



*मध्य बेलवे*

**CENTRAL RAILWAY**

**TENDER No.:**

**C&M/47/Procurement/364**

Annual Maintenance Contract (AMC) for “Abrasive Cut-Off  
Machine”

*यांत्रिक विभाग*

**MECHANICAL – DEPARTMENT**

**TENDER FORM**

**ISSUED TO: M/s.....**

.....

**Tender closing at 11.00 hrs. on 22.08.2017**

**Tender opening at 11.15 hrs. on 22.08.2017**

**PRICE: Rs.1000/-**

**RLY. Bd.'s Authority No. 88/CE-I/CT/I/Vol.-II dt. 06-02-98**

**TENDER NOTICE**

Chief Workshop Manager, Central Railway Loco Workshop, Parel, Mumbai-400 012 for and on behalf of the President of India invites open tender in sealed covers on prescribed form, from reputed contractors for below detailed work.

**Tender Notice No.** C&M/47/Procurement/364

**Name of work:** 'Annual Maintenance Contract (AMC) for "Abrasive Cut-Off Machine".

**Completion period:** 'Five year' from the date of issue of Letter of Acceptance.

**Estimated cost :** Rs. 3,70,000/-

**Cost of tender form :** Rs.1000/-

**Validity of offer :** 120 days from the date of tender opening.

**Earnest Money :** Rs.7,400/-

**Sale of tender forms:** Tender documents will be available for sale from the Chief Office Supdtt., Tender Cell, 3<sup>rd</sup> floor, office of the Chief Workshop Manager, Central Railway, Parel, Mumbai-12 on all working days from 09.00 hrs. to 15.00 hrs. between **21.7.2017 to 21.08.2017** on payment of Rs.1000/-.

**Tender closing / opening:** Tender will be closed at **11.00 hrs. On 22.08.2017 and opened at 11.15 hrs. On 22.08.2017.**

**Website address:** [www.cr.indianrailways.gov.in](http://www.cr.indianrailways.gov.in) and <http://tenders.gov.in> You can also download the Tender form from above given website. In case of submission of tender offer in tender document downloaded from the website in PDF format, the cost of tender document i.e. Rs.1000/- should be paid with the Chief Cashier, CST Mumbai or Chief Booking Supervisor, C.Rly, CST Mumbai or else tender cost can be paid vide DD/PO in favor of Chief Cashier, CST Mumbai and the original money receipt/DD/PO to that effect should be attached with the tender failing which the tender shall be summarily rejected. **Tender cost should not be merged with Earnest Money deposit.**

Tenderers may carefully note that their contract agreement for this work is liable to be terminated at any time later, in case any of the information furnished by them is found to be untrue or any adverse points come to light subsequently. The decision of Railways in this regard shall be final and binding.

14/7/2017  
PAREL

sd/-  
CHIEF WORKSHOP MANAGER

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**REGULATIONS FOR TENDERS AND CONTRACTS  
FOR THE GUIDANCE OF ENGINEERS AND CONTRACTORS  
FOR ENGINEERING WORKS**

**MEANING OF TERMS**

- 1.1 These Regulations for Tenders and Contracts shall be read in conjunction with the General conditions of Contract which are referred to herein and shall be subject to modifications, additions or supersede by special conditions of contract and/or special specifications, if any annexed to the Tender Forms.
- 1.2 **Definition:** In these Regulations for Tenders and Contracts the following terms shall have the meaning assigned here under except where the context otherwise requires:--
- (a) **“Railway”** shall mean the President of the Republic of India or the Administrative Officers of the Central Railway or of the Successor Railway authorized to deal with any matters which these presents are concerned on his behalf.
  - (b) **“General Manager”** shall mean the officer incharge for the general Superintendence and control of the Railway and shall also include the General Manager and shall mean and include their successors, of the Successors Railway.
  - (c) **“Chief Engineer”** shall mean the Officer In-charge of the Mechanical Department of Central Railway i.e. Chief Mechanical Engineer of Central Railway and shall also include the Chief Workshop Engineer and shall mean and include their successors, of the successor Railway.
  - (d) **“Divisional Railway Manager”** shall mean the Administrative Officer in charge of a Division of Central Railway for the time being and shall mean and include the Divisional Railway Manager of the successor Railway.
  - (e) **“Chief Workshop Manager”** shall mean the officer In-charge of the Mechanical / Electrical Engineering Department of Central Railway (Parel workshop) and shall mean and include the Successor Railway.
  - (f) **“Engineer”** shall mean the Executive Engineer in executive charge of the works and shall include the superior officers of the Mechanical / Electrical Engineering Department of i.e. Dy. Chief Chemist & Metallurgist and shall mean include the Engineers of the Successor Railway.
  - (g) **“Works Manager”** shall be the Executive Officer of the contract work and shall mean and include execution officer of the successor Railway.
  - (h) **“Engineer's Representative”** shall mean the Assistant Works Manager / Assistant Electrical Engineer / Assistant Plant Engineer /Assistant Inspection Officer/ Assistant Chemist & Metallurgist in direct charge of the works and shall include any Senior Section Engineer/ Section Engineer/CMS/Junior Engineer of Mechanical / Electrical Engineering Department appointed by the Central Railway and shall mean and include the Engineer's Representative of the Successor Railway.
  - (i) **“Tenderer”** shall mean the Person/ the firm/ co-operative or company whether incorporated or not who tenders for the works with a view to execute the works on contract with the Railway and shall include their personal representative, successors and permitted assigns.
  - (j) **“Limited Tenders”** shall mean tenders invited from all or some Contractors on the approved or select list of contractors with the Railway.
  - (k) **“Open Tenders”** shall mean tenders invited in open and public manner and with adequate notice.
  - (l) **“Works”** shall mean the works completed in the drawing and schedules setforth in the tender forms and required to be executed according to specifications.

