

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

27, RAJENDRANATH MUKHERJEE ROAD, KOLKATA - 700 001 (WEST BENGAL)
PHONE NO. (033) 2248 5841-44; FAX: (033) 2210 3961
E-MAIL: info.bbjconst@bbjconst.com

ATC NO.	ATC/PAINT/D-2183-2184/2154/3135/G-70-2023	DATE	May 16, 2023
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ई-निविदा आमंत्रित करने की सूचना / NOTICE INVITING e-TENDER

e-Tenders under a **two-part bidding system** (i.e., Techno-Commercial & Price Bid) are invited from reputed Paint Manufacturers/ Authorised Dealer who are technically & financially capable for supplying of Industrial Paints as per "**Scope of work**"/ "**BOQ**" and who will fulfil the Qualifying Requirements (QR) given under are eligible to quote against the above NIT:

01.	NAME OF THE WORK	SUPPLY OF DIFFERENT TYPES OF INDUSTRIAL PAINTS – ZINC CHROME PRIMER (IS:104), WASH PRIMER (IS:5666) AND ALUMINIUM PAINT (IS:2339) FOR GANGA BRIDGE PROJET, PRAYAGRAJ/ OFFERS ARE TO BE RECEIVED ONLY FROM THE FOLLOWING MANUFACTURERS OR THEIR AUTHORISED DEALERS: I) BRITISH/ BERGER PAINTS II) SHALIMAR PAINTS III) ICI PAINTS IV) KANSAI NEROLAC PAINTS LTD.
02.	QUANTITY	AS PER THE BILL OF QUANTITY (BOQ)
03.	COST OF TENDER DOCUMENT (NON-REFUNDABLE)	NIL
04.	EARNEST MONEY DEPOSIT (EMD)	RS.1,00,000/- (RUPEES ONE LAKH ONLY) IN THE FORM OF DEMAND DRAFT/PAY ORDER/ NEFT/ RTGS IN FAVOUR OF "THE BRAITHWAITE BURN AND JESSOP CONSTRUCTION COMPANY LIMITED" PAYABLE AT KOLKATA. MSME/ NSIC/ SSI UNITS WILL BE WAIVED FROM SUBMITTING EMD SUBJECT TO SUBMISSION OF DECLARATION OF THEIR UDYOG AADHAR MEMORANDUM (UAM) ON THE PORTAL.
05.	MODE OF SUBMISSION	Online through Government e-Marketplace Portal 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.

(सौभिक भट्टाचार्य /Souvik Bhattacharya)
पर्यवेक्षक (खरीद और आईटी / सामग्री)/ Supervisor (M/P & IT)

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निविदाकर्ता को निर्देश/ INSTRUCTION TO TENDERER

1.0 REGISTRATION OF CONTRACTOR

Any contractor 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) shall have to be submitted to this office physically along with the EMD& Tender Fee.**

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 **₹1,00,000/-** (Rupees one 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 entire order 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 to the Portal and submitted along with the bid.

(b) GST Registration Certificate

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
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Date: May 16, 2023

- (c) Copy of PAN CARD
- (d) Documents as per eligibility criteria.
- (e) Copy of Authorized Dealer Certificate.
- (f) Shelf life.
- (g) Covering area with DFT.
- (h) Signed copy of tender/ATC documents.
- (i) Declaration from OEM/ Manufacturer towards Zinc Chrome to be used in the manufacture of Primer shall conform to Type-2 of IS:51.
- (j) Manufacturer/OEM and/or the Authorized Dealer of "**British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd.**" will be eligible to participate in the Bid.
- (k) Copy of valid Dealership Certificate/ Authorization Letter issued by "**British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd.**" (applicable only for valid Authorized Dealer of "British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd.").
- (l) Declaration from OEM/ Manufacturer towards supply of IS quality paints. Please note that Performance Quality paints shall not be accepted.

ii) **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 & acceptable to BBJ. HSN/SAC code must be provided against each BOQ item.**

5.0 **Conditional tenders and/or tenders with Deviations shall be straightway rejected and no additional clause will be entertained.**

6.0 **INTEGRITY PACT:**

The Bidder/ Contractor is required to enter into an Integrity Pact with BBJ, in the Format at Annexure-I. The Integrity Pact enclosed as Annexure-I will be signed by BBJ for and on behalf of Employer as its Agent / Power of Attorney Holder at the time of execution of Agreement with the successful Bidder. While submitting the Bid, the Integrity Pact shall be signed by the duly authorized signatory of the Bidder. In case of failure to submit the Integrity Pact duly signed and witnessed, along with the Bid, the Bid is likely to be rejected.

