

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
THE BRAITHWAITE BURN AND JESSOP CONSTRUCTION CO. LTD.
(भारत सरकार का एक उद्यम) / (A Government of India Enterprise)

ATC No. ATC/HSB/61.0-78.8M/ADDL/2150/3131/G-29-2023

Date: 14th Feb 2023

Registered Office: 27, Rajendra Nath Mukherjee Road,
Kolkata – 700 001, West Bengal.

Phone: (033) 2248 5841-44.

Email: info.bbjconst@bbjconst.com; Website: www.bbjconst.com;

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NOTICE INVITING e-TENDER

e-Bid Tender under the two-bid system (i.e. "Techno-Commercial Part" & "Price Part") are invited from eligible vendors for or supply of H-Beam Sleepers as per the technical specifications and other details are given in "Scope of Work"/ "BOQ", as per details hereunder:

01.	NAME OF THE WORK	Supply, Fabrication and Transportation of Galvanized H-Beam Sleepers with all Fittings, Fixtures, Fastening and based on approved drawing & technical specifications.
02.	QUANTITY	475 sets/ As per BOQ (as detailed in Technical Specification). The bidder should quote the rate for all the items of BOQ.
03.	COMPLETION PERIOD	03 (three) months for total supply from the date of LOA/Order, whichever is earlier.
04.	COST OF TENDER DOCUMENT (NON-REFUNDABLE)	Nil
05.	EARNEST MONEY DEPOSIT	₹5,00,000/- (Rupees five lakh only) by NEFT/ RTGS/ Demand Draft/ Banker's Cheque in favour of "The Braithwaite Burn And Jessop Construction Company Limited", payable at Kolkata. Tender documents without EMD shall be rejected. MSME/ NSIC/ SSI units will be waived from submitting tender fees subject to submission of the declaration of Udyog Aadhar Memorandum (UAM) number on the GeM Portal. For unsuccessful bidders, EMD will be refunded after the finalization of the Order, without any interest. For the successful bidder, the above EMD amount will be converted into an initial Security Deposit and will be retained by BBJ till the successful completion of the Maintenance Period/ Defect Liability Period, without any interest.
06.	SECURITY DEPOSIT	5% (five per cent) of Contract Value. Security Deposit will be deducted @10% (ten per cent) from each gross bill value up to the total amount equivalent to 5% (five per cent) of contract value after adjustment of EMD as Initial Security Deposit. Security Deposit shall be released after completion of the Maintenance Period/ Defect Liability Period.

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07.	PERFORMANCE BANK GUARANTEE (PBG)	Successful Bidder shall have to submit an Irrecoverable Performance Guarantee to an amount equivalent to 3% (three per cent) of the Contract Value , issued by any Nationalized/ Scheduled Bank in India within 21 (twenty one) days from the date of LOA/Order. The Performance Guarantee shall remain valid up to the end of completion of the entire contract.
08.	MODE OF SUBMISSION	Online through Government e-Marketplace system https://gem.gov.in . Tender Fee, EMD and Other documents as uploaded are to be submitted at BBJ'S Head Office at 27, R. N. Mukherjee Road, Kolkata - 700001, West Bengal, before the opening of the technical e-bids.

(अनिमेष निओगी / ANIMESH NEOGI)
महाप्रबंधक (परियोजना और खरीद)/ General Manager (Project & Purchase)

INSTRUCTION TO BIDDERS

1.0 **REGISTRATION OF CONTRACTOR**

Any bidder willing to take part in the process of e-Tendering will have to be enrolled & registered with the Government e-Procurement system, by logging on to <https://gem.gov.in>

2.0 **DIGITAL SIGNATURE CERTIFICATE (DSC)**

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 Centre (NIC) on payment of the requisite amount details are available at the Web Site stated in Guideline to bidder DSC is given as a USB e-Token.

3.0 **SUBMISSION OF BID:**

Bids are to be submitted online through the e-Bidding system of GeM Portal (<https://gem.gov.in>). **Hardcopy of the uploaded/ submitted bid (technical part only) shall have to be submitted to this office physically along with the EMD.**

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 are to be submitted in **two parts**:

a) **TECHNO-COMMERCIAL PART:**

The Techno-Commercial part will consist of -

i) **PRE QUALIFICATION CRITERIA OF THE BIDDER**

Documentary evidence satisfying the Pre-Qualification Criteria (PQC) should be provided as part of the Technical Bid. Any bidder not qualifying PQC criteria will be rejected and the price bid will not be opened.