- (m) **“Specifications”** shall mean the specifications for Materials and works for the Central Railway as specified in Part III of the Works Hand Book issued under the authority of the Chief Engineer or as amplified added to or superseded by special specifications if any, appended to the Tender Forms.
- (n) **“Schedule of Rates / sanctioned cost of the Central Railway”** shall mean the schedule of Rates / sanctioned cost issued under the authority of the Chief workshop Manager from time to time and case to case.
- (o) **“Drawings”** shall mean the maps, drawings, plans, and tracings or prints / sketches thereof annexed to the Tender Forms.

1.3 Words importing the singular number shall also include the plural and vice versa where the context requires.

### TENDERS FOR WORKS

2. **Tender Form:**

Tender Forms shall embody the contents of the contract documents either directly or by reference and shall be as per specimen form, Annexure 1. Tender Forms shall be issued on payment of the prescribed fees to the appropriate contractors on the list of approved contractors. Contractors not on the list of approved contractors, will, on payment of the prescribed fees, be furnished with tender forms and they shall be required to submit evidence regarding their financial status, previous experience and ability to execute the works, and authorized copy of the current income Tax Clearance Certificate without their tenders will not be considered.

3. **Omissions and Discrepancies:**

Should a tenderer find discrepancies in or omissions from the drawings or any of the Tender Forms or should he be in doubt as to their meaning, he/she should at once notify the authority inviting tenders who may send written instructions to all tenderers who may send a written instruction to all tenderers. It shall be understood that every endeavor has been made to avoid any error which can materially affect the basis of the tender and the successful tenderer shall take upon himself and provide for the risk of any error which may subsequently be discovered and shall make no subsequent claim on account thereof.

4. **Earnest Money:**

1.(i) The tenderer shall be required to deposit earnest money with the tender for the due performance with the stipulation to keep the offer open till such date as specified in the tender, under the conditions of tender. **Tenders not accompanied with requisite Earnest Money shall summarily be rejected.** The earnest money shall be rounded to the nearest Rs.10/-. This earnest money shall be applicable for all modes of tendering.

Value of the work (Tender Value)	Earnest Money Deposit
For work estimated to cost up to Rs.1 Crore	2% of the estimated cost of the work.

(ii) It shall be understood that the tender documents have been sold/issued to the tenderer and the tenderer is permitted to tender in consideration of stipulation on his part, that after submitting his tender he will not resile from his offer or modify the term and conditions thereof in a manner not acceptable to the Engineer. Should the tenderer fail to observe for comply with the said stipulation, the above said amount shall be liable to be forfeited to the Railway.

- (iii) If his tender is accepted this earnest money mentioned in sub clause (a) above will be retained as per security for the due and faithful fulfillment of the contract in terms of Clause 16 of the General Conditions of the Contract. The earnest money of other tenderers shall, save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation that may happen thereto while in their possession, nor be liable to pay interest thereon.
2. The Earnest Money should be in cash or FDR (Fixed Deposit Receipt) / Banker's Cheques / Demand Drafts executed by State Bank of India or any of the nationalized banks or by a Scheduled Bank. In Favor of **FA & CAO Central Railway**.
5. **Care in Submission of Tenders:**
- (a) Before submitting a tender, the tenderer will be deemed to have satisfied himself by actual inspection of the site and locality of the works, that all conditions liable to be encountered during the execution of the works are taken into accounts and that the rates he enters in the tender forms are adequate and all inclusive to accord with the provisions in Clause-37 of the General Conditions of Contract for the completion of works to the entire satisfaction of the Engineer.
- (b) When work is tendered for by a firm or company of contractors, the tender shall be signed by the individual legally authorized to enter into commitments on their behalf.
- (c) The Railway will not be bound by any power of attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the contract. It may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor.
6. **Right of Railway to deal with Tenders:**  
The Railway reserves the right of not to invite tenders for any of Railway work or to invite open or limited tenders and when tenders are called to accept a tender in whole or in part or reject any tender or all tenders without assigning reasons for any such action.

## **CONSIDERATION OF TENDERS**

**7. Right Of Railway To Deal With Tenders :** The Railway reserves the right of not to invite tenders for any of Railway work or works or to invite open or limited tenders and when tenders are called to accept a tender in whole or in part or reject any tender or all tenders without assigning reasons for any such action.

**7A. Two Packets System of Tendering :** The procedure detailed below shall be adopted for dealing with 'Two Pockets System' of Tendering :

**7A.1** With a view to assess the tenders technically without being influenced by the financial bids, 'Two Packets System of tendering' shall be adopted. In this system, the tenderers shall submit their quotations/offers in two sealed envelopes; with one cover containing the Technical & Commercial offers and the other cover containing the Financial Bids. The first packet shall be with the objective of scrutinising the capability, possession of appropriate machinery & equipments, financial strength, experience etc. of the tenderers.

**7A.2** The technical details and commercial conditions shall be read out before the tenderers or their representatives at the time of opening of tenders and the same shall be evaluated by the Tender Committee. If the offers are found acceptable by the competent authority (as prescribed by Railway Board from time to time for the estimated value of tender invited), the second packet shall be opened and the tenders shall be processed for finalisation in the normal manner.

**7A.3** However, if on the basis of information contained in the first packet, the Tender Committee needs clarification regarding designs, specifications etc.; discussions shall be held with each individual party/ tenderer after obtaining approval of the Competent Authority.

**7A.4** 'Two Packets System' of tendering shall be resorted to for techno-commercial consideration in Works Contract Tenders of values as communicated by Railway Board from time to time on the subject.

*{Authority : Railway Board's letter no. 94/CE-I/CT/4 Pt.17, New Delhi, Dated 13.08.2012}*

### **CONTRACT DOCUMENTS**

**8. Execution of Contract Document:**

The Tenderer whose tender is accepted shall be required to appear in person at the office of the General Manger/General Manager (Construction) Chief administrative Officer (Construction), Divisional Railway Manager or concerned Engineer, as the case may be, or if a firm or corporation, a duly authorized representative shall so appear and execute the contract documents within 15 days after notice ( letter of acceptance) that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement affected by the acceptance of the tender in which case the full value of the earnest money accompanying the tender may stand forfeited without prejudice to any other rights or remedies.

In the event of any tenderer whose tender is accepted shall refuse to execute the contract documents as here in before provided, the Railway may determine that such tenderer has abandoned the contract and there upon his tender and acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the Earnest Money and to recover the damages for such default.

