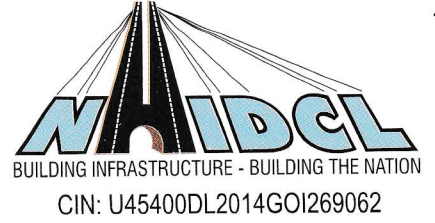


राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड

सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार
तीसरी मंजिल, पीटीआई बिल्डिंग, 4-संसद मार्ग, नई दिल्ली-110001

National Highways & Infrastructure Development Corporation Limited

Ministry of Road Transport & Highways, Govt. of India
3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, +91 11 23461600, www.nhidcl.com



(भारत सरकार का उद्यम)

(A Government of India Enterprise)

NHIDCL/NH-144A-J&K/Pkg-III/(20.350km)/170353/2022-23/10

22.11.2022

To,

M/s TARMAT Ltd.
General A.K. Vaidya Marg,
Near Wageshwari Mandir,
Off Film City Road,
Goregaon East, Mumbai - 400063

Sub : Declaring M/s TARMAT Ltd. as Non-Performer in National Highways and centrally sponsored road projects.

Sir,

National Highways & Infrastructure Development Corporation Limited (hereinafter referred as "NHIDCL or Authority") and M/s TARMAT Ltd. (hereinafter referred as "EPC Contractor") signed an EPC Agreement on 07.06.2019 for the work of "Up-gradation to 4-lane with paved shoulders of Jammu Akhnoor section of NH-144A from Ganesh Vihar (Km 6+000) to Khati Chowk (Km 26.350) of 20.350 Km in the UT of Jammu & Kashmir to be executed on EPC basis (Pkg-III)" at the contract price of 193.99 Cr., with completion period of 24 months commencing from the Appointed Date i.e. 12.07.2019 till the project's scheduled completion date i.e. 11.07.2021 on the terms, conditions and covenants contained in the Contract Agreement which are in force and remains effective.

2. The EPC Contractor in complete disregard to the contractual stipulations has achieved only 59% physical progress & 55.33% financial progress as on 30.09.2022, due to the reasons, defaults and breaches which are attributable to the EPC Contractor.

3. **WHEREAS**, a cure notice was issued to the EPC contractor vide RO Jammu letter no. NHIDCL/RO(JMU)/J-A/PKG-III/18(5)/2021-22/1744 dated 03.01.2022, to cure and remedy the default viz. slow progress and non-achievement of targets communicated by RO, Jammu within 60 days. The defaults were not cured and the reply submitted by the EPC Contractor vide letter dated 28.02.2022 was not found acceptable by RO, Jammu.

4. **WHEREAS**, RO Jammu vide letter no. NHIDCL/RO(JMU)/J-A/PKG-III/18(5)/2022-23/16 dated 04.04.2022 issued the Show Cause Notice to declare the EPC contractor as Non-performer as per MoRT&H Circular no. RW/NH-33044/76/2021-S&R(P&B) dated 06.10.2021. The EPC Contractor submitted his reply vide letter dated 19.04.2022. Same was not found tenable by ED(P) RO Jammu.

5. **WHEREAS**, EPC Contractor has continuously failed to achieve the targets communicated from time to time. The details of physical and financial progress achieved in each month of 2022 by the EPC contractor are as follows :-

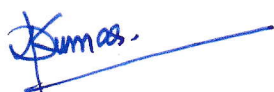
[Handwritten Signature]

Sl. No.	Month	Physical progress achieved in month (%)	Financial progress achieved in month (%)
1	January 2022	0.51	1.55
2	February 2022	2.04	0
3	March 2022	3.88	0.75
4	April 2022	1.23	1.82
5	May 2022	3.7	0.73
6	June 2022	1.24	4.27
7	July 2022	0.63	3.06
8	August 2022	1.06	0
9	September 2022	0.97	2.08

6. **WHEREAS**, during COVID - 19 pandemic, the Authority has made considerable relaxations to the EPC Contractor, under the "Atmanirbhar" relief measures viz. relaxation of Schedule-H. However, no improvement in the progress and efforts of the EPC Contractor has been witnessed at site. Moreover, the EPC Contractor has failed miserably to carry out the maintenance works of the existing highway as per the requirement under Article 10 of the Contract Agreement and failed to discharge its obligations as per the Contract Agreement due to negligence in performance of duties.

