Provision for utilities

-Earthworks, bridges, tunnels, retaining walls, landscaping

-Structural Steel works

[6] Prepared in consultation with by an Insurance Consultant, Mr. S. K. Singh, Director, M/s Velentina Enterprises, G-2, B-303, Chhatarpur Enclave Phase-2, New Delhi-110074, Mobile -9810408517, 9350510805

-Permanent Way Track works

-High tension overhead electric traction works

-Signalling and telecommunication works

-Provision for roads, buildings, drainage, and sewerage

-Lighting/Electrical works

-Maintenance works of constructed assets

3.3 Risk identification

i. External Perils:

Operation of an external peril like fire, lightning, flood, earthquake, act of God, terrorism, sabotage etc will damage the work in progress or even the completed project.

ii. Failure to Perform

After completion, the project fails to perform and fails due to design defect, use of faulty material etc.

iii. Damage to Adjacent Property

During construction or repairing under warranty/ guarantee period, the damage to the property belonging to Railway i.e. owner's property adjacent to the Project site or running trains either on the same line (under construction/repair) or adjacent lines.

iv. Loss of business opportunity

In case the completed civil/mechanical structure is not able to perform as desired, due to its damage on account of risks indicated at items (i) and (ii) or the adjacent property is damaged as indicated at item (iii) above the Railway will lose the revenue it may have earned in case the project or the existing adjacent asset would have performed as envisaged in the plan/ feasibility report or already performing prior to such damage of existing property.

v. Third Party Liability

During construction or in case of commercial operation once the project is in operation, failure may cause bodily injury, property damage to the third parties (passengers, public) for which Railway in turn may be held responsible.

vi. Cross Liability

Damage by one contractor to the works of the other contractor.

vii. Negligence, Errors and Omissions by the Personnel of the (PMC) Consultant

Direct loss to Railways on account of any of risks identified at (ii) to (v) or due to excess billing to the contractors/suppliers due to deficiency in Services under the Contract rendered by the Consultant arising from negligence or errors/omissions (by oversight) by the Personnel of the Consultant including but not limited to defects in design cleared, defects in construction allowed, wrong procedures adopted and inadequate control exercised on the quality and safety of works of the Contractor(s)/Supplier(s).

viii. Failure of the (PMC) Consultant to perform the Services

Direct financial loss to the Railway due to higher payment to the alternate consultant, and damages due to delay in works due to non-availability of the Consultant during interim period.

ix. Infidelity of Personnel of the (PMC) Consultant

Direct financial loss to the Railway due to excess payment to the contractors/suppliers due to intentional collusion with Contractors/Suppliers resulting in raising/passing of bills in excess of the works executed at the site.

x. Employers liability and Workmen's compensation

Employer's liability and workers' compensation insurance in respect of the Personnel of the Contractor/Consultant and of any Sub-Contractor/Sub-Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate.

xi. Damage or Major Breakdowns of Plants and Equipments

Damage/ major breakdown of important Plants and Equipments of the Contractor that might result in major disruption of works and might require immediate replacement or costly repair.

xii. Minor Breakdowns, Repairs and Maintenance

Minor repairs and maintenance, reworks or modifications in the completed works or minor disruption of works due to routine project related problems.

xiii. Minor losses due to deficiency in Services

Minor losses to the Railway resulting from negligence or lack of due diligence by the Consultant, delays in completion of works, or from excess payment to Contractor(s)/Supplier(s).

3.4 Evaluation of the Risks Identified

The above exposures are broadly classified as under

a) Low Frequency High Severity

Risks identified at items (i) to (xi) at Para 3.3. above resulting in losses to the Railway in excess of 10% of the Contract value of the works contractor or the Consultant, as the case may be, are classified as Low Frequency High Severity risks.

b) **High Frequency low severity**

Risks identified at items (xii) to (xiii) at Para 3.3 above resulting in losses to the Railway upto 10% of the Contract value of the works contractor or the Consultant, as the case may be, are classified as High Frequency Low Severity risks..