The Techno Commercial Part should contain the following documents, which are to be submitted/uploaded with the offer:

- (a) Earnest Money Deposit (EMD) of **₹5,00,000/-** (Rupees five lakh only) in the form of NEFT/ RTGS/ Demand Draft/ Pay Order from any Nationalised or Schedule Bank drew in favour of "The Braithwaite Burn and Jessop Construction Company Limited" payable at "Kolkata". In the case of a successful bidder, this EMD will be converted to Security Deposit and will be retained by BBJ till the completion of the Defect Liability Period, without any interest. Scanned copy to be uploaded in portal and instrument to be submitted physically along with other documents.

Bank Details for NEFT/ RTGS:

Name of Beneficiary:	THE BRAITHWAITE BURN AND JESSOP CONSTRUCTION COMPANY LIMITED.
Bank Name:	STATE BANK OF INDIA
Branch:	DALHOUSIE SQUARE (CALCUTTA)
Bank Address:	2, B.B.D. BAGH (EAST), KOLKATA – 700001 (W.B.)
Bank Account No.:	11175160292
Bank Account Type:	Current
IFS Code:	SBIN0001401

Note: In the case of EMD & Tender Fee submitted through NEFT/ RTGS, necessary documents need to be uploaded in the Portal and submitted along with the bid.

- (b) GST Registration Certificate
(c) Copy of PAN CARD

- (d) Downloaded ATC/ Tender document (without quoting any price in Techno-commercial bid) duly signed with an official stamp on each page.
- (e) Copy of relevant documents/ experience certificate showing past experience as per Clause No.3 of Special Condition of Contract.
- (f) Other documents in support of the Eligibility Criteria of this tender.
- (g) Audited Balance Sheet & P/L for the last 03 (three) financial years ending 31st March of the previous financial year.
- (h) Copy of document in support of "Person Legally Authorized" to enter into a commitment on behalf of the Tenderer.

b) **PRICE PART:**

Properly filled up BILL OF QUANTITY duly digitally signed to be uploaded in the Financial part. Price bid of only those bidders will be opened whose Techno-commercial offers are found to be qualified and acceptable to BBJ. HSN/SAC code must be provided against each BOQ item.

- c) The above two sealed envelopes i.e. 'TECHNO-COMMERCIAL PART' shall be put into a sealed envelope superscribing "TENDER NOTICE NO./ NAME OF WORK" to be addressed to DGM(P-V) at BBJ's Head office.

4.0 **EXEMPTION FOR MICRO & SMALL ENTERPRISES:**

- (a) MSME/ NSIC/ SSI units will be waived from submitting EMD subject to submission of the declaration of UDYOG AADHAR MEMORANDUM (UAM) number on CPPP.
- (b) Micro & Small Enterprises units registered with National Small Industries Corporation (NSIC) will be given the following benefits:
 - (i) Issue of Tender set free of cost
 - (ii) Exemption from payment of Earnest Money Deposit
- (c) Firms registered with NSIC under its "Single Point Registration Scheme".

(Exemption will apply only to items/ services indicated under the description of work/ supplies/ services & value up to which the firms are registered with NSIC). To obtain the above benefits, firms should necessarily submit a signed copy of a valid Registration Certificate issued by NSIC. Firms that are in the process of obtaining NSIC Registration will not be considered for the benefits.

5.0 **CURRENCIES OF BID AND PAYMENT**

The tenderer shall submit his price bid/ offer in Indian Rupees and payment under this contract will be made in Indian Rupees.

6.0 **FIRM PRICE ORDER:**

The price shall remain firm till completion of work as per order including modification thereof and no claim for variation in quantities, labour & materials prices etc will be entertained.

- 7.0 All duties (including GST), taxes, fees and other levies payable by the successful bidder under the contract or any other clause shall be included in the quoted prices.