In case of any contradiction between the Terms and Conditions of the Bid Document and the Integrity Pact, the former will prevail. For monitoring of the Integrity Pact, BBJ has appointed the following eminent personality as Independent External Monitor(s) (IEM):

Shri S. Srinivasan IAS (Retd.) Flat No. D 5 - 107, Block No. 5, V Floor, Kendriya Vihar, B.B. Road (Bangalore - Bellary Road), Yelahanka, Bangaluru – 64. Karnataka e-Mail: s.srinivasan1980@gmail.com	Dr. M. N. Krishnamurthy, IPS DGP (Retd.) 910, 3rd Cross 9th Main, HRBR Layout, Kalyan Nagar, 1st Block. Bengaluru-560043. Karnataka e-Mail: krishnamurthymn19@gmail.com
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7.0 **BBJ administration reserves the right to accept or reject any or all of the tenders and split the scope of supply into more than one agency(ies) without assigning any reason whatsoever. No claim will be entertained on account of this. However, in the case of**

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splitting, the L1 bidder will get 60% (sixty per cent) or more of the total quantity, depending upon the requirement of BBJ.

- 8.0 **VALIDITY OF TENDER: 90 (ninety) days** from the date of opening of tender or for a further period if mutually accepted in writing.
- 9.0 The Bidder should sign and stamp on each page of the bid document. Overwriting is not allowed.
- 10.0 Any information furnished by the bidder subsequently found to be incorrect would render the bidder in-eligible for the present bid and will be debarred from bidding or taking up any work with BBJ in future.
- 11.0 **Important Notes:**
BBJ reserves the right to:
- Accept or reject any bid received at its discretion without assigning any reasons whatsoever.
 - Increase/ decrease/ alter the job description/ scope of work with the corresponding change in the value of the contract.
 - Postpone or extend the above-mentioned date, split and distribute the work among more than one contractor without assigning any reason whatsoever.
 - May ask for further qualification during techno commercial scrutiny of bids received.
 - BBJ shall not be responsible for any delay, loss or damage to the bids sent by post.
 - 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.
 - 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.
 - 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.

(सौभिक भट्टाचार्य / Souvik Bhattacharya)
पर्यवेक्षक (खरीद और आईटी / सामग्री)/ Supervisor (M/P & IT)

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अनुबंध की विशेष शर्तें / 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/ Transporter/ 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/SUPPLIER"** shall mean the person, firm or Company (hereinafter called Tenderer) whose Tender has been accepted by BBJ.
- (e) **"SUCCESSFUL BIDDER/SUPPLIER"** whose tender has been finally accepted by BBJ.

2. ELIGIBILITY CRITERIA:

- (a) Manufacturer/OEM and/or the Authorized Dealer of **"British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd."** will be eligible to participate in the Bid.
- (b) Copy of valid Dealership Certificate/ Authorization Letter issued by **"British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd."** (applicable only for valid Authorized Dealer of "British-Berger Paints/ Shalimar Paints/ ICI Paints/ Kansai Nerolac Paints Ltd.").

3. EARNEST MONEY DEPOSIT:

Deposit of Earnest Money amounting to **₹1,00,000/-** (Rupees one lakh only) may be made in the form of NEFT/ RTGS/ Demand Draft/ Pay Order 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 the 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) submitted without EMD or with less deposit of EMD than specified in the Techno-Commercial bid shall be rejected. EMD will be converted to Initial Security Deposit and will be kept till the completion of the entire Order by the successful bidder. For unsuccessful bidders, EMD shall be refunded immediately after the finalization of the tender. EMD shall be interest-free.

4. SCOPE OF SUPPLY:

- i) Zinc Chrome Primer conforming to IS: 104 – 17,000 litres.
- ii) Wash Primer conforming to IS: 5666 – 5,000 litres.
- iii) Aluminium Paint conforming to IS: 2339 – 7,500 litres.

Detailed as per Technical Specification at Annexure-A.

