

FORMAT FOR AFFIDAVIT TO BE SUBMITTED BY TENDERER ALONGWITH THE TENDER DOCUMENTS

(To be executed in presence of Public Notary on non-judicial stamp paper of the value of Rs.100/-.
The stamp paper has to be in the name of the tenderer)**

I (Name and designation)** appointed as the attorney/authorized signatory of the tenderer (including its constituents), M/s. _____ (hereinafter called the tenderer) for the purpose of the Tender documents for the work of _____ as per the Tender No. _____ of The Braithwaite Burn And Jessop Construction Co. Ltd. (BBJ), do hereby solemnly affirm and state on behalf of the tenderer including its constituents as under:

1. I/We the tenderer(s), am/are signing this document after carefully reading the contents.
2. I/We the tenderer(s) also accept all the conditions of the tender and have signed all the pages in confirmation thereof.
3. I/We hereby declare that I/We have downloaded the tender document from BBJ's website www.bbconst.com in and printed the same. I/We have verified the content of the printed document from the website and there is no addition, no deletion or no alteration to the content of the tender document. In case of any discrepancy noticed at any stage i.e. evaluation of tenders, execution of work or final payment of the contract, the master copy available with the BBJ Administration shall be final and binding upon me/us.
4. I/We declare and certify that I/we have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements.
5. I/we also understand that my/our offer will be evaluated based on the documents/credentials submitted along with the offer and same shall be binding upon me/us.

I/We declare that the information and documents submitted along with the tender by me/us are correct and I/we are fully responsible for the correctness of the information and documents, submitted by us.

6. I/We understand that if the certificates regarding eligibility criteria submitted by us are found to be forged/false or incorrect at any time during process for evaluation of tenders, it shall lead to forfeiture of the tender EMD and I/We shall be barred from quoting in the BBJ in individual capacity or as a part of JV, for one year from date of issue of letter intimating about the documents having been found false/invalid/wrong/forged in the light of verification carried out. Further, I/we [insert name of the tenderer]** _____ and all my/our constituents understand that my/our offer shall be summarily rejected.

DEPONENT
SEAL AND SIGNATURE
OF THE TENDERER

VERIFICATION

I/We above named tenderer do hereby solemnly affirm and verify that the contents of my/our above affidavit are true and correct. Nothing has been concealed and no part of it is false.

DEPONENT
SEAL AND SIGNATURE
OF THE TENDERER

Declaration against downloading the tender document from website

- (a) I/We have downloaded the tender form from the Internet site www.bbjconst.com and I/We have not tampered/ modified the tender forms in any manner. In case, if the same is found to be tampered/ modified I/We understand that my/our tender will be summarily rejected and full earnest money deposit will be forfeited and I/we am/are liable to be banned from doing business with Railways and/or prosecuted.
- (b) I hereby declare that all the details as required to be furnished from our side to the Employer (BBJ), while accessing/ downloading the tender document from website have been furnished fully and correctly.
- (c) I/We submitting a demand draft no. dated issued by for Rs..... towards the cost of tender form.

Name

In the capacity of

Signed

Duly authorized to sign the Bid for and on behalf of

Date

NON-JUDICIAL STAMP

MEMORANDUM OF UNDERSTANDING (MOU)

MEMORANDUM OF UNDERSTANDING (MOU) ENTERED INTO AT (place) THIS.....
DAY OF (Month) Year Between

1. (name of firm) having its registered office at (full address) (hereinafter referred to as (say X, short form of firm) acting as the Lead Member of the first part,
And
2. (name of firm) having its registered office at (full address) (hereinafter referred to as (say Y, short form of firm)) in the capacity of first Joint Member of the other part.
And
3. (name of firm) having its registered office at (full address) (hereinafter referred to as (say Z, short form of firm) in the capacity of 2nd Joint Member of the other part.

The expressions of X, Y & Z shall wherever the context admits, mean and include their respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as “the Parties” and individually as “the Party”.

WHEREAS the parties hereto have agreed to enter into a Joint Venture for the purpose of participation in Tender in respect of the project work of ----- (complete name of work to furnish) (hereinafter referred to as “The Work”) mentioned in Tender No. invited by The Braithwaite Burn And Jessop Construction Co. Ltd. (BBJ), having its registered office at 27, Rajendra Nath Mukherjee Road, Kolkata – 700001 (hereinafter referred to as “Employer”).

Whereas in the event the Joint Venture being successful in its bid the parties have agreed to perform the contract in accordance with the agreed terms and conditions and thereof and in the spirit of mutual co-operation to achieve the objective of this Joint Venture to the full satisfaction of the Employer.