**9. Form of Contract Document:**

Every contract shall be complete in respect of the documents it shall so constitute. Not less than 2 copies of the contract documents shall be signed by the competent authority and the contractor and one copy given to the contractor.

(a) For contract for specific works, valued at more than Rs.10,000/- the contract documents required to be executed by the whose tender is accepted shall be either an Agreement as per specimen form Annexure IV, or a work order as per specimen form Annexure V as may be prescribed by the Railway.

**ANNEXURE I**  
**CENTRAL RAILWAY**  
**TENDER FORMS (FIRST SHEET)**

Tender No:

Name of work :

To,  
 The President of India,  
 Acting through the \_\_\_\_\_

\_\_\_\_\_ Railway.

1. I/We \_\_\_\_\_ have read the various conditions to tender attached here to and agree abide by the said conditions. I/We also agree to keep this tender open to acceptance for a period of \_\_\_\_\_ days from the date fixed for opening the same and in default thereof, I/We will be liable for forfeiture of my/our " Earnest Money" I/We offer to do the work for \_\_\_\_\_ Railway , at the rates quoted in the attached schedule and hereby bind myself/ourselves to complete the work in all respects within \_\_\_\_\_ months from the date of issue of letter of acceptance of the tender.
2. I/We also hereby agree to abide by the General Conditions of Contract corrected upto printed advance correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ and to carry out the work according to the Special Conditions of Contract and Specifications of materials and works as laid down by Railway in the annexed Special Conditions / specifications and the -----Railway Works Hand Book Part III corrected upto printed/advance correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ Sanitary Works Hand Book corrected upto printed /advance correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ Schedule of Rates corrected upto printed/advance correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ for the present contract.
3. A sum of Rs.-----/-is herewith forwarded as Earnest Money. The full value the Earnest Money shall stand forfeited without prejudice to any other right or remedies in case my/our Tender is accepted and if:---
  - (a) I/We do not execute the contract documents within seven days after receipt of notice issued by the Railway that such documents are ready and
  - (b) I/We do not commence work within fifteen days after receipt of orders to that effect.
4. Until a formal agreement is prepared and executed, acceptance of his tender shall constitute a binding contract between us subject to modifications, as may be mutually agreed to between us and indicated in the letter of acceptance of my /our offer for this work.

Signature of Witnesses:

(1) \_\_\_\_\_  
 (2) \_\_\_\_\_  
 Date

Signature Tenderer (s)

Address of the Tenderer (s)

*Contractor*

*CWM/Parel*



## ANNEXURE I

## TENDER FORM (SECOND SHEET)

1. Instructions to tenderers and conditions of tender: --- The following documents form part of Tender/Contract:
  - (a) Tender forms--- First Sheet and Second Sheet.
  - (b) Special Conditions/Specifications (enclosed)
  - (c) Schedule of approximate quantities (enclosed)
  - (d) General Conditions of Contract and Standard Specifications for materials and works as laid down in Works Hand Book and Sanitary Works Hand Book of Central Railway, as amended/corrected upto correction slips mentioned in First Sheet of Tender Form, copies of which can be seen in the office of \_\_\_\_\_ or obtained from the office of the Chief Engineer, Central Railway \_\_\_\_\_ on \_\_\_\_\_ payment of Rs. \_\_\_\_\_ & Rs. \_\_\_\_\_ respectively.
  - (e) Schedule of Rates, Part I and II as amended/corrected upto correction slip as mentioned in First Sheet of Tender Sheet of tender form, copies of which be seen in the office of \_\_\_\_\_ or obtained from the Chief Engineer, \_\_\_\_\_ Railway on payment of Rs. \_\_\_\_\_ & Rs. \_\_\_\_\_ respectively.
  - (f) All general and detailed drawings pertaining to this work which will be issued by the Engineer of his representatives ( from time to time ) with all changes and modifications.
2. **Drawings for the Work:** The Drawings for the work can be seen in the office of the \_\_\_\_\_ and/or Chief \_\_\_\_\_ at any time during the office hours. The drawing is only for the guidance of Tenderer(s). Detailed working drawings, (if required) based generally on the drawing mentioned above, will be given by the Engineer or his representative from time to time.
3. The Tenderer (s) shall quote his/their rates as a percentage above or below the schedule of Rates of the Central Railway \_\_\_\_\_ as \_\_\_\_\_ applicable to \_\_\_\_\_ Division except where he/they are required to quote item rates and must tender for all the items shown in the schedule of approximate quantities attached. The quantities shown in the attached schedule are given as a guide and are approximate only and are subject to variation according to the needs of the Railway. The Railway does not guarantee work under each item of the schedule.
4. Tenders containing erasures and/or alterations of the tender documents are liable to be rejected. Any correction made by Tenderer( s) in his/their entries must be attested by him/ them.
5. The works are required to be completed within a period of ----- from the date of issue of acceptance letter.
6. Earnest Money:
  - (a) The tender must be accompanied by a sum of Rs-----/- as earnest money deposited in cash or in any of the forms as mentioned in Regulations for tenders and Contracts for the guidance of the Engineers and Contractors, failing which the tender will not be considered.

