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e-Tender No.	eNIT/DGM(P-V)/MUNGER/CIVIL/2140/45-2018	Date	07.12.2018
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NOTICE INVITING e-TENDER

Sealed e-Tenders under **three-part bidding system** (i.e. Fee, Techno-Commercial & Price Bid) are invited from vendors who are technically & financially capable for carrying our civil works as per scope of work and who will fulfil the Qualifying Requirements (QR) given under are eligible to quote against the above NIT:

01	NAME OF THE WORK	Execution of miscellaneous works such as Earth work, Boulder pitching, Roadwork, Carriage & supply of material in connection with Munger Ganga Rail cum Road Bridge project across river Ganga at Munger.	
02	QUANTITY	As Per Abstract of Cost/BOQ (1)	
03	COST PUT TO TENDER	Rs.10,71,75,975/-	
04	COMPLETION PERIOD	To be completed within 09 (nine) months from the date of LOA/ Order, whichever is earlier.	
05	COST OF TENDER DOCUMENT (NON-REFUNDABLE)	Rs.10,000/- (Rupees ten thousand only) by Pay Order/ Demand Draft in favour of "The Braithwaite Burn And Jessop Construction Company Limited", payable at Kolkata. MSME/ SSI Units with NSIC registration are exempted from submitting tender fee.	
06	EARNEST MONEY	Rs.10,00,000/- (Rupees ten lakh only) by Pay Order/ Demand Draft in favour of "The Braithwaite Burn And Jessop Construction Company Limited", payable at Kolkata. MSME/ SSI Units with NSIC registration are exempted from submitting EMD.	
07	MODE OF SUBMISSION	ONLINE THROUGH E-PROCUREMENT OF CPPP, NIC	
08	Date & Time Schedule:	Date of Publishing NIT & Tender	10.12.2018
		Document download Start Date	10.12.2018 - 10:00 HRS
		Start Date of uploading of bid document	19.12.2018 - 10:00 HRS
		End Date for uploading of bid document	24.12.2018 - 15:00 HRS
		Date of opening of Technical Bid	26.12.2018 - 15:00 HRS
		Date of opening of Financial Bid	To be notified later

(A. Neogi)
DGM (P-V)

INSTRUCTION TO THE BIDDERS

1	<p><u>REGISTRATION OF BIDDER</u> Any bidder willing to take part in the process of e-Tendering will have to be enrolled & registered with the Government e-Procurement system, through logging on to https://eprocure.gov.in/eprocure/app</p>
2	<p><u>DIGITAL SIGNATURE CERTIFICATE (DSC)</u> Each bidder is required to obtain a Class-II or Class-III Digital Signature Certificate (DSC) for submission of tenders, from the approved service provider of the National Information's Centre (NIC) on payment of requisite amount details are available at the Web Site stated in Clause 2 of Guideline to bidder DSC is given as a USB e-Token.</p>
3	<p><u>SUBMISSION OF BID:</u> Bids to be submitted online through e-Procurement system of CPPP. Tender document to be digitally signed with Company's seal by the bidders. The rates in the appropriate space in the BOQ should be properly filled in. Tenders to be submitted in three parts:</p>
a)	<p><u>FEE PART:</u> The Fee part will consist of the following: i) Tender Document Fee ii) Earnest Money Deposit Scanned copy to be uploaded in e-Procurement portal and the physical instrument should reach BBJ-HO within the due date for submission of bid.</p>
b)	<p><u>TECHNO-COMMERCIAL PART: -</u> The techno-Commercial will consists of the following:</p>
i)	<p><u>TENDER DOCUMENT EXCLUDING BOQ</u> The tender documents duly digitally signed EXCLUDING BILL OF QUANTITIES to be uploaded in the e-Procurement portal.</p>
ii)	<p><u>TECHNO COMMERCIAL PART: -</u> The Techno Commercial Part should contain the following documents, which to be submitted with the offer: - (a) Copy of GST Registration Certificate. (b) Copy of PAN (c) Copy of relevant documents/experience certificate showing past experience in respect to Clause no. 1.0 of "SCC-1". (g) Audited Balance Sheet and Profit & Loss A/c along with IT Return for last three FY ending 31st March, 2018</p>
b)	<p><u>PRICE-PART: -</u> Properly filled up BILL OF QUANTITY (BOQ-1) duly digitally signed to be uploaded in Financial part.</p>