Now therefore for and in considerations and covenants hereinafter set forth the parties hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as an integral part of this Joint Venture.
 - (i) Tender Notice and
 - (ii) Tender Document
 - (iii) Any Amendment/ Corrigendum issued by “the Employer”
 - (iv) The tender submitted on our behalf jointly by the JV.
2. The “Parties” have studied the documents and have agreed to participate in submitting a tender jointly under the name “X-Y-Z (JV)” (Name of JV to furnish).
3. X..... (Name of lead Member) shall be the lead member of the JV for all intents and purpose and shall represent the Joint Venture in its dealing with the Employer. For this purpose of submission of bid proposals, the parties agree to nominate Shri..... (name with designation) of (name of the parties to which he belongs) as the leader duly authorized to sign and submit all

documents and subsequent clarifications, if any, to the Employer. However, Shri (name with designation) shall not submit any such proposals, clarifications or commitments before securing the written clearance of the other Members, which shall be expeditiously given by X, Y, Z to A (to be decided internally by the JV member).

4. The "Parties" have resolved that the share of interest /participation in the Joint Venture shall be as under:
 - (a) Lead Member (Who has to be an Indian Firm): at least 51%
 - (b) Other Joint Members I: Not less than 20% in case of JV Firm with up to 3 (three) Members and not less than 10% each of JV Firm with more than 3 (three) Members.

5. JOINT AND SEVERAL RESPONSIBILITIES

The Parties undertake that they shall be jointly and severally legally liable to the Employer in the discharge of all the obligations and liabilities as per the contract with the Employer and for execution of project in accordance with General and Special Conditions of the Contract if the work is awarded to their JV. The parties shall be jointly and severally liable & responsible for fulfilling the obligations of the tender/ tender document.

The parties shall also be liable jointly and severally for the loss, damages caused to the BBJ/Railway during the course of execution of the contract or due to non-execution of the contract or part thereof.

6. ASSIGNMENT AND THIRD PARTIES.

The parties shall co-operate throughout the entire period of this JV on the basis of exclusivity and neither of the Parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the present "Work".

7. EXECUTIVE AUTHORITY

The said Joint Venture Firm through its authorized representative shall receive instructions, payments from the Employer. The management structure for the project shall be prepared by mutual consultations to enable completion of project to quality requirements within permitted cost and time.

8. GUARANTEES AND BONDS

The Bank Guarantees, Earnest Money deposit etc and other Bond shall be furnished jointly by all the parties in the name of Joint Venture Firm and that shall be legally binding on all the partners of the Joint Venture.

9. BID SUBMISSION

Each Party shall bear its own cost and expenses for preparation and submission of the bid and all costs until conclusion of a contract with the Employer for the Project.

10.0 INDEMNITY

Each party hereto agrees to indemnify the other party against its respective parts in case of breach/ default of the respective party of the contract works of any liabilities sustained by the Joint Venture.

11.0 For the execution of the respective portions of works, the parties shall make their own arrangements as per mutual agreement/understanding between them from time to time to bring the required finance, plants and equipment, materials, manpower and other resources.

12.0 VALIDITY

This MOU shall remain in force till the occurrence of the earliest to occur of the following, unless by mutual consent, the Parties agree in writing to extend the validity for a further period. The bid submitted by the Joint Venture is declared unsuccessful, or Cancellation/ shelving of the Project by the Employer for any reasons prior to award of work.

Execution of detailed JV agreement by the parties, setting out detailed terms after award of work by the Employer.

13. The parties undertake not to make any modification/ alteration/ termination the MOU of Joint Venture during the validity of the tender.

14. The parties undertake not to make any changes in this Joint Venture or terminate this Joint Venture, after submission of the tender bid except when modification becomes inevitable due to successive laws etc., without prior written consent of the Employer. The parties further undertake that in any case Lead Member shall continue to be the Lead Member of the JV.

15. All the members of the JV Firm (name of Joint Venture Firm) certify that the parties are not black listed or debarred by Railways or any other Ministry/ Department/ PSU (Public Sector Undertaking) of the Govt. of India/ State Govt. from participation in tenders/ contract on the date of opening of bids either in their individual capacity or as a member of the JV Firm in which they were/ are members.

16. This JV shall be construed under the laws of India.

Now the parties have joined hand to form the Joint Venture (MOU) on this day of (month) two thousand (Year) with reference to and in confirmation of their discussions and understanding brought on record on (Day).

Lead Member

First Joint Member

Second Joint Member

(Name of signatory with designation and name of firm should be furnished)

IN WITNESS WHEREOF THE PARTIES, have executed this JV the day, month and year first before written.

Witness

- 1.
- 2.
- 3.