- (b) The Tenderer (s) shall keep the offer open for a minimum period of 120 days from the date of opening of the Tender it is understood that the tender documents has been sold/issued to the Tenderer (s) and the Tenderer (s) is/are permitted to tender in consideration of the stipulation on his/ their part that after submitting his/ their tender subject to the period being extended further if required by mutual agreement from time to time, he will not resale from his offer or modify the terms and conditions thereof in a manner not acceptable to the \_\_\_\_\_ of \_\_\_\_\_ Railway. Should the Tenderer fail to observe or comply with the forgoing stipulation, the amount deposited as Earnest Money for the due performance of the above stipulation shall be forfeited to the Railway.
- (c) If the tender is accepted, the amount of Earnest Money will be retained and adjusted as Security Deposit for the due and faithful fulfillment of the contract. This amount of Security Deposit shall be forfeited if the tenderer(s)/contractor (s) fail to execute the Agreement Bond within 7 days after receipt of notice issued by Railway that such documents are ready or to commence the work within 15 days after receipt of the orders to that effect.
- (d) The Earnest Money of the unsuccessful tenderer (s) will save as here-in before provided, be returned to the unsuccessful tenderer (s) within a reasonable time but the Railway shall not be responsible for any loss or depreciation that may happen to the Security for the due performance of the stipulation to keep the offer open for the period specified in the tender documents or to the Earnest money in their possession nor be liable to pay interest thereon.
7. Rights of the Railway to deal with tender: --- The authority for the acceptance of the tender will rest with the Railway. It shall not be obligatory on the said authority to accept the lowest tender or any other tender and no tenderer(s) shall demand any explanation for the cause of rejection of his/their tender nor the Railway undertake to assign reasons for declining to consider or reject any particular tender or tenders.
8. If the tenderer (s) deliberately gives/give wrong information in his/their tender or creates/create circumstances for the acceptance of his/their tender, the Railway reserves the right to reject such tender at any stage.
9. If the tenderer (s) expires after the submission of his /their or after the acceptance of his/their tender, the railway shall deem such tender cancelled. If a partner of a firm expires after the submission of their tender or after the acceptance of their tender, The Railway shall deem such tender as cancelled, unless the firm retains its, character.
- 10. Eligibility Criteria**
- (i) The tenderer(s) shall be eligible only if he / they fulfill Eligibility Criteria of having received total contract amount during the last three financial years and in the current financial year with a minimum of 150% of the advertised tender value.
- (ii) 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.
- {Authority : Railway Board's letter no. 94/CE-I/CT/4 (Pt. II), Dated 07/14.11.2013}*
- 11. Tenderer (s) Credentials:** -- Documents testifying tenderer (s) previous experience and financial status should be produced along with the tender or when desired by competent authority of the Central Railway.

Tenderer (s) who has /have not carried out any work so far on his Railway and who is/are not borne on the approved list of the Contractors of Central Railway should submit along with his/their tender credentials to establish.

- (i) His capacity to carry out the works satisfactorily.
- (ii) His financial status supported by Bank reference and other documents.
  - a. Certificates duly attested and testimonial regarding contracting experience for the type of job for which tender is invited with list of works carried out in the past.

12. Tender must be enclosed in a sealed cover, superscripted "Tender No. \_\_\_\_\_" and must be sent by registered post to the address of \_\_\_\_\_ Railway so as to reach his office not later than \_\_\_\_\_ hours on the \_\_\_\_\_ or deposited in the special box allotted for the purpose in the office of \_\_\_\_\_ Railway \_\_\_\_\_. This Special box will be sealed at \_\_\_\_\_ hours on \_\_\_\_\_. The tender will be opened at \_\_\_\_\_ hrs. on the same day. The tender papers will not be sold after \_\_\_\_\_ hours on \_\_\_\_\_.
13. Non- compliance with any of the conditions set forth there is liable to result in the tender being rejected.
14. **Execution of Contract Documents** :--- The successful tenderer (s) shall be required to execute an agreement with the President of India acting through the Central Railway for carrying out the work according to General conditions of the Contract, Special conditions/specifications annexed to the tender and specifications for work and material laid down in Works Hand Book Part III and Sanitary Works Hand Book of Central Railway as amended /corrected upto correction slip mentioned in tender form ( First Sheet) .
15. **Partnership deeds, power of Attorney etc.**:--- The tenderer shall clearly specify whether the tender is submitted on his own or on behalf of a partnership concern. If the tender is submitted on behalf a partnership concern, he should submit the certified copy of partnership deed along with the tender and authorization to sign the tender documents on behalf of partnership firm. If these documents are not enclosed along with tender documents, the tender will be treated as having been submitted by individual signing the tender documents. The Railway will not be bound by any power of attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the contract. It may, however recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor.
16. The tenderer whether sole proprietor, or a limited company or a partnership firm it they want to act through agent or individual partner (s) should submit along with the tender or at a later stage, a power of attorney duly stamped and authenticated by a Notary Public or by Magistrate in favour of the specific person whether he/they be partner (s) of the firm or any other person specially authorizing him/them to submit the tender, sign the agreement, receive money, witness measurement, sign measurement books, compromise settle, relinquish any claim (s) preferred by the firm sign "No Claim Certificate" and refer all or any disputes to arbitration.
17. **Employment /Partnership, etc. of Retired Railway Employees:**
- (a) Should a tenderer be a retired engineer of the Gazetted rank or any other Gazetted officer Working before his retirement, whether in the executive or administrative capacity , or whether holding a pensionable post or not, in the Mechanical department of any of the Railway owned and administered by the President of India for the time being , or should a tenderer being partnership firm have as one of its partners a retired engineer or retired Gazetted Officer as aforesaid, or should a tenderer being an incorporated

company have any such retired engineer or retired officer as one of its Directors, or should a tenderer have in his employment any retire Engineer or retired Gazetted Officer as aforesaid, the full informations as to the date of retirement of such Engineer or Gazetted Officer from the said service and in case where such Engineer or Officer had not retired from Government Service at least 2 years prior to the date of submission of the tender as to whether permission for taking such contract, or if the contractor be a partnership firm or an incorporated company, to become a partner or Director as the case may be, or to take employment under the contractor, has been obtained by the tenderer or the Engineer or Officer, as the case may be from the President of India or any officer, duly authorized by him in this behalf, shall be clearly stated in writing at the time of submitting the tender. Tenders without the information above referred to or a statement to the effect that no such retired Engineer or retired Gazetted Officer is so associated with the tenderer, as the case may be, shall be rejected.

- (b) Should a tenderer of contractor being an individual on the list of approved Contractors, have a relative( s) or in the case of partnership firm or company of contractors one or more of his shareholder (s) or a relative (s) of the shareholder (s) employed in Gazetted capacity in the Mechanical department of the Central railway, the authority inviting tenderer shall be informed of the fact at the time of submission of tender, failing which the tender may be disqualified /rejected or if such fact subsequently comes to light, the contract may be rescinded in accordance with the provision clause 62 of the General Conditions of Contract.