5. COMPLETION PERIOD

Entire supply to be completed within **90 (ninety) days** from the date of Contract/ LOA/ Order, whichever is earlier.

Paints should not be more than one month older from the date of manufacturing.

6. EXTENSION OF COMPLETION PERIOD:

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

7. DELIVERY SCHEDULE:

Delivery to be made in **02 (two)** phases:

- i) **50%** (fifty percent) of the total quantity (item wise) to be delivered within **45 (forty-five) days** from the date of the order/ contract.
- ii) **Balance 50%** (fifty percent) of the total quantity (item wise) to be delivered within **90 (ninety) days** from the date of the order/ contract or as per the instruction of Site In-Charge, Prayagraj.

8. SHIP TO & BILL TO/ DELIVERY LOCATION

Total quantity to be delivered in the following location.

The Braithwaite Burn and Jessop Construction Co. Ltd.
(A Govt. of India Enterprise)
Ganga Bridge Project,
Katka Road (Old G.T. Road),
Near Jhunsi Railway Station,
PO: Jhunsi, Dist: Prayagraj,
Pin: 211019(UP).
BBJ GST No. 09AAACT9760B1ZA

9. VARIATION IN QUANTITIES:

Variation will be within $\pm 50\%$ of the ordered quantity.

10. QUALITY:

The following is to be mentioned for each type of Paint:

- a) Shelf life.
- b) Covering area with DFT.
- c) Ready Mixed Zinc Chrome Primer as per IS: 104 with additional provision that Zinc Chrome to be used in the manufacture of Primer shall conform to Type-2 of IS:51.
- d) Wash Primer conforming to IS:5666.
- e) Aluminum Paint conforming to IS:2339.

11. The manufacturing date of the paints should not be more than 01 (one) month old at the time of delivery.

12. INSPECTION & TESTING:

Manufacturer's Test Certificate & by BBJ/ RVNL/ RVNL's Approved Agency.

The following aspects may be noted in this regard:

- a) In addition to the above, random samples of the Paints shall be collected by BBJ/ RVNL/ RVNL's Approved Agency for Third-Party Testing by NABL accredited Laboratory at any stage to confirm the fulfilment of the acceptance criteria.
- b) In case of rejection of Paints at any stage by any of the above inspection agencies, the defective lot/lots of Paints must be replaced by the supplier/successful bidder with a fresh lot

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ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

for further inspection and testing by the inspection agency nominated by BBJ within a reasonable time without any extra cost to BBJ. Inspection and test report clearing this replacement lot with acceptable test results as per relevant IS codes and confirming all the requirements must be submitted before dispatch. An inspection certificate shall not absolve the supplier/successful bidder from replenishing defective Paints at any stage.

- c) Inspection Charges will be reimbursed by BBJ at actual on submission of all the relevant documentary evidence along with the bill against delivery, subject to acceptance of the lot by the inspection agency.

13. PAYMENT TERMS:

100% (one hundred percent) payment shall be made within 45 (forty-five) days after submission of Bill along with MTC and certification thereof by the concerned official, whichever is later.

14. RATE

The bidder must submit their offer strictly as per the Bill of Quantities. **The bidder must quote the Basic Rate including all other taxes & duties (including GST) and delivery charges at the site for the items mentioned in BOQ.** The price must be firm during the tenure of this contract and no escalation on any account will be allowed.

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 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.

15. SECURITY DEPOSIT:

Security Deposit (SD) shall be **5%** (five percent) of the contract value. EMD deposited by the successful bidder along with the tender will be retained by the BBJ as part of Initial Security Deposit. MSME bidders who were exempted from submission of EMD, shall have to submit Initial Security Deposit for the amount equivalent to EMD within 15 (fifteen) days from the date of issue of Order/ Contract. 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/ NEFT/ RTGS or may be recovered as percentage deduction @10% (ten percent) of the bill amount till the full SD is recovered.

SD shall be returned to the successful bidder after completion of the entire Order and plus 60 days.

16. LIQUIDATED DAMAGE:

If the successful bidder fails to supply the quantity within the stipulated delivery period, as mentioned in the order, 0.5% (zero point five percent) of the order value will be deducted from the bill/invoice for per week of delay or part thereof, subject to a maximum of 5% (five percent) of the total order value.

17. 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 &

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ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

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.