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4.	Conditional tenders shall be straightway rejected and no additional clause will be entertained.
5.	BBJ administration reserves the right to accept/reject any or all of the tenders and split the scope of supply to more than one agency/agencies without assigning any reason whatsoever. No claim will be entertained on account of this.
6.	The tender is to be uploaded in e-Procurement portal and hardcopy of EMD & Tender Fee to be submitted within due date to Dy. General Manager(P-V), THE BRAITHWAITE BURN & JESSOP CONSTRUCTION COMPANY LIMITED, 27, R. N. Mukherjee Road, Kolkata-700 001 (W.B.).
7.	VALIDITY OF TENDER: – 90 (NINETY) days from the date of opening of tender or for a further period if mutually accepted.

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1.0 ELIGIBILITY CRITERIA:

- 1.1 Contractors/ Firms and should have a minimum average annual financial turnover of at least **30% (thirty percent)** of the estimated cost during in last 3 (three) financial years and should submit audited Balance Sheet and Profit & Loss Account for last three financial years.
- 1.2 Contractors/ Firms should also have successfully executed similar job (ref. note below) during last 07 (seven) years and should produce certification/ proof from user/ end user in support of execution similar work order which should be either of the following:
- (a) **03 (three)** similar executed works each costing not less than **40% (forty percent)** of the cost put to tender.
- OR
- (b) **02 (two)** similar executed works each costing not less than **50% (fifty percent)** of the cost put to tender.
- OR
- (c) **01 (one)** similar executed work costing not less than **80% (eighty percent)** of the cost put to tender.
- 1.3 Contractor/Firm should have earned profit in at least two years during last three financial years.
- Note:** Similar job shall mean successfully completed civil work comprising earthwork/ boulder pitching in connection with any river bridge project.
- 1.4 No Joint Venture or Consortium of firms shall be allowed and the contractors/ firms should meet the above criteria by themselves.
- 1.5 The contractor/ firm should own sufficient construction equipment for proper timely execution of work. The applicant should submit details of the same along with the bid document.
- 1.6 Bid document should be type written. The contractor/ firm should sign and stamp on each page of the bid document. Overwriting should be avoided.
- 1.7 Any information furnished by the contractor/firm applicant found to be incorrect would render him to be debarred from tendering or taking up any work with BBJ.
- 1.8 **Earnest Money Deposit:**

Deposit of Earnest Money amounting to **Rs.10,00,000/-** (Rupees ten lakh only) may be made in the form of Pay Order/ Demand Draft drawn in favour of "The Braithwaite Burn And Jessop Construction Company Ltd.", payable at Kolkata and shall be valid for a period of 90 (ninety days) from the date of opening of the tender. In case the bidder withdraws their offer within validity period of their offer or fails to undertake the work after acceptance of their tender, the full amount of EMD shall be forfeited. Tender(s)

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submitted without EMD or with less deposit of EMD than specified in the Techno-Commercial bid shall be rejected.

EMD will be converted to Security Deposit and will be kept till completion of Defect Liability Period for the successful bidder. For unsuccessful bidder, EMD shall be refunded immediately after finalization of the tender. EMD shall be interest free.