8.0 **VALIDITY OF TENDER**

90 (ninety) days from the date of opening of tender or for a further period if mutually accepted. BBJ reserves the right to ask for an extension of validity if any.

- 9.0 Bidders are requested to get themselves enrolled/ registered in BBJ's vendor registration system at <https://bbjconst.in> for the generation of vendor code and upload the same along with the bid document.

10.0 **ORDER OF PRIORITY OF DOCUMENTS:**

Where there is any conflict between the various documents in the contract, the following order of priority shall be followed i.e. a document appearing earlier shall override the document appearing subsequently:

- a) Work order
- b) Letter of Award (LOA)
- c) Schedule of Items, Rates & Quantities
- d) Special Conditions of the Contract (SCC)
- e) Technical Specifications (TS)
- f) Scope of Work (SOW)
- g) Drawings
- h) Relevant Codes & Standards
- i) Notice Inviting Tender
- j) Instructions to the Bidders (IB)
- k) General Conditions of Contract

11.0 **IMPORTANT NOTES:**

BBJ reserves the right to:

- a) Accept or reject any bid received at its discretion without assigning any reasons whatsoever.
- b) Increase/ decrease/ alter the job description/ scope of work with the corresponding change in the value of the contract.
- c) Postpone or extend the above-mentioned date, split and distribute the work among more than one contractor without assigning any reason whatsoever.
- d) May ask for further qualification during techno commercial scrutiny of bids received.
- e) BBJ shall not be responsible for any delay, loss, or damage for the bids sent by post.
- f) BBJ shall not be liable for any expenses incurred by the bidder in preparation of the bid irrespective of whether it is accepted or not.
- g) 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.
- h) If the bidder deliberately gives any wrong information in his tender to create circumstances for the acceptance of his bid, BBJ reserves the right to reject such application.

(अनिमेष निओगी / ANIMESH NEOGI)
महाप्रबंधक (परियोजना और खरीद)/ General Manager (Project & Purchase)

SCOPE OF WORK

1. Fabrication and supply of H-Beam Sleepers with all fittings & fixtures as per BBJ's Drawing No. 2150/HSB/61.0M/20, 2150/HBS/78.8M/34, 2150/HBS/78.8M/34/1 & 2150/HBS/78.8M/34/2. Fabrication as per RDSO specification no. BS45, Hot dip galvanizing as per IS:4759, spring washer as per Railway suitable for 25 Ton axle loading standard and specification there to complete as corrected up to date including supply and riveting of canted bearing plates.
2. The rate shall be including of all costs of preparing and supplying H-Beam (ISHB) from standard rolled section IS: HB 200 conforming to IS:2062, E250 Gr. B. including supplying of all required fittings and fixtures, fastening, MS pad plates, bolts and nuts, washer, rivets, etc. duly galvanized as per specification.
3. The weldable raw structural steel sections to be supplied by the contractor for fabrication of H-Beam sleepers to conform to IS:2062-2011 Grade B fully killed from SAIL, TISCO, and Vizag Steel Plant or any other sources approved by N.F. Railway. The source to be declared citing non-availability of material from the aforesaid supplier.
4. The rate is also inclusive of inspection and testing charges of all components of H-Beam sleepers including all fixtures and fastening galvanization and consumables etc. from the reputed laboratory/organization.
5. Arranging necessary inspection & testing and getting the H-Beam Sleepers approved by N.F. Railway or their authorized agency at their own cost and will be responsible for furnishing all test certificates.
6. The rate is also including of transportation of H-Beam Sleepers with all fittings and fixtures with consumables from their workshop to different bridge sites/ Railway depots in Mizoram by providing their trucks including loading with all lead and lift, handling, re-handling, ascent, descent, crossing obstructions etc.
7. WPSS and QAP are to be done by the contractor and get it approved from N.F. Railway or their nominated agency.
8. The rate is inclusive of all including GST.
9. The work to be executed in contractor's approved shaded/covered fabrication workshop by their labour, plants & machinery, equipment, welding consumables cutting gases and their inputs for successful completion of the work.
10. Fitting items to be provided in waterproof and strong box packets to avoid damages during transportation and storing.