-----  
**Signature of tenderer (s)**

**Date:**-----

\_\_\_\_\_  
**(Signature)**  
**(Designation)**  
**Central Railway**

**ANNEXURE II  
CENTRAL RAILWAY**

CONTRACT AGREEMENT No. \_\_\_\_\_ DATED \_\_\_\_\_  
An Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
between the President of India acting through \_\_\_\_\_ Central Railway, (hereinafter called  
the Railway) which expression shall unless repugnant to the context thereof include its  
successors in office of one part and \_\_\_\_\_ (herein after called the  
“Contractor) which expression shall unless repugnant to the context thereof, include their  
successors in business and assigns, of the other part.

WHERE AS THE Contractor has agreed with the Railway for the performance of the works  
\_\_\_\_\_ setforth in the schedule hereto annexed upon the General Conditions of contract  
corrected upto Printed/Advance Correction Slip No. \_\_\_\_\_ dated \_\_\_\_\_ and the  
specifications of the Central Railway contained in the Works Hand Book, Part III, corrected upto  
Printed/Advance/Correction Slip No. \_\_\_\_\_ dated \_\_\_\_\_ and Sanitary Works  
Hand Books corrected upto Printed/Advance/Correction Slip No. \_\_\_\_\_  
dated \_\_\_\_\_ and the schedule of rates of the Central Railway, corrected upto Printed/Advance  
Correction Slip No. \_\_\_\_\_ dated \_\_\_\_\_ and the conditions and special specifications, if any, and  
in conformity with the drawings here-into annexed AND WHEREAS the performance of the said works is  
an act in which the public are interested .

NOW THIS INDENTURE WITNESSETH that in consideration of the payment to be made by  
the Railways, the Contractor will duly perform the said works in the schedule setforth and shall execute  
the same with great promptness, care and accuracy in a workman like manner to the satisfaction of the  
Railway and will complete the same with grate promptness , care and accuracy in a workman like manner  
to the satisfaction of the Railway and will complete the same accordance with the said specifications and  
said drawings and said conditions of contract on or before the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_ and will maintain the said works for a period of \_\_\_\_\_ Calendar months from the  
certified date of their completion and will observe, fulfill and keep all the conditions therein mentioned (,  
which shall be deemed and taken to be part of this contract as if the same has been fully setforth herein ) ,  
AND the Railway, both hereby agree that if the Contractor shall duly perform the said works in the  
manner aforesaid and observe and keep the said terms and conditions the Railway will pay or cause to be  
paid to the Contractor for the said works on the final completion thereof the amount due in respect  
thereof at the rates specified in the Schedule hereto annexed.

Contractor \_\_\_\_\_

Designation \_\_\_\_\_ Rly.  
( for President of India )

Address \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Signature of witnesses with address to  
signature of contractor

Witnesses \_\_\_\_\_

*Contractor*

*CWM/Parel*

**ANNEXURE III**  
**WORK ORDER FOR WORKS**  
**(Valued at over Rs.10,000/-)**

WORK ORDER NO. \_\_\_\_\_ DATED \_\_\_\_\_

Name of work \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ (site) \_\_\_\_\_  
 \_\_\_\_\_

Schedule of drawings \_\_\_\_\_

Authority \_\_\_\_\_ Allocation \_\_\_\_\_

Mr./ Messres \_\_\_\_\_ Contractor/Contractors having agreed with the Railway is/are hereby ordered to out the works setforth in the schedule below in accordance with General /Conditions of Contract corrected upto Printed/Advance Correction Slip No. \_\_\_\_\_ dated \_\_\_\_\_ and the Standard Specifications of the Central Railway contained in Works Hand Book , Part III, corrected upto Printed/Advance Correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ the schedule of rates, Part I corrected upto Printed/Advance Correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ and schedule of rates, Part II corrected upto Printed/Advance Correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ and special conditions and special specifications , if any, and in conformity with drawings annexed hereto at the rates specified in the said schedule and complete the same on or before the \_\_\_\_\_ day of \_\_\_\_\_ 2000 \_\_\_\_\_ and maintain the said works for the period of \_\_\_\_\_ from the certified date of the completion. The quantities setforth in the said schedule shall be considered approximate and subject to variation under clause 42 of the General Conditions of Contract.

*Contractor*

*CWM/Parel*

**ANNEXURE IV  
CONTRACTOR'S AGREEMENT**

I offer to do the work at the rates entered in the schedule of rates on the reverse which I have signed, and I understand that no fixed quantity of work is given to me to do that in starting work I am only given a place to work in or to deposit materials on, and that I have no claim to more than be one unit of work as entered in the Schedule of rates. I agree that all works done and materials delivered shall be subject to the approval of the Engineer in Charge, who may, reject and decline to pay for whatever may be in his opinion interior or defective or either and I agree that the Standard Specifications contained in the Works Hand Book Part III, corrected upto Printed/Advance Correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ and Sanitary Works Hand Book corrected upto Printed/Advance Correction slip No. \_\_\_\_\_ dated \_\_\_\_\_ of \_\_\_\_\_ of Central Railway in so far as they are not over-rule by items if this agreement, shall be deemed part of this agreement.

I agree that no work under this work order shall be assigned or sublet without the previous written approval of the \_\_\_\_\_ Engineer.

I agree that my work may be stopped at any time by the \_\_\_\_\_ Engineer on his giving me or my agent on the works seven days notice in writing and I agree that the measurement of my works shall be made by the Engineer at any time appointed by him in writing subsequent to the expiry of the said notice and measurement shall be made by him at the said time whether I am present or not and that on payment for work done and approved materials delivered site of work as ascertained by the said measurement, I shall have no further claim against the Railway and I agree that any dispute arise on matters connected with this agreement, the same shall be referred to person to be nominated in this behalf by the \_\_\_\_\_ for the time being of the Railway, whose decision in writing shall be final and binding on both parties.

I agree that any claim I have to make shall be made in writing within seven days of date of measurement taken by the Engineer as aforesaid and that any claims in respect of such measurement made more than seven days after taking of such measurement shall be deemed to have waived by me.