2.0 SCOPE OF WORK:

2.1 The scope of the bidder/ agency will inter alia comprise of but may not be limited to the following(s);

- (a) The items and quantities, falling under the scope of the agency and estimated price of Railway should be as per enclosed BOQ/Abstract of Cost.
- (b) Quantities allotted under the scope of the subcontract, are tentative and may vary. Some of the item(s) may not be operated/ deleted from the BOQ. Detailed description of items under the Bill of Quantities will be as per the original Railway tender. No extra claim would be admissible against any reduction in the scope or deletion of work.

3.0 COMMENCEMENT & DELIVERY SCHEDULE

The date of commencement shall reckon from the date of LOA/Order and entire work to be completed within **09 (nine) months** from the date of LOA/Order, whichever is earlier.

3.1 EXTENSION OF COMPLETION PERIOD:

If there is delay for reasons not attributable to the agency, BBJ, upon receipt of written request from the agency may extend the Milestone/ Completion time as suitable and fit reasonable to BBJ/Railway. No extra claim (including escalation) of bidder will be entertained in such cases of time extension being granted.

4.0 EFFECTIVE DATES FOR THE AGENCY:

The effective dates, as applicable between E. C. Railway and BBJ, will be binding on the agency.

5.0 RATE

The vendors must submit their offer strictly as per Bill of Quantities. **The bidder must quote the Basic Rate including all other taxes & duties (including GST) and delivery charges at site for the items mentioned in BOQ. The price must be firm during the tenure of this contract.**

Notes:

The award of the order or rejection of the Tenderer's offer and/or cancellation of the tender will be made at the absolute discretion of BBJ. BBJ reserves the right

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to cancel or accept or reject any or all tender(s), whether lowest or otherwise, without assigning any reason(s), whatsoever thereof. A tenderer whose tender is not accepted shall not be entitled to claim any cost, charges or expenses incidental to or incurred by him through or in connection with the preparation and submission of the Tender/Offer to BBJ. BBJ also reserves the absolute right to split up and award the requirement between two or more Tenderers.

6.0 TAXES & DUTIES:

The contractor shall be exclusively responsible for payment of all Taxes, Royalties etc. (including Goods and Service Tax) that may be levied from time to time according to the Laws & regulation now in force & also hereafter to be imposed, increased or modified from time to time. Nothing will be payable extra by the Company in respect of any duties/ taxes to be imposed on procurement of materials for execution of contract.

7.0 GOODS AND SERVICE TAX (GST)

7.1 Without prejudice to stipulation in the tender, the quoted price shall be inclusive of **Goods and Service Tax**. The GST as legally leviable & payable by the bidder under the provisions of applicable law/act. Bidder shall quote their rate after considering the input tax credit on their input materials and services.

The bidder shall get registered with the GST authorities and the registration certificate shall be submitted along the bid documents (techno commercial). Bid without GST number shall be cancelled.

At present GST-TDS is applicable. Deduction of GST-TDS at source would be enforced from the running bills at the rates prescribed. The GST (i.e. SGST, CGST or IGST) amount shall be shown separately in invoice and also submit proper **Tax Invoice as per section 31 of CGST Act, and Rule 46 of CGST Rules, 2017 to get Input Tax Credit by BBJ.**

Bidder shall raise their tax invoice in regular interval as per contract condition and uploaded their supply invoice in GSTN Portal through GSTR-1 return with 10th of next month. Mismatch in return of BBJ due to any reason attributable to bidder, the same shall be recovered from Bidder's bill.

7.2 New Levies/ Taxes

In case Government imposes any new levy/ tax after award of the work during the tenure of the contract, BBJ shall reimburse the same at actual on submission of documentary proof of payment subject to the satisfaction of BBJ that such new levy/tax is applicable to this contract.