NON-JUDICIAL STAMP

JOINT VENTURE /CONSORTIUM AGREEMENT

This Joint Venture/ Consortium Agreement executed at (Name of place) on this day of (month & year) between M/s. X (name of firm) M/s. Y..... (name of firm) and M/s. Z (name of firm) wherein Registered office of 1st, 2nd and 3rd party is at respectively represented through their constituted attorney..... for the 2nd party and for the third party..... (The expression and words of the first, 2nd and 3rd party shall mean and include their heirs, successors, assigns, nominee's execution, administrators and legal representative respectively).

WHEREAS the parties herein above mentioned are desirous of entering into a Joint Venture/ Consortium for submitting bid document and if contract awarded, carrying on Engineering and/ or contract works, in connection with "Tender for (name of work with tender no./ Tender notice No.) as mutually decided between the parties of this Joint Venture/ Consortium.

NOW THIS AGREEMENT WITNESSES AS UNDER:

1. That in and under this Joint Venture/Consortium Agreement the work will be done jointly in the name and style of M/s (Joint Venture/Consortium of M/s. X, Y, Z, with address).
2. That all the parties shall be jointly and severally legally liable to the Employer in the discharge of all the obligations and liabilities as per the Contract with the Employer and severally and jointly responsible for the satisfactory/ successful execution/ completion of the work in all respects and in accordance with terms & General and Special Conditions of the Contract irrespective of share and role specified in JV agreement. All the parties shall be jointly and severally liable and responsible for fulfilling the obligations of the tender/ bid document.

All the parties shall also be liable jointly and severally for the loss, damage caused to the Railway during the course of execution of the contract or due to non-execution of the contract or part thereof.

3. That the role and responsibility of each constituent of the said Joint Venture/ Consortium in details, covering all aspects of the planning and successful completion of the work shall be as under:
The First Party shall be responsible for (details may be furnished)
The Second Party shall be responsible for (details may be furnished)
The Third Party shall be responsible for (details may be furnished)
4. The share of interest/ participation, profit & loss of each constituent of the said Joint Venture/ Consortium shall be as under:
(a) Lead Partner: at least 51%
(b) Joint Venture Partner – I: Not less than 20%
(c) Joint Venture Partner-II: Not less than 20%
5. That the parties of this Joint Venture/ Consortium shall depute sufficient no. of experienced staff as committed to commensurate with their role and responsibilities and as required for the successful completion of the works in close consultation with each other.
6. That the financial investment and other resources required for the successful execution/ completion of work under this Joint Venture/ Consortium shall be brought in by the parties as per mutual agreement/ understanding between them from time to time.

7. That all the Bank Guarantees like Performance Guarantee, Bank Guarantee for Mobilisation advance, machinery advance etc shall be furnished jointly by all the parties in the name of Joint Venture/ Consortium only.
8. That all the parties nominate and authorize Shri (Name of representative) of (name of firm) as the representative of the JV and to sign the tender, Contract Agreement in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and all letter correspondence related to the above-mentioned work on behalf of the Joint Venture.
9. That all the above noted parties i.e. M/s. X, Y & Z undertake not to make any changes in this Joint Venture/ Consortium agreement during the currency of contract except when modification becomes inevitable due to successive laws etc. without prior consent of the Employer. The parties further undertake that in any case Lead Member shall continue to be the Lead Member of the JV.
10. That all the parties undertake that 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 (BBJ) in respect of the said tender/contract.
11. That all the members of the JV certify that they have not been black listed or debarred by Railways or any other Ministry/ Department of the /PSU (Public Sector Undertaking) Govt. of India/ State Govt. from participation in tenders/ contract on the date of opening of bids either in their individual capacity or as a member of the JV firm in which they were/are members.
12. That Joint Venture agreement 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.
13. That the Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
14. That this Joint Venture Agreement is pursuant the MOU entered in to at (Place) this (Day) of (month)(Year) between above noted parties.

NOW THE PARTIES HAVE JOINED HANDS TO FORM THIS JOINT VENTURE / CONSORTIUM ON THIS DAY OF WITH REFERENCE TO AND IN CONFIRMATION OF THEIR DISCUSSIONS AND UNDERSTANDING BROUGHT ON RECORD ON (Date).

IN WITNESS THEREOF THE ABOVE-NAMED PARTIES HAVE SET THEIR RESPECTIVE HANDS ON THIS JOINT VENTURE/ CONSORTIUM AGREEMENT ON THE DAY, MONTH AND YEAR FIRST ABOVE MENTIONED IN THE PRESENCE OF THE FOLLOWING WITNESS:

WITNESS:

- | | |
|----|--------------|
| 1. | First Party |
| 2. | Second Party |
| 3. | Third Party |