I agree to indemnify the Railway against any claims which may be made under Workmen's Compensation Act. 1923.

WITNESS  
Name \_\_\_\_\_

CONTRACTOR  
Name \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

*Note: ----* If the agreement for a work for which a special act of the Legislature exist e.g. the Indian Mines Act. the agreement should include a clause indemnifying the Railway against all claim arising of provision of such Act.

I agree to pay the rates at \_\_\_\_\_ % above/below Schedule of rates as applicable to \_\_\_\_\_ Division setforth in the schedule of rates herein for finished and approved work.

\_\_\_\_\_  
Engineer

\_\_\_\_\_  
Division

Central Railway  
FOR PRESIDENT OF INDIA  
Date \_\_\_\_\_

*Contractor*

*CWM/Parel*

I/We agree to complete the works therein setforth on or before the date specified herein and to maintain the same for a period of \_\_\_\_100 days\_\_\_\_\_ from the certified date of their completion and in conformity with the document herein referred to, and all the condition therein mentioned shall be deemed and taken to be part of this contract as if the same had been fully setforth therein.

Signature of witnesses  
with addresses, to  
signature of contractor 1. \_\_\_\_\_  
2. \_\_\_\_\_

Contractor \_\_\_\_\_  
Address : \_\_\_\_\_  
Date: \_\_\_\_\_



## **GENERAL INSTRUCTIONS TO TENDERERS**

### **1) STUDY OF TENDER DOCUMENTS:**

- Intending tenderers are advised to study the instructions to tenderers and conditions of tendering, scope of work , technical specifications, special conditions of contract etc. enclosed and all of which shall be read as a part of Tender and are herein collectively referred to as the 'Tender Documents'. The Tenderers shall be deemed to have carefully examined the Tender documents and understood the implications thereof.
- The tenderer must obtain for himself on his own responsibility and at his own expenses all the information which may be necessary for the purpose of making a tender and for tendering into contract and inspect the site of the work and acquaint himself with all conditions, means of access to the work, nature of the work, nature of the contract and all matters as pertaining thereof.
- No arrangement will be made by Railway Administration for making available any foreign exchange for this work, if any foreign exchange content is involved in the work.
- Each page of the tender form including the covers shall be duly initialed underhand and seal of the tenderer in token of having gone through and agreed upon the terms and conditions stipulated therein, failing which the tender shall be treated as invalid and liable for summarily rejection. All the pages will be returned intact; else the tender may be treated as incomplete.
- The tender shall be governed by General conditions of contract of the Railways.( at part-II)
- The prices to be quoted by the tenders in the "Tender Schedule" must be for the work in strict accordance with the scope of work and technical specifications

### **2) OFFICIAL FORM TO BE USED:**

- The Tenderer must submit his tenderer on the forms for tender specified, attached there to the Tender Papers, duly signed at every page in ink. The rates quoted in all cases must be in Rupees and must be firm and should be quoted at Page No. **32** of the tender form under the heading "Tender Schedule". The rate should be quoted all inclusive.
- The Tenderer may, if deems it necessary, submit in the same envelope with his tender a short and concise explanatory memorandum but no such memorandum or any letter accompanying the tender shall form part of tender. Any tenderer wishing to submit descriptive matter for consideration may also enclose it in the same envelop. The explanatory memorandum and / or descriptive matter, if submitted, should be wrapped separately and distinctively marked before being enclosed in the envelope containing the tender.
- The tenderers are to be addressed to "CHIEF WORKSHOP MANAGER, CENTRAL RAILWAY, LOCO WORKSHOP, PAREL, MUMBAI – 400 012. The tender is to be deposited in tender box in a sealed cover superscripting '**Annual Maintenance Contract (AMC) for "Abrasive Cut-Off Machine"**' on or before the time/date of closing of tenders. If the tender is to be sent by post, it should reach before the due date and time as specified herein and Railway shall not be responsible for postal delay if any.

- The tenderer may also download the tender document from Govt.'s websites [www.cr.indianrailways.gov.in](http://www.cr.indianrailways.gov.in) and / or <http://tenders.gov.in> (Details may be referred at 21(A) follows).
- Tender will not be considered if:
  - a. Tender is received after schedule date and time.
  - b. Not submitted on the prescribed form or unsigned.
  - c. Not accompanied with requisite earnest money in acceptable form.

### 3) **SIGNING OF TENDER:**

Any individual or individuals signing the tender or other documents connected therewith should specify whether he is signing:

- As sole proprietor of the concern or his attorney or
- As a partner or partners of the firm or
- For the firm per procurator or
- As a Director, Manager or Secretary in the case of Limited Company.
- In the case of a firm not registered under the Indian Partnership Act, all the Partners or the Attorney duly authorized by all of them should sign the Tender and all other connected documents. A copy of the documents empowering the individual or individuals to sign should also be sent with the form of tender. In any case, the Tenderer should disclose his constitution fully and attested copies of all necessary legal documents in support thereof should be submitted with the tender, and original thereof should be produced as and when called for.
- In case of attorney, the power of attorney in prescribed form should be submitted. In case of partnership, a copy of partnership deed should also be furnished for verification.

### 4) **TENDERER'S ADDRESS:**

Every tenderer shall state in the tender his postal address fully and clearly. Any communication sent to a tenderer by post at his said address shall be deemed to have reached the tenderer duly and timely notwithstanding the fact that the communication could not reach the tenderer at all or in time because of any inaccuracy or defect in the said address. Important documents shall, however, be sent by registered post.

The tenderer shall furnish telephone (land line) numbers, fax number apart from the mobile number and name of contact person. Tenderer should also furnish TAN and PAN positively.

### 5) **NO ERASURE OR ALTERATION IN TENDER:**

No over writing in the rate or tender schedule will be permitted. If rates are to be changed, the alteration should be done by scoring the original rate & rewriting the revised rate and initialing thereof. No erasure or alteration in the rest of the Tender papers are permitted and any such erasure and or alteration will either be disregarded or render the whole Tender void at the option of the Railways.

### 6) **ADVICE FOR RESULT OF TENDERS:**

The successful and unsuccessful Tenderers will be advised by letter at a latter date.