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8.0 CERTIFICATION, MEASUREMENT & PAYMENT:

- 8.1 The agency will be responsible; at their cost for getting their work (including material supply) certified by BBJ/ E. C. Railway and/or their authorized representative and will bear all the cost towards the same.
- 8.2 Measurement for payment will be as per actual work done and certified by BBJ but never exceeding the corresponding measurement certified by Railway.
- 8.3 The payment to the agency will be made as per certification of Railway and within 30 (thirty) days after realization of corresponding payment from Railway on back-to-back basis. Statutory Deductions, deduction towards Security Deposit, others as applicable shall be made at source from the RA Bills of the agency.
- 8.4 The agency will extend all sorts of cooperation to BBJ in getting the work measured and certified by the Railway and releasing the payment thereof. Arranging release of payment from Railway will be the agency's responsibility.

9.0 PERFORMANCE GUARANTEE

- 9.1 The successful bidder shall have to submit a Performance Guarantee (PG) by Bank Draft or in the form of Bank Guarantee amounting to **5% (five percent)** of the contract value from any Nationalized/ Scheduled Bank in the prescribed format of BBJ within 30 days from the date of issue of Letter of Award (LOA). However, any extension of time for submission of Performance Guarantee beyond of the specified days, on the basis of request of successful bidder, may be considered by the BBJ at its discretion upon approval of Competent Authority. On submission of the PG, formal "Order" shall be issued. The PBG shall remain valid till completion of entire contract period plus 12 (twelve) months i.e. up to end of Defect Liability Period.
- 9.2 In case the successful bidder (agency) fails to submit the requisite Performance Guarantee (PG) even after 30 days from the date of issue of LOA or within the extension period approved by Competent Authority, the same (LOA) shall be terminated. The failed bidder (agency) shall be debarred from participating in Re-Tender for that work and EMD shall be forfeited.
- 9.3 The Performance Guarantee shall be submitted by the successful bidder after the LOA. has been issued, but before issue of Order. This PG shall be initially valid up to the stipulated date of completion plus 12 (twelve) months beyond that. In case, the time for completion of work gets extended, the successful bidder shall get the validity of PG extended to cover such extended time for completion of work plus 12 months.
- 9.4 The value of PG to be submitted by the, successful bidder will not change for variation up to 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the successful bidder.

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- 9.5 The Performance Guarantee (PG) shall be released after physical completion of the work and after end of Defect Liability Period based on 'Completion Certificate' issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period and after passing the final bill based on 'No Claim Certificate' from the successful bidder.
- 9.6 Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & cost of the failed contractor/ successful bidder. The failed contractor/ successful bidder shall be debarred from participating in the tender for executing the balance work. If the failed contractor/ successful bidder is a JV or a Partnership firm, then every member/ partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV /partnership firm.
- 9.7 BBJ shall make a claim under the Performance Guarantee for which the BBJ is entitled under the Contract (notwithstanding and/or without prejudice to any other provisions in the Contract agreement) in the event of:
- (i) Failure by the successful bidder to extend the validity of the Performance Guarantee as described herein above, in which event BBJ may claim the full amount of the Performance Guarantee.
 - (ii) Failure by the successful bidder to pay BBJ any amount due, either as agreed by the contractor or determined under any of the Clauses/ Conditions of the Agreement, within 30 days of the service of notice to this effect by BBJ.
 - (iii) In the event of the Contract being rescinded under provisions of any of the clause/ condition of the agreement, the performance guarantee shall stand forfeited in full and shall be absolutely at the disposal of the BBJ.

10.0 SECURITY DEPOSIT:

As security for proper and faithful fulfilment of the obligation under the order, Security Deposit equivalent to **5% (five percent)** of the total Contract Value shall be deducted and should be kept valid till completion of entire contract period plus 12 (twelve) months i.e. up to end of Defect Liability Period. Security Deposit shall be in the following manner;

The Earnest Money deposited by the contractor along with the tender will be retained by the BBJ as part of Security Deposit. The balance amount to make up the with the total amount of Security Deposit, may be deposited by the successful bidder in the form of Demand Draft/ Pay Order or may be recovered by percentage deduction from the contractor's 'on account' bills.