SPECIAL CONDITION OF CONTRACT

1. **DEFINITIONS AND INTERPRETATION:**

In this Tender Document, as hereinafter defined, the following words and expressions shall have the meaning as under:

- a) **"BBJ"** shall mean The Braithwaite Burn And Jessop Construction Company Limited having its registered office at 27, R. N. Mukherjee Road, Kolkata- 700 001.
- b) **"TENDER"** shall mean the proposal submitted by the Tenderer/ Bidder/ Supplier/ Dealer/ Agency in response to BBJ's Notice of Invitation to this Tender Document.
- c) **"ORDER"** shall mean a written Work/ Purchase Order issued by BBJ.
- d) **"TENDERER/ BIDDER"** shall mean the firm or Company (hereinafter-called Tenderer/ Bidder) who duly submits the tender after accepting all the terms & conditions of the tender document.
- e) **"SUCCESSFUL BIDDER"** whose tender has been finally accepted by BBJ.

2. **SCOPE OF SUPPLY:**

As per the "Scope of Work" & "Bill of Quantity" (BOQ)

3. **ELIGIBILITY CRITERIA:**

3.1 **Technical Criteria:**

Experience of having successfully completed/ ongoing similar works during last 7 (seven) years ending last day of month previous to the one in which applications are invited should be either of the following:

- (i) **Three** completed/ongoing works each costing not less than the amount equal to **₹40.84 lakh.**
Or
- (ii) **Two** completed/ongoing works each costing not less than the amount equal to **₹51.06 lakh**
Or
- (iii) **One** completed/ongoing work costing not less than the amount equal to **₹81.69 lakh.**

Note:

- (i) **"Similar work"** means manufacture & supply of galvanized H-Beam Sleepers with all fittings, fixtures & fastening etc. for Steel Bridge to Indian Railways/ Government Organization / Reputed Organization engaged in the execution of Indian Railway Steel Bridges.
- (ii) Ongoing/ Completion certificate from the Client/End User need to be submitted.

3.2 **Financial Criteria:**

- a. Average Annual financial turnover during the last 03 (three) years, ending 31st March of the previous financial year (2019-20, 2020-21 & 2021-22), should be at least **₹30.63 lakh or above.**
- b. Authentic Certificates shall be produced by the tenderer(s) to this effect which may be an attested Certificate from the employer/client, Audited Balance Sheet duly certified by the Chartered Accountant etc.

4. **DELIVERY PERIOD:**

Delivery to be completed in phases within 03 (three) months for the total supply of BOQ items from the date of LOA/Order, whichever is earlier.

5. **DELIVERY PLACE, QUANTITY & SCHEDULE:**

BBJ shall require the ordered quantity progressively within **03 (three) months** from the date of LOA/Order as per the following:

- a) **Bridge No.15-19-64-104 (61.0m):** Sairang Stack Yard, Mizoram-796410 – [96 sets]
- b) **Bridge No.78-161-162-163-167-168 (78.8m):** Sairang Stack Yard, Mizoram-796410 – [379 sets]

6. **DELIVERY PERIOD EXTENSION**

If there is a delay for reasons not attributable to the successful bidder, BBJ upon receipt of a written request justifying such delay from the Supplier may extend the Delivery period as suitable and fit reasonable to BBJ. No extra claim of supplier will be entertained in such cases of time extension is granted. The decision of BBJ shall be final in this regard.

7. **EARNEST MONEY DEPOSIT (EMD):**

- a) Earnest Money Deposit of **₹5,00,000/-** (Rupees five lakh only) by NEFT/ RTGS/ Demand Draft/ Banker's Cheque in favour of "The Braithwaite Burn And Jessop Construction Company Limited", payable at Kolkata.
- b) EMD amount of the successful bidder will be converted into an initial security deposit and will be retained till completion of the Maintenance/ Defect Liability Period, without any interest.
- c) EMD of the unsuccessful bidder will be returned after the finalization of the order, without any interest.

8. **QUANTITY VARIATION:**

Quantity may vary +/- 25% for which no extra claim of the manufacturer will be entertained.

9. **PAYMENT:**

- a) **95%** (ninety five percent) of the certified bill value will be released within 45 (forty-five) days, after successful delivery of H-Beam sleepers along with fittings & fixtures at respective delivery sites and submission of cleared bill/Invoice with relevant challans, duly certified by BBJ's representative, along with other necessary documentations.
- b) **5%** (five percent) of the certified bill value will be released within 45 (forty-five) days after successful fixing of the same at the bridge site.