**7) RIGHT TO ACCEPT ANY TENDER:**

- The Railways shall not be bound to accept the lowest or to assign any reason for non-acceptance or rejection of any tender. No tender shall be deemed to have been accepted unless such acceptance has been notified in writing to the successful tenderer by the Railways.
- The Railways reserves the right to accept any tender in respect of the whole or any portion of the works specified in the tender papers or to sub-divide the work among different tenderers or to accept any tender for less than the tendered quantities without assigning any reason whatsoever.
- Any condition of the tender other than those stipulated in the document are not applicable even though they are included in the tender submitted by the party unless they are specifically accepted by the Railway in writing while communicating the acceptance of tender. The accepted tenderer should therefore ensure that such other conditions that are considered necessary by him should be got accepted by the Railway in writing before accepting the offer.

**8) TENDER AGREEMENT:**

The fact of the submission of Tenderer to the Railways shall be deemed to constitute an agreement between the Tenderer and the Railways whereby such tender shall remain open for acceptance by the Railways for a period of 120 days from the date on which Tenders are opened, during which period of Tenderer shall not withdraw his offer, not amend, impair or derogate from subject to the period being extended further if required by mutual agreement from time to time.

- The earnest Money deposited in accordance with Clause 2 of Terms and conditions in schedule of work will be forfeited if the Tenderer withdraws amends, impairs or derogates from his tender in any respect within the said period or four months.
- The Tenderer shall be deemed to have agreed as aforesaid in consideration of his tender being considered by the Railways in Terms there of provided the same has been duly submitted and is otherwise in order.
- If the Tenderer is notified in writing at his address given in the Tender within the said period of three months that the Tender has been accepted by the Railways either in whole or in part, he shall be bound by the terms of the Agreement constituted by this Tender and such acceptance thereof by the Railways until a formal contract has been executed.

**9) TENDER CONFIDENTIAL:**

The Tenderer (whether his Tender is accepted or not) shall treat the contents of the Tender private and confidential.

**10) EXECUTION OF AGREEMENT:**

The Tenderer whose tender the Railways shall select to accept either in whole or in part shall, within 15 days after having been called upon by notice to do so be bound to execute an agreement based on accepted rates and conditions in such form as the Purchaser may prescribe and lodge the same with Railways together with the conditions of contract, specification and Schedule referred to therein duly completed.

**11) EXECUTIVE OFFICER INCHARGE / AUTHORITIES:****Chief Workshop Manager, Parel:**

The executive In charge of the work from Railway side is Chief Workshop Manager, Central Railway Loco Workshop Parel, and Mumbai – 12 where the contracted work shall be executed on behalf of President of India. All decisions will be taken by Chief Workshop Manager, Central Railway Loco Workshop, Parel and shall be final and binding on the contractor. Chief Workshop Manager Loco Workshop, Parel reserve the right to reject / accept or part of the offer or for the portion of the quantity indicated in the offer without assigning any reason there upon and the right to open negotiations and to call for revised offers or to alter or to modify any of the conditions or to incorporate any new conditions as found necessary till the contract is finally executed. All correspondence will be handled by him or by his authorized representative.

**DY. CHIEF CHEMIST & METALLURGIST PAREL:-**

He shall be the accepting authority who is competent to issue completion certificate as envisaged in para 16(2) of GCC.

**WORKS MANAGER, PAREL:**

Works Manager, Parel shall be the Executive Officer of the contract work. Execution of Works Contract Agreement, important correspondences with the contractor, bill passing etc. shall be under the authority of the executive officer.

**WORKSHOP ACCOUNTS OFFICER, PAREL:**

Workshop Accounts Officer / Parel shall be the paying authority.

**ASST. CHEMIST & METALLURGIST PAREL:**

Concerned ASST. CHEMIST & METALLURGIST, Parel shall be the In-charge at Workshop level for the execution of the contracted work, including co-ordination with the contractor, to ensure smooth and timely completion of work, and manage all correspondences with the contractor, other workshops, if any etc.. He shall conduct random checking of Measurement Book.

**CHEMICAL & METALLURGICAL SUPTD, PAREL:**

Concerned CHEMICAL & METALLURGICAL SUPTD, Parel Workshop nominated by Executive Officer shall execute the work at shop floor level and monitor the entire work in connection with the smooth and speedy execution of work as per scope of work and entries shall be made in the Measurement Book. He shall co-ordinate with the contractor(s), other shops within Parel W/shop in connection with the execution of work to ensure smooth and timely completion of contracted work. He shall also bring the progress of work to the notice of Executive Engineer at a pre-decided interval, through the Executive In-charge.

**12) OCTROI EXEMPTION CERTIFICATE:**

The tenderer will collect Octroi Exemption Certificate (OEC) if required in connection with the tendered work. For this purpose, tenderer will have to make separate requests (for each trip) in writing detailing the items to be brought, to Chief Workshop Manager, Central

Railway Loco Workshop Parel, Mumbai -12. This may also be obtained from the authorities at loading points.

**13). DOCUMENTS ATTACHED:**

- Scope of work and Technical Specifications
- Special Conditions of Contract
- General Conditions of Contract are attached.

The contractor shall not sublet or assign this contract or allow any person for any reason to become interested therein in any manner without the written permission of the Chief Workshop Manager Loco Workshop Parel. In the event of contractor subletting or assigning the contract or transaction. Railway administration shall be free to cancel the contract under clause 61 of General conditions of contract and also to recover payments of any loss or damage from such cancellations. The amount of which will be determined by the Chief Workshop Manager Loco Workshop Parel.

**14 INSPECTION REGISTERS AND RECORDS:-**

The contractor shall maintain accurate records, plans and charts showing the dates and progress of all main operations and the Engineer shall have access to this information at all times. Records of tests made shall be handed over to the Engineer's representative after carrying out the tests. The following registers will be maintained at site, by Railways representative.

**14.1 Site Order Register -**

The contractor shall promptly acknowledge orders given therein by the Engineer or his representative or his superior officers and comply with them. The compliance shall be reported by the Contractor to the Engineer in good time so that it can be checked.