Recovery of Security Deposit: The Security Deposit/ rate of recovery/ mode of recovery shall be as under:

- (i) Security Deposit for work should be 5% of the Contract value.
- (ii) The rate of recovery should be at the rate of 10% of the bill amount till the full security deposit is recovered.

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- (iii) Security deposits will be recovered only from the running bills of the contractor and no other mode of collecting SD such as SD in the form of instruments like BG etc., shall be accepted towards security Deposit.

Security Deposit shall be returned to the contractor after completion of entire Order plus 12 (twelve) months i.e. after the end of Defect Liability Period and subsequent to the following:

- (a) After passing the final bill based on "No Claim Certificate" with the approval of the Competent Authority.
- (b) Submission of an unconditional & unequivocal 'No Claim Certificate' from the concerned contractor. This certificate, inter alia, should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the contractor and that there is no due from the contractor to BBJ against the contract concerned.

11.0 GUARANTEE/ DEFECT LIABILITY PERIOD:

The successful bidder shall fully guarantees all workmanship in scope of his work to perform strictly in accordance with the specifications. The workmanship shall be free from all defects. Should any workmanship not perform as intended or should workmanship prove defective within a period of **12 (twelve) months from the date of completion of the entire contract**, the work shall upon notification of deficiency/defect be promptly rectified by the vendor to the satisfaction of BBJ/E. C. Railway or any Inspection Agency nominated by BBJ/EC Railway without any delay and at no extra cost to BBJ. If the vendor fails to effect proper replacement within a reasonable time of receipt of BBJ's notification to this effect, BBJ shall be free to take such corrective action at the vendor's risk and cost.

12.0 SUBLETTING OF WORK

No part of Work Order nor any share or interest thereof shall in any manner of degree be transferred, assigned or sublet by the vendor directly or indirectly to any firm or corporation whatsoever without the prior consent in writing of BBJ.

13.0 SURVEY:

The full survey team and instruments, required for the whole work, will be mobilized by the agency.

14.0 ASSISTANCE:

The agency will actively assist BBJ in resolving contingencies, if any, sharing the risk and cost.

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15.0 LAND:

The bidder/ agency has to arrange for land at their own cost for setting up of site office(s)/ store(s)/ workshop(s)/ labour hutment etc. The bidder has to submit a proposed sidewise land requirement plan with the tender.

16.0 SITE FACILITIES:

The agency need to provide all facilities that are to be provided to Railway.

17.0 SUPERVISION & LABOUR:

The subcontractor will be responsible for providing adequate skilled labour and supervisory staff for timely execution of work.

18.0 ASSISTANCE:

The agency will actively assist BBJ in resolving contingencies, if any, sharing the risk and cost.

19.0 CLAIM/ EXTRA CLAIM OF WORK:

In view of back-to-back terms & conditions in general, it should be explicitly understood that under no circumstance, any claim(s)/ extra item(s) of work of the agency will be admissible/ payable by BBJ unless and until the same is/are certified and paid by E.C. Railway.

20.0 FAILURE IN EXECUTION OF THE CONTRACT:

If BBJ rescinds the contract with the agency in the event of failure of the agency in execution of the contract, Security Deposit and Performance Guarantee shall be forfeited in accordance with the enclosed E.C. Railway's tender document. In case the above is/

are insufficient, BBJ may adopt the method of recovery that may be required to compensate for additional expenditure whatsoever made in completing the balance work.

21.0 LIQUIDATED DAMAGE:

If the successful bidder fail to complete the entire work within the stipulated period, 0.5% (zero decimal five percent) of order value will be deducted from bill for per week delay or part thereof subject to a maximum of 5% (five percent) of the total order value.

22.0 VARIATION:

In case BBJ has to negatively adjust the rates for variation as per terms of the contract, the same will be applicable to the agency, irrespective of whatever may be the variation for the work under the scope of agency.

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23.0 PRICE VARIATION:

As per provision of Railway's tender document. Base period shall be the month of opening of the tender and the quarter will commence from three month following month of opening of the tender.