Statutory Deductions shall be made at source.

10. **FIRM PRICE:**

The rate shall remain firm and shall not attract escalation due to any reason such as a Steel price hike whatsoever in pursuance of this contract during the delivery period or up to the extended delivery period as the case may be from the date of the order. No escalation or any variation in prices is payable to the supplier on account of any increase or modification in the tax structure or introduction/ modification of the existing levy structure.

11. **TAXES & DUTIES:**

The successful bidder 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 & regulations now in force & also hereafter to be imposed, increased or modified from time to time. Nothing will be payable extra by BBJ for any duties/taxes to be imposed on procurement of any materials/obtaining of any services for execution of this contract.

12. **GOODS AND SERVICE TAX (GST):**

- a) 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 shall be paid extra by BBJ as per the successful bidder's bill. **Bidder shall quote their rate after considering the input tax credit on their inputted materials and services.**

- b) In case, the transfer of property of goods will involve in connection with immovable property, GST under supply of services will be applicable. The bidder shall get registered with the GST authorities and the registration certificate shall be submitted along with the bid documents (techno-commercial e-bid). **A bid without a GST number shall be cancelled.**
- c) 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 the 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.
- d) Bidder shall raise their tax invoice in the regular interval as per contract condition and upload their supply invoice in GSTN Portal through GSTR-1 return with the 10th of next month. Mismatch in return of BBJ due to any reason attributable to the bidder, the same shall be recovered from Bidder's bill.

13. **NEW LEVIES / TAXES**

In case Government imposes any new levy/tax after awarding 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 applies to this contract.

14. **PRICE VARIATION:**

No price variation of any kind will be allowed in this contract under any circumstances. The price shall remain firm for the entire scope of work during the original and/or extended delivery period.

15. **PERFORMANCE GUARANTEE**

- (a) For due and faithful fulfillment of the contractual obligations, the successful bidder shall furnish a Performance Guarantee for an amount equivalent to **3% (three percent)** of the contract price/ value of work order either by Bank Draft/ NEFT/ RTGS or in the form of Bank Guarantee. In the event, the Performance Guarantee is submitted in the form of Bank Guarantee the same should be from any Nationalized/ Scheduled Bank of India in the prescribed format of BBJ. The aforesaid Bank Guarantee should be submitted within **21 (twenty-one) days** from the date of issue of Letter of Acceptance (LOA). BBJ administration reserves the right to cancel the bid and withdraw the LOA if the Performance Guarantee is not submitted within 21 days.
- (b) The Performance Guarantee shall be initially valid up to the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the successful bidder shall get the validity of Performance Guarantee extended to cover such extended time for completion of work plus 60 days.
- (c) In case the successful bidder fails to submit the requisite Performance Guarantee within the stipulated period as mentioned in the above paragraphs, the bid may consequentially be cancelled by BBJ, and the LOA shall stand withdrawn. The defaulting successful bidder shall be debarred from participating in Re-Tender for that work and his EMD/ SD/ PG/RA Bills shall be encashed/ invoked/ forfeited. In this regard, the decision of the Competent Authority of BBJ shall be final.
- (d) The formal Order shall be issued/ contract agreement (if any) shall be executed within a reasonable time only after receipt of Performance Guarantee from successful bidder. Till such time the order is issued/contract agreement (if any) is executed the successful bidder shall execute the work on the strength of LOA, but no payment shall be made to the successful bidder without order/ contract agreement. In the event the bid is cancelled by BBJ, and LOA is withdrawn accordingly due to non-submission of Performance Guarantee, the successful bidder shall have no right to claim on the executed work if any as aforesaid or any other claim whatsoever.
- (e) The value of Performance Guarantee originally submitted by the successful bidder need not be changed for a variation of contract price/ order value up to 25% (either increase or decrease). In case during the course of execution, value of the contract

increases beyond 25% of the original value, an additional Performance Guarantee amounting to 3% (three percent) as applicable for the excess value over the original contract value shall be deposited by the successful bidder within 21 days from the date of receipt of intimation from BBJ.