7. **WHEREAS**, the EPC Contractor has been non-performing on the following reasons as per MoRT&H Circular no. RW/NH-33044/76/2021-S&R(P&B) dated 06.10.2021 "*Standard Operating Procedure to debar/penalize/declare the Contractor/Concessionaire as Non Performer in National Highways and other Centrally Sponsored Road Projects*" vide which MoRT&H has pointed out the various parameters owing to which the EPC Contractor may be declared as a 'Non Performer' :-

- i. Sl. No. 1 - Failure to set up institutional mechanism and procedure as per contract.
- ii. Sl. No. 2 - Fails to complete or has missed any milestone and progress not commensurate with contiguous and unencumbered project length/ROW available even after a lapse of 6 months from respective project milestone/Schedule completion date unless extension of time has been granted due to Authority's default or Force Majeure.
- iii. Sl. No. 4 - Fails to achieve the target progress or complete the progress as per schedule agreed at the time of sanctioning of funds under One Time Funds Infusion (OTFI) or relaxations to contract conditions to improve cash flow solely on account of Concessionaire's failure or default.
- iv. Sl. No. 5 - (a) Fails to complete rectifications (excluding minor rectifications) as per time given in Non-Conformity Reports (NCR) in design/completed works/maintenance or reported in Inspection Reports issued by Quality Inspectors deployed by the Authority or Officers of the Authority. (b) Fails to complete minor rectifications exceeding 3 instances in a project not completed as per time given in Non-Conformity Reports (NCR) in design/completed works/maintenance.
- v. Sl. No. 6 - Fails to complete minor rectifications exceeding 3 instances in a project not completed as per time given in Non-Conformity Reports (NCR) in design/completed works/maintenance.



8. **WHEREAS**, NHIDCL has extended its full cooperation, all the facilities and advances to the EPC Contractor as liberally as possible. However, the EPC Contractor has not shown any indication to put its house in order and live up to the commitment made while signing the Contract Agreement and the review meetings.

9. **WHEREAS**, inspite of repeated notices issued to the EPC Contractor with regard to the slow progress of work & likely non-achievement of Milestone-III on the revised date as per the EOT and failure in achievement of targets communicated by Authority in various review meetings, the same have proved to be a futile exercise and could not yield the desired results from M/s TARMAT Ltd.

10. **THEREFORE**, in view of the foregoing, it is clearly evident that the EPC Contractor has failed to uphold its contractual obligations as per the Contract Agreement and has caused detrimental effect on the projects under it. In light of the aforesaid facts and circumstances, considering the non-professional attitude of M/s TARMAT Ltd. and aforesaid contractual defaults, breaches, and willful non-performance in fulfillment of Contractor's obligations as per the provisions of the Contract Agreement and blaming the Authority for its own accountabilities, the National Highways & Infrastructure Development Corporation Limited is hereby declaring the EPC Contractor M/s Tarmat Ltd. as Non-Performer in National Highways and centrally sponsored road projects as per MoRT&H Circular No. RW/NH-33044/76/2021-S&R (P&B), dated 06.10.2021.

11. **WHEREAS**, the Authority is declaring the EPC Contractor, M/s TARMAT Ltd. as non-performer & as per Para-8 of MoRT&H circular dated 06.10.2021 - *"Upon Declaration of non-performer, the EPC Contractor will not be able to participate in any bid with MoRT&H or its executing agencies, till such time the EPC Contractor is removed from the list of non-performers"*.

12. This issues with approval of the Competent Authority.



Devender Kumar
Dy. General Manager (Tech.)

Copy for kind information :

- i. The Director General (RD) & SS, MoRT&H.
- ii. The Director General (Border Roads), New Delhi.
- iii. The Chairman, NHAI, Delhi.
- iv. The Chief Secretaries (PWD/Roads) of all State Govt./UT with National Highways and Centrally Sponsored Schemes.

- v. The Chief Engineers (PWD/Roads) of all State Govt./UT with National Highways and Centrally Sponsored Schemes.
- vi. Joint Secretary, NHIDCL Cell, MoRT&H.
- vii. All ED (T/P), NHIDCL.
- viii. PS to MD, NHIDCL, New Delhi.
- ix. PS to Director (Tech), NHIDCL, New Delhi.
- x. Sr. Manager (IT), NHIDCL-HQ, New Delhi - with a request to put the notice on the website and give wide publicity.

Kumar