3.5 Risk Transfer Mechanism

All the risks listed under category (b) can be managed through various provisions of contract such as Security Deposit and Performance Guarantee and the costs shall be borne directly by either the Contractor or the project management Consultant as listed out in sub paras 1 to 6 hereunder. The risks listed under category (a) should be managed by way of risk transfer/insurance to be taken by the Contractor/Consultant as each of the risk exposures indicated therein is critical and it is recommended that these risks should remain transferred by way of insurance. Financial standing of the involved parties namely Contractor/Consultant may not be high and be insufficient to meet out the above obligations. Probability always exists that the Contractor/Consultant may declare insolvency/ bankruptcy in case of large claim. In case of insurance bought by the Contractor/ Consultant with Railway as beneficiary, the interest of Railway will remain protected to certain extent. Insurance policy to be taken by the Contractor and the Consultant as under:

1. Contractor All Risk Insurance

The principal Contractor should buy a Contractor All Risk (CAR) Insurance cover, with the name of Railway as beneficiary of the insurance proceeds, which will include their sub contractors equivalent to following values covering the entire construction period including 2 months of testing period:

a. Risks due to External perils and Failure to perform as indicated at items (i) and (ii) of Para 3.3 to the extent of full value of the works contract.
b. Damage to adjacent property as indicated at item (iii) of Para 3.3 to the extent of 10% of the value of the works contract.
c. Third Party Liability cover as indicated at item (v) of Para 3.3 to the extent of Rs.5 crores for property damage & bodily injury to the third party individuals.
d. Clearance and Removal of debris in the event of damage to the works due to External Perils as indicated at item (i) of Para 3.3 to the extent of Rs.1 crores.
e. Cross Liability cover Damage as indicated at item (vi) of Para 3.3 to the extent of 10% of the value of the works contract.
f. Damage or Major Breakdowns of Plants and Equipments, each costing 5% of the project value or more, as indicated at item (xi) of Para 3.3 to the extent of its replacement cost.

2. Performance Guarantee Insurance

The contractor should also take a Performance Guarantee Insurance, with the name of Railway as beneficiary of the insurance proceeds, to cover the Loss of Business Opportunity as indicated

at item (iv) of Para 3.3 with a limit of indemnity to the extent of 25% of the value of the works contract covering the entire construction period till the Defect Liability Period specified in the works contract.

3. Professional Indemnity Cover by the Consultant

The (PMC) Consultant should take a Professional Indemnity Insurance policy, with the name of Railway as beneficiary of the insurance proceeds, to cover the risks indicated at items (vii) and (viii) of Para 3.3. The limit of indemnity to be obtained should be at least 10 times the value of the Consultancy Contract.

4. Fidelity Guarantee cover by the Consultant

The consultant will buy a policy with the name of Railway as beneficiary of the insurance proceeds against infidelity by any or all the employees supervising the Contractor's works on behalf of the Consultant to cover the risks indicated at item (ix) of Para 3.3. The limit of indemnity should be at least 5 times of the value of the Consultancy Contract.

5. Employer's liability and Workmen's Compensation Insurance

The Contractor and Consultant should take separate appropriate Insurance policies against risks indicated at item (x) of Para 3.3 as required by law with the name of Contractor/Consultant as beneficiary of the insurance proceeds and submit copy of such policies to the Railway.

6. Advance Loss of Profit Insurance

On very important railway projects Railway may even consider covering consequential /loss of profit/ projected revenue loss to railway in case of a mishap during work-in-progress (project period). There exists an insurance cover named as Advance Loss of Profit/ Delay in Start Up cover available in the market for this purpose.

3.6 Brief on Contractor's All Risk (CAR) Cover

In India a standard CAR cover is available and projects up to Rs 1500 crores are covered. In case of a single project at a location exceeding Rs 1500 crores exists, global policies with Reinsurance support from the global market are also available.