24.0 LABOUR LAWS AND STATUTORY OBLIGATION:

The subcontractor will observe with the quoted rates all statutory obligation during execution of the work including Minimum Wages Act, Act coving P.F., E.S.I and other statutory benefits under Workmen Compensation Act, Contract Labour Regulation & Abolition Act 1970 & subsequent amendment and other Acts in force in the State of Bihar/ Central Government. BBJ will have no responsibility in this regard.

25.0 ARBITRATION

In the event of any questions arising out of the Contract or ancillary/ incidental as to the terms and conditions of it or relate to any matter for execution and/or performance of the contract, the same shall in-so-facto be referred to the appropriate Authority and the interpretation made by the said authority shall be final and binding upon the parties.

Notwithstanding the above, should there be any, disputes or differences by and between the parties arising out of anything under the contract, the same shall within 30 days of its occurrence first be referred to the said authority for conciliation and/or determination by the said authority. If the findings of the said authority should be acceptable by parties to the contract as communicated in writing within the next following 30 days of making reference to it. Nevertheless, the parties at their sole option shall within the next following 30 days choose to refer or cause the matter to be referred to the Arbitrator of Person in writing, whereupon the appropriate Authority shall within two weeks hence take steps for

appointment of Arbitrator of Person from amongst the officers whether or not connected in the matter and the same shall be communicated in writing to the parties making reference within the next following two weeks and the same shall be final and binding upon the parties. The Arbitrator shall enter into the reference by appropriate notice of communication to be served or cause the said notice to be served upon the parties summoning the respective parties to attend the proceedings at the date time and venue. The proceedings of Arbitration shall be as per the Arbitration and Conciliation Act 1996 as amended up to date. Jurisdiction of the matter shall be within the appropriate Courts of Kolkata. Acceptance of Order/ LOI of the concerned agency shall be deemed to be the Free Consent given by party under the law towards execution of these covenants of contract under the Contract of Arbitration.

26.0 INDEMNITY

Bidder shall indemnify BBJ against all claims in respect of their contractual obligations in the event of non-compliance of statutory rules/ obligations/ laws/ taxes & duties etc.

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27.0 TERMINATION OF CONTRACT:

If the bidder fails to complete the total work/supply as per requirement and within the stipulated completion period, BBJ reserves the right to cancel the order, either in part or full as the situation demands and get the work done by deploying other agency/agencies by issuing first seven days and then 48 hours' notice. Additional cost if incurred shall be recovered from the bidder's bill.

28.0 OTHER GENERAL TERMS & CONDITION:

Generally, on back-to-back basis unless and otherwise specified upon.

The bidder will quote % (percentage) above/ below/ at-par on different schedule in line with the Railway's tender document. The bidder has also to quote for those items for which "Rate Only" is specified or otherwise.

The bidder has to submit their offer along with these special terms & conditions, enclosed BOQ and Railway's tender document duly signed, stamped and sealed.

29.0 IMPORTANT NOTES;

BBJ reserves the right to:

- 29.1 In the event of failure on the part of the bidder/ contractor to complete the job within the reasonable period of time as decided by the Purchaser, the purchaser reserves the right to get the job done by other Agency/ Agencies as per the order and invoke EMD/ Performance Guarantee/ Security Deposit etc. of the contractor.
- 29.2 Accept or reject any bid received at its discretion without assigning any reasons whatsoever.
- 29.3 Increase/ decrease/ alter the job description/ scope of work with corresponding change in the value of contract.
- 29.4 Postpone or extend the above-mentioned date, split and distribute the work among more than one bidder without assigning any reason what so ever.
- 29.5 May ask for further qualification during techno commercial scrutiny of bids received.
- 29.6 BBJ shall not be responsible for any delay, loss, damage for bids sent by post.
- 29.7 BBJ shall not be liable for any expenses incurred by bidder in preparation of bid irrespective of whether it is accepted or not.
- 29.8 Canvassing i.e. soliciting favour, seeking advantage etc. in any form is strictly prohibited and any bidder found to have engaged in canvassing shall be liable to have his bid rejected summarily.
- 29.9 If the bidder deliberately gives any wrong information in his tender to create circumstances for the acceptance to his bid, BBJ reserves the right to reject such application.