- (f) The Performance Guarantee shall be released after physical completion of the work plus after completion of 60 days thereafter based on 'Completion Certificate' issued by BBJ stating that the successful bidder has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period/ defect liability period and after passing the final bill based on 'No Claim Certificate' from the successful bidder.
- (g) Whenever the contract is rescinded by BBJ due to failure of the successful bidder, the EMD/ Security Deposit of the successful bidder shall be forfeited, and their Performance Guarantee shall also be encashed. The balance work shall be got done independently without risk & cost of the failed successful bidder. The failed successful bidder shall be debarred from participating in the tender for executing the balance work. If the failed 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.
- (h) BBJ shall make a claim under the Performance Guarantee for which the BBJ is entitled under the LOA/ Contract (notwithstanding and/or without prejudice to any other provisions in the LOA/ 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 that event BBJ may claim the full amount of the Performance Guarantee from the successful bidder.
- (ii) Failure by the successful bidder to pay BBJ any amount due, either as agreed by them or determined under any of the Clauses/ Conditions of the LOA/ Order/ Contract Agreement, within 30 days of the service of notice to this effect by BBJ.
- (iii) In the event of the LOA/ Contract being rescinded by BBJ under provisions of any of the clause/ condition of the LOA/ Order/ Contract Agreement, the performance guarantee shall stand forfeited in full and shall be absolutely at the disposal of the BBJ.

16. **SECURITY DEPOSIT:**

As security for the proper and faithful fulfilment of the obligation under the order, a Security Deposit equivalent to **5%** (five per cent) of the Total Contract Value shall be deducted and should be kept valid till completion of the 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 successful bidder along with the tender will be retained by the BBJ as part of the Initial Security Deposit. MSME bidder, who were waived off from submission of EMD shall have submit the amount equivalent to EMD as Initial Security Deposit within 15 (fifteen) days from the date of the LOA/Order. The balance amount to make up for the total amount of the Security Deposit may be deposited by the successful bidder in the form of a Demand Draft/ Pay Order or may be recovered by a percentage deduction from the contractor's 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% (five per cent)** of the Contract value and shall be recovered from the bill.
- (ii) The rate of recovery should be at the rate of **10% (ten per cent)** of the gross bill amount till the full security deposit is recovered.

- (iii) Security deposits will be recovered only from the bills of the successful bidder 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 the entire Order plus 12 (twelve) months i.e. after the end of the Defect Liability Period and subsequent to the following:

- a. After passing the final bill based on the "No Claim Certificate" with the approval of the Competent Authority of BBJ.
- 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 successful bidder and that there is no due from the successful bidder to BBJ against the contract concerned.

17. **MAINTENANCE / DEFECT LIABILITY PERIOD**

- a) On completion of delivery of the H-Beam Sleepers along with all fittings & fixtures, the successful bidder shall be responsible for repairing/ replacement of spare parts/ items covering the defects attributable to the H-Beam Sleeper Manufacturer **for a further period of 12 months from the last date of delivery.**
- b) The successful bidder shall make good and remedy at his expenses within such period as stipulated by BBJ, any defect which may develop or may be noticed **before the expiry of 12 months.**
- c) In case the manufacturer fails to make adequate arrangements to rectify the defects within seven (7) days after receipt of Notice from BBJ, necessary arrangements will be made by BBJ to rectify the defects, without further notice to the Manufacturer and the cost of such rectification shall be recovered from the amount & other dues laying at BBJ.