18. 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. **Bidders shall quote their rate after considering the input tax credit on their input materials and services.**
- b) In case the transfer of property or goods is involved 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) Bidders 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.

19. 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.

20. INDEMNITY:

The Bidder shall indemnify BBJ against all claims in respect of their contractual obligations and also for their non-compliance of any statutory rules/ obligations/ laws taxes and duties etc.

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 shall 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 the all other local rules & regulations/ rules of

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local Govt. bodies should be abide by & complied by the successful Bidder and any consequence comes out from the act or omission of the successful Bidder which can result 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 to 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 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, the act of the public enemy, civil commotion, sabotage, fire, flood, explosion, epidemic, quarantine restrictions, strike, lockout or acts of God (hereinafter referred to as "eventuality"), provided notice of happening of any such eventuality is given by either party to the other within

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ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

21 (Twenty) days of the date of occurrence thereof, neither party shall because 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 because 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, BBJ shall be at liberty to take over from the successful bidder at a price to be fixed by 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 BBJ, elect to retain.

24. JURISDICTION OF COURT:

The Courts at Kolkata shall have the exclusive jurisdiction to try all disputes, if any, arising out of this agreement between the parties.

25. ORDER OF PRIORITY OF CONTRACT 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:

- Work order
- Letter of Award (LOA)
- Schedule of Items, Rates & Quantities
- Special Conditions of the Contract (SCC)
- Technical Specifications (TS)
- Scope of Work (SOW)
- Drawings
- Notice Inviting Tender
- Instructions to the Bidders (IB)
- General Conditions of Contract

26. IMPORTANT NOTES:

BBJ reserves the right to:

- a) 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.
- b) Accept or reject any bid received at its discretion without assigning any reasons whatsoever.
- c) Increase/ decrease/ alter the job description/ scope of work with a corresponding change in the value of the contract.
- d) Postpone or extend the above-mentioned date, split and distribute the work among more than one bidder without assigning any reason whatsoever.
- e) May ask for further qualification during techno commercial scrutiny of bids received.
- f) BBJ shall not be responsible for any delay, loss or damage for bids sent by post.
- g) 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.

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

- h) 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.
- i) 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 an application.
- j) The supplier will stand a guarantee for the quality supplied item. If the supplied quantity is found defective, the defective quantity is to be replaced by the supplier at their risk and cost.
- a. The quoted rate should be inclusive of all taxes and Delivery charges at our Site including Goods & Service Tax.

(सौभिक भट्टाचार्य /Souvik Bhattacharya)
पर्यवेक्षक (खरीद और आईटी / सामग्री)/ Supervisor (M/P & IT)

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

पूर्व-अनुबंध अखंडता संधि / PRE-CONTRACT INTEGRITY PACT

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/Seller" 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 execute for this eNIT and the BIDDER/Seller 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 preventing 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.
- 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

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

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 advantages, 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 advantages, 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.
 - 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 thorough 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.

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

- 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 the Companies Act 2013.
- 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 an 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 Deposit (Security Deposit)**

- 5.1 While submitting a commercial bid, the BIDDER shall deposit an amount of Rs. _____ (Rupees _____) as Earnest Money /Security Deposit, with the BUYER through any of the following instruments:
- (i) 'Demand Draft' or 'Pay Order' in favour of "The Braithwaite Burn and Jessop Construction Company Limited." payable at "Kolkata".
- (ii) A confirmed guarantee by an Indian Nationalised/Schedule 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.
- 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.
- 5.3 In case of the successful BIDDER, a clause would also be incorporated in the Article pertaining to Performance Bond in the Work 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 a 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 anyone 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.

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

- (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 processes 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 a 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 anyone 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.
- 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 sub-systems 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 parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.

दी ब्रेथवेट बर्न एंड जेसप कंस्ट्रक्शन कंपनी लिमिटेड
The Braithwaite Burn And Jessop Construction Company Limited
(भारत सरकार का एक उद्यम)/ (A Government of India Enterprise)

ATC/PAINT/D-2183-2184/2154/3135/G-70-2023

Date: May 16, 2023

- 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 amongst all 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.
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 5 (five) years 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

Name of the Officer: _____
Designation: _____

Witness

1. _____
2. _____

BIDDER

CHIEF EXECUTIVE OFFICER

Witness

1. _____
2. _____

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