CAR Insurance is an all risk cover except the exclusions as explained herein below-

(a) loss, damage or liability directly or indirectly caused by or arising out of or aggravated by:

-War, Invasion, Act of foreign enemy, hostilities or War like operations (whether war be declared or not) Civil War, rebellion, revolution, insurrection, mutiny, Civil commotion, Military or usurped power, martial law, conspiracy, confiscation, commandeering a group of malicious persons or persons acting on behalf of or in connection with any political organisation, requisition or destruction or damage by order of any Government de jure or de-facto or by any Public, Municipal or Local Authority;

-Nuclear reaction, Nuclear radiation or Radioactive contamination;

-Willful act or negligence of the Insured (Railway) or of his responsible representative;

-Cessation of work whether total or partial.

-5% of the claim amount subject to minimum Rs. 15000 will be deducted;

(b) if something is not entered into the inventory/machinery list at site and it is already missing will not be paid under claim;

(c) normal wear and tear, gradual deterioration due to atmospheric conditions or lack of use or obsolescence or otherwise, rust, scratching of painted or polished surfaces or breakage of glass;

(d) loss or damage due to faulty design (in case design done by Others not appointed by Contractor);

(e) the cost of replacement, repair or rectification of defective material and/or workmanship, but this exclusion shall be limited to the items immediately affected and shall not be deemed to exclude loss of or damage to correctly executed items resulting from an accident due to such defective material and/ or workmanship;

(f) the cost necessary for rectification or correction of any error during construction unless resulting in physical loss or damage;

(g) loss of or damage to files, drawings, accounts, bills, currency, stamps, deeds, evidence of debt, notes, securities, cheques, packing materials such as cases, boxes, crates;

(h) any damage or penalties on account of the Insured's non-fulfillment of the terms of delivery or completion under his Contract of construction or of any obligations assumed there under or lack of performance including consequential loss of any kind or description or for any aesthetic defects or operational deficiencies;

(i) loss of or damage to vehicles licensed for general road use or water borne vessels or Machinery/Equipment mounted or operated or fixed on floating vessels/craft/barges or aircraft;

(j) Loss of or damage to Construction Plant and Machinery excludes loss or damage directly caused by its own explosion or its own mechanical or electrical breakdown or derangement;

3.7 Brief on Professional Indemnity Insurance for (PMC) Consultant

By Law, professionals are required to perform the services for which they were hired in accordance with the appropriate standards of contract. The first duty may be primarily contractual, the second arises from the principles of tort law. If a professional fails to perform his contractual obligations towards his client and his client suffers owing to the professional's incompetence or lack of interest in the contractual agreement, then the client is entitled to be restored to the position he would have attained if the contract had been performed as promised. In brief, professional liability is the failure to use the degree of skill expected of a person in a particular field. This liability, arising out of provision of professional services for others can be covered through professional indemnity insurance.

This policy promises to pay all sums (subject to indemnity) which the insured becomes legally liable to pay as damages to their customer in respect of errors and/or omissions while rendering professional services arising out of claims first made in writing against the insured during the policy period. The indemnity also includes the legal costs and expenses besides the compensation claim. Yet, the legal costs and expenses incurred are subject to prior consent of the insured and the limit of indemnity.

Exclusions

Under the Professional Indemnity Insurance Policy for professionals, the insurance company is not liable in respect of:

- Any criminal act or any act committed in violation of any law or ordinance;
- Services rendered while under the influence of intoxicants or narcotics;
- Any third party public liability;
- Risks assumed by the Insured by agreement;
- Risks arising out of willful or intentional non compliance of any statutory provision;
- Loss of purely financial nature like loss of goodwill, loss of market, etc.;
- Arising out of fines, penalties, punitive or exemplary damages.
- Arising out of war and nuclear risks.