18. **LIQUIDATED DAMAGE:**

- a. The time for the execution of the work shall be deemed to be the essence of the contract and the works must be completed not later than the date(s) as specified in the contract.
- b. If the successful bidder fails to complete the works within the time as specified in the contract for the reasons not attributable to the successful bidder, BBJ may, if satisfied, consider further extension of time without imposing L.D. to complete the work.
- c. If the successful bidder fails to complete the works within the time as specified in the contract for the reasons attributable to the successful bidder, BBJ may, if satisfied that the works can be completed within a reasonable short time thereafter, consider further extension of time with imposing L.D.
- d. On such extension, BBJ will recover from the bills of the successful bidder, as agreed damages, a sum equivalent to 0.5% (zero decimal five per cent) of the contract value per week of delay or part of the week of any supplied equipment/services not delivered within stipulated time period or total order value in case where part delivery is of no use to the BBJ, subject to a maximum limit of 5% (Five per cent) for contract value.
- e. For the purpose of this Clause, the contract value of the works shall be taken as the value of work as per the contract agreement including any supplementary work order/contract agreement issued.
- f. Provided further, that if BBJ is not satisfied that the works can be completed by the Successful bidder and in the event of failure on the part of the successful bidder to complete the work within the further extension of time allowed as aforesaid, BBJ shall be entitled to encash the successful bidder's Security Deposit and revoke Performance guarantee and also rescind the contract, whether or not actual damage is caused by such default.

19. **INSPECTION, TESTING CHARGE & TEST CERTIFICATES:-**

- a) All materials for the work shall pass tests and/or analysis prescribed by the relevant IS specifications or such other equivalent specifications.
- b) All raw materials shall be obtained from recognized manufacturers or their authorized representatives and the successful bidder shall furnish copies of test certificates from that manufacturer including proof sheets, mill sheets etc. showing that the supplied materials have been tested in accordance with the requirements of various specifications and codal provisions and to the satisfaction of BBJ or N.F. Railway or their authorized representative.
- c) Any approval is given by the BBJ or N.F. Railway or their authorized representative in consequence of such tests or analysis shall in no way limit or interfere with the absolute right of the BBJ to reject the whole or part of such materials supplied, which in the judgment of the inspecting authority/Engineer does not comply with the conditions of the contract. The decision of the Engineer in this regard shall be final, binding and conclusive for all purposes.
- d) All expenses involved for Inspection and/or testing shall be borne by the H-Beam Sleeper manufacturer.
- e) The H-Beam Sleeper manufacturer has to provide assistance, instruments, machine, labour and any material which are required for examining, measuring and testing of any materials and workmanship as may be selected and required by BBJ and/or N.F. Railway and/or RDSO and/or RITES and/or their Authorized Representative, without any extra cost to BBJ.
- f) All fittings and fixtures except rubber items are to be inspected by BBJ and/or N.F. Railway and/or RITES and/or their Authorized Representative, without any extra cost to BBJ.
- g) All rubber items are to be procured from RDSO approved sources only.
- h) INSPECTION CALL LETTER along with related documents of raw steel materials etc. should be sent by the H-Beam Sleeper Manufacturer minimum 7 (seven) days in advance at BBJ's registered office at 27, R. N. Mukherjee Road, Kolkata - 700 001.
- i) All Test Certificates for raw materials (both physical and chemical) and finished materials are to be provided and submitted by the H-Beam Sleeper Manufacturer at the time of Inspection and along with supply, without any extra cost to BBJ.
- j) Prior to the manufacture of H-Beam Sleepers, QAP & WPSS prepared by the Agency has to be approved by BBJ and/or N.F. Railway.

20. **SUB-LETTING:**

The successful bidder shall not sub-let the whole or any part of the job as detailed in the Scope of Work of this tender document. In case it is felt absolutely necessary, the same may be allowed subject to prior written approval from Engineer-in-Charge of BBJ.

21. **TERMINATION OF CONTRACT:**

In the event, BBJ finds that the successful Bidder's progress is consistently below the accepted pace based on the program schedule mentioned in this document or fixed by BBJ and/or if the quality of works being executed by the successful Bidder falls below the expected standards laid down by BBJ, in such cases, in the interest of timely and successful completion of the project and to maintain the high quality of work, BBJ reserve the right to delete the Scope of Work of the successful Bidder, or, the entire balance work to be taken away from the successful Bidder and BBJ shall be at liberty to get such works done/executed by any other agency/ agencies. Moreover, BBJ shall not be liable to pay any compensation or make good any damage/s or to effect any other payment to the present successful bidder for any ground whatsoever.

The successful bidder may be debarred from participating in the tender for executing the balance work. If the 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. The defaulting successful bidder shall not be issued any completion certificate for the contract.