PRE CONTRACT INTEGRITY PACT

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General

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20....., between on one hand, THE BRAITHWAITE BURN & JESSOP CONSTRUCTION COMPANY LIMITED, 27, Rajendra Nath Mukherjee Road, Kolkata – 700 001 (hereinafter called the "BUYER", which expression shall mean and include, unless the context otherwise requires, its successors in office and assigns) of the First Part and M/s _____ represented by Sri _____ (Designation) (hereinafter called the "BIDDER/Agency" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS the BUYER proposes to procure/contract for eNIT/DGM(P-V)/MUNGER/CIVIL/2140/45-2018 Dated 10.12.2018 and the BIDDER/Agency is willing to offer/has offered the same and

WHEREAS the BIDDER is a Private Company/ Public Company/ Government Undertaking/ Partnership/ Registered Export Agency, constituted in accordance with the relevant law in the matter and the BUYER is a PSU performing its function on behalf of the President of India.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to: -

Enabling the BUYER to obtain the desired said stores/ equipment/ contract at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the BUYER

- 1.1 The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the BIDDER, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2 The BUYER will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS.

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- 1.3 All the officials of the BUYER will report to the appropriate Government Office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
2. In case any such preceding misconduct on the part of such official(s) is reported by the BIDDER to the BUYER with full and verifiable facts and the same is prima facie found to be correct by the BUYER, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the BUYER and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract would not be stalled.

Commitments of the BIDDERS

3. The BIDDER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following: -
 - 3.1 The BIDDER will not offer, directly or through intermediaries, any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of the BUYER, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
 - 3.2 The BIDDER further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of the BUYER or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Government/the Company for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Government/the Company.
 - 3.3* BIDDERS shall disclose the name and address of agents and representatives and Indian BIDDERS shall disclose their foreign principals or associates.
 - 3.4* BIDDERS shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract.
 - 3.5* The BIDDER further confirms and declares to the BUYER that the BIDDER is the original manufacturer/integrator/authorized government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the BUYER or any of its functionaries, whether officially or unofficially to the award of the contract to the BIDDER, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
 - 3.6 The BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the BUYER or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.

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- 3.7 The BIDDER will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 3.8 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.9 The BIDDER shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the BUYER as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The BIDDER also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.10 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.11 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the BIDDER or any employee of the BIDDER or any persons acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the officers of the BUYER, or alternatively, if any relative of an officer of the BUYER has financial interest/stake in the BIDDER's firm, the same shall be disclosed by the BIDDER at the time of filing of tender.
The terms 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.
- 3.13 The BIDDER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BUYER.
4. **Previous Transgression**
- 4.1 The BIDDER declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify BIDDER's exclusion from the tender process.
- 4.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.
5. **Earnest Money (Security Deposit)**
- 5.1 While submitting commercial bid, the BIDDER shall deposit an amount Rs.10,00,000/- (Rupees ten lakh only) (to be specified in RFP) as Earnest Money/ Security Deposit, with the BUYER through any of the following instruments:
- (i) Bank Draft or a Pay Order in favour of "The Braithwaite Burn and Jessop Construction Co. Ltd." payable at Kolkata.
 - (ii) A confirmed guarantee by an Indian Nationalised Bank, promising payment of the guaranteed sum to the BUYER on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the BUYER shall be treated as conclusive proof of payment.
 - (iii) Any other mode or through any other instrument (to be specified in the RFP)
- 5.2 The Earnest Money/ Security Deposit shall be valid up to a period of five years or the complete conclusion of the contractual obligations to the complete satisfaction of both the BIDDER and the BUYER including warranty period, whichever is earlier.