All the statutory obligations including maintaining all other local rules & regulations/ rules of local Govt. bodies should abide & comply by the successful Bidder and any consequence comes out from the act or omission of the successful Bidder which can result in stoppage of work or the successful bidder fails to comply any of its respective Contractual obligation(s) within the stipulated time frame, in that event BBJ reserves the right to terminate the contract and to take any action against the successful Bidder (such as forfeiture of EMD/ Security Deposit, encashment of Performance Bank Guarantee, non-payment/ forfeiture of RA Bills etc.) and the decision of BBJ in this respect shall be final.

In the above situations, BBJ reserves the right to issue a notice in writing to that effect and if the successful bidder does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid of the entire satisfaction of the BBJ, then BBJ shall be entitled after giving 48 hours notice in writing to rescind the contract as a whole or in part or parts (as may be specified in such notice) and after the expiry of 48 hours' notice, a final termination notice should be issued by BBJ.

22. **ARBITRATION:**

In case a dispute or difference of any kind whatsoever arises out of or relates to the Contract or ancillary/incidental as to the terms and conditions of it or relates to any matter for execution and/or performance of the contract, between the parties to the Contract, it is a term of the agreement by and between the parties herein that before invoking arbitration, the aggrieved party shall first & foremost refer the matter to the Competent Authority of BBJ and the decision/recommendation/ interpretation made by the said Competent Authority of BBJ shall be final & binding upon both the parties.

If a party is dissatisfied with the decisions/recommendations aforesaid, and notwithstanding anything else contained elsewhere, the aggrieved party may by notice in writing to the Competent Authority of BBJ clearly evince the intention to refer the disputes and differences that have arisen between the parties to Arbitration by the constitution of an Arbitral Tribunal. The Arbitral Tribunal shall consist of three arbitrators, one each to be nominated by the respective parties and the third to be appointed by the nominated arbitrators.

Pending submission of and/or decision on a dispute or difference as aforesaid or until the Arbitral Award is published, the parties (if the Contract is not terminated/cancelled) shall continue to perform all of their obligations under this Agreement and the Contract, without prejudice to a final adjustment in accordance with such award.

The decision of the Arbitral Tribunal arrived at after hearing the parties shall be final and binding upon the parties. The Arbitration Proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactments thereof.

It is also agreed by the parties that the Arbitration Proceedings shall be conducted in English language. The venue of Arbitration shall be at Kolkata only and any proceedings arising out of this Agreement / Contract shall be subject to the jurisdiction of Courts at Kolkata only.

23. **FORCE MAJEURE:**

If any time, during the continuance of this contract, the performance in whole or in part by either party under obligation as per this contract is prevented or delayed by reasons of any war or hostility, an act of the public enemy, civil commotion, sabotage, fire, flood, explosion, epidemic, quarantine restrictions, strike, lockout or acts of God (hereinafter

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
THE BRAITHWAITE BURN AND JESSOP CONSTRUCTION CO. LTD.
(भारत सरकार का एक उद्यम) / (A Government of India Enterprise)

ATC No. ATC/HSB/61.0-78.8M/ADDL/2150/3131/G-29-2023

Date: 14th Feb 2023

referred to as "eventuality"), provided notice of happening of any such eventuality is given by either party to the other within 21 (Twenty) days of the date of occurrence thereof, neither party shall by reason of such an "eventuality" be entitled to terminate this contract nor shall either party have any claim or damages against the other in respect of such non-performance or delay in performance and deliveries under the contract. The contract shall be resumed as soon as practicable after such "eventuality" has come to an end or ceased to exist.

In case of any dispute, the decision of BBJ shall be final and conclusive, provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such eventuality for a period exceeding 60 (Sixty) days, either party may at its options, terminate the contract.

Provided that if the contract is terminated under this clause, the BBJ shall be at liberty to take over from the successful bidder at a price to be fixed by the BBJ, which shall be final, all unused, undamaged and acceptable equipment, bought out components and other stores in the course of manufacture which may be in the possession of the successful bidder at the time of such termination, or such portion thereof as BBJ may deem fit except such equipment, as the successful bidder may, with the concurrence of the BBJ, elect to retain.

(अनिमेष निओगी / ANIMESH NEOGI)
महाप्रबंधक (परियोजना और खरीद)/ General Manager (Project & Purchase)