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- 5.3 In case of the successful BIDDER a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions of Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 5.4 No interest shall be payable by the BUYER to the BIDDER on Earnest Money/Security Deposit for the period of its currency.
6. **Sanctions for Violations**
- 6.1 Any breach of the aforesaid provisions by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) shall entitle the BUYER to take all or any one of the following actions, wherever required: -
- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the BIDDER. However, the proceedings with other BIDDER(s) would continue.
 - (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/performance Bond (after the contract is signed) shall stand forfeited either fully or partially, as decided by the BUYER and the BUYER shall not be required to assign any reason therefore.
 - (iii) To immediately cancel the contract, if already signed, without giving any compensation to the BIDDER.
 - (iv) To recover all sums already paid by the BUYER, and in case of an Indian BIDDER with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a BIDDER from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the BIDDER from the BUYER in connection with any other contract for any other stores, such outstanding payment could also be utilised to recover the aforesaid sum and interest.
 - (v) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the BIDDER, in order to recover the payments, already made by the BUYER, along with interest.
 - (vi) To cancel all or any other Contracts with the BIDDER. The BIDDER shall be liable to pay compensation for any loss or damage to the BUYER resulting from such cancellation/rescission and the buyer shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.
 - (vii) To debar the BIDDER from participating in future bidding processed of the Government of India/the Company for a minimum period of five years which may be further extended at the discretion of the BUYER.
 - (viii) To recover all sums paid in violation of this Pact by BIDDER(s) to any middleman or agent or broker with a view to securing the contract.
 - (ix) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the BUYER with BIDDER, the same shall not be opened.
 - (x) Forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 6.2 The BUYER will be entitled to take all or any of the actions mentioned at para 6.1(i) to (x) of this pact also on the Commission by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) of an offence as defined in chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

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6.3 The decision of the BUYER to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BIDDER can approach the Independent Monitor(s) appointed for the purposes of this Pact.

7. **Fall Clause**

7.1 The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the BUYER, if the contract has already been concluded.

8. **Independent Monitors**

8.1 The BUYER will appoint Independent Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given).

8.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.

8.3 The monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.

8.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.

8.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the BUYER.

8.6 The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the BUYER including that provided by the BIDDER. The BIDDER will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the BIDDER/Subcontractor(s) with confidentiality.

8.7 The BUYER will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.

8.8 The Monitor will submit a written report to the designated Authority of BUYER/Secretary in the Department/within 8 to 10 weeks from the date of reference or intimation to him by the BUYER/BIDDER and should the occasion arise, submit proposals for correcting problematic situations.

9. **Facilitation of Investigation**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the BUYER or its agencies shall be entitled to examine all the documents including the Books of Account of the BIDDER and the BIDDER shall provide necessary

information and documents in English and shall extend all possible help for the purpose of such examination.

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10. **Law and Place of Jurisdiction**

This Pact is subject to Indian law. The place of performance and jurisdiction is the seat of the BUYER.

11. **Other legal Actions**

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

12. **Validity**

12.1 The validity of this Integrity Pact shall be from date of its signing and extend up to end of Defect Liability Period or the complete execution of the contract to the satisfaction of both the BUYER and the BIDDER/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful this Integrity Pact shall expire after six months from the date of the signing of the contract.

12.2 Should one or several provisions of this Pact turn out to be invalid, the reminder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

13. The parties hereby sign this integrity Pact at _____ on _____

BUYER

BIDDER

Name of the Officer

CHIEF EXECUTIVE OFFICER

Designation

PSU

Witness

Witness

1. _____

1.

2. _____

2.

* Provisions of these clauses would need to be amended/ deleted in line with the policy of the BUYER in regard to involvement of Indian agents of foreign bidders.