**14.2 Labour Register -**

This register will be maintained to show daily strength of labour in different categories employed by the contractor.

**14.3 Log Book of events -**

All events are required to be chronologically logged in this book date and shift-wise.

**15. TAXES, ROYALTIES AND PATENT RIGHTS:-**

**15.1** All rates quoted in the tender shall be deemed to be inclusive of all taxes, royalties payable by the contractor/s to the Govt. or public body or local authority and no additional amount will be paid or claim entertained on this account by Railways. Contractor shall not have any claim whatsoever as a result of the increase in the rates for such royalties, taxes, duties or any other forms of levies etc. Concessional Sales Tax Form and Octroi Exemption Certificate will be issued to Contractor on his specific request, if legally permissible.

**15.2.** The contractor shall defray the cost of all royalties, fees and other payments in respect of patents, Patent rights and licenses which may be payable to patented licensee or other person or corporation and shall obtain all necessary licenses. In case of any breach (whether willfully or inadvertently) by the contractor of this provision, the contractor shall indemnify Railways and its officers, servants, representatives against all claims, proceedings, damages, cost charges, loss and liability which they or any of them may sustain incur or be put to by reason or in consequence of, directly or indirectly, any such breach and against payment of any royalties, damages or other moneys which Railways

may have to make to any person or paid in total to the patent rights in respect of the users of any machine, instructions, process, articles, matters or thing constructed, manufactured, supplied or delivered by the contractor to his order under this contract.

**15.3. PAYMENT OF ROYALTY CHARGES:-**

All payment of royalty charges etc. to the State Government in connection with extraction and supply of rubble/stone ballast/sand, from other than Railway land acquired by Railways under Land Acquisition Act- 1284, have to be borne and paid by the contractor. Railways in consultation with the respective State Governments will confirm percentage of Royalty Charges to be recovered for supply of minor minerals. The Railway Administration is entitled to deduct from the contractors and keep in deposit such amount equal to the proportionate Royalty Charges from each on account bills and the same will be released as and when the contractor submits a receipt/documents/clearance certificate certifying that Royalty Charges have been paid by the Contractors, relating to the contract.

The contractor will be required to obtain a final Royalty clearance certificate from the concerned State/Revenue Authorities/Collector and produce the same to Chief Workshop Manager, Parel after completion of supply but before the release of final bill. If in any case the contractor fails to produce the clearance certificate for Royalty Charges, final bills will be passed after retaining an amount equal to the amount of unpaid Royalty charges, as intimated by the Revenue Authorities/Collector or as calculated on the basis of relevant Rates, for payment of Royalty Charges applicable to the area. No claim regarding interest charges for delay in payment of the retained amount on Royalty account shall be entertained. The retained amount will be released, at the discretion of the administration, on production of clear Bank Guarantee covering the amount so with held towards Royalty Charges/State taxes.

**15.4.** Form for availing concessional sales tax for supply to Government Deptt. will be issued for supply contracts only on request of contractor if legally permissible.

**16. PERMIT OR PARWANA:-**

The contractor will at his own expense obtain such permits or parwana from whomsoever necessary for carrying out work or for any other purpose as may be necessary to enable him to perform his part of the contract. The Railway Administration will not under any circumstances be liable to obtain any permit or parwana whatsoever, for the contractor.

**17. STORAGE OF INFLAMMABLE ARTICLES:-**

No inflammable materials, such as petroleum oil etc. within the meaning of the Indian Petroleum Act and Indian Explosives Act shall be stored at site or adjacent land until the approval of the Railway and necessary licence under the Act has been obtained by the Contractor. All due precautions as required under the Act shall be taken by the contractor.

**18. FIRST-AID:-**

The contractor shall maintain in a readily accessible place first-aid appliance including adequate supply of sterilized dressing and sterilized cotton wool. The appliances shall be placed under the charge of responsible person who shall be readily available during working hours.

**19. DAMAGE, ACCIDENTS OR FLOODS OR TIDES:-**

The contractor shall take all precautions against damages from accidents, floods or tide. No compensation will be allowed to the contractor for his tools, plants, materials, machines and other equipment lost or damaged by any cause whatsoever. The contractor shall be liable to

*Contractor*

*CWM/Parel*

make good the damages to any structure or part of a structure, plant or material of every description belonging to the Railway Administration, lost or damaged by any cause during the course of contractor's work.

The Railway Administration will not be liable to pay to the contractor any charges for rectification or repairs to any damage which may have occurred from any cause whatsoever, to any part of the new structures during construction. No claims in this regard will be arbitrable.

## **20. TRESPASS:-**

The contractor shall at all times be responsible for any damages or trespass committed by his agents and workmen in carrying out the work, unless such trespass is authorized by the Engineer.

## **21). (A) FOR TENDER DOCUMENT DOWNLOADED FROM INTERNET / WEBSITE:-**

- a) These additional special conditions are applicable to tender document and considered as part of it, which is downloaded from internet /website.
- b) Tenderers may note that permitting of down loading of tender document is an added facility for convenience of Tenderers. Railway, however, reserves right to extend this facility for selected works or continue only with direct sale of tender forms. In case, tender document is not uploaded on website or download failure or delay or incomplete document downloaded, whatsoever, Railway shall not be responsible in anyway. Railway shall not be responsible for any direct/indirect loss of business / profit resulting from inability to use this facility.
- c) The Tenderers shall download & print the Tender document solely for the purpose of bidding for above work and downloaded document shall not be used, copied or reproduced for any other purpose.
- d) The end of tender document is indicated by "END OF TENDER DOCUMENT" marker. Tenderer/s should carefully see that above marker appears on the last page of downloaded tender document to ensure that downloaded document is complete. Tenderer is suggested to check the integrity and completeness of document before submission.
- e) The tender document downloaded from website though does not bear signature of Railways authority shall have same authority as having directly purchased from Railways office. Tenderers while submitting his offer must sign all pages of tender document.
- f) The downloaded and printed tender document along with the various other documents should be submitted as per details mentioned in tender document. The tenderer should clearly write on main tender cover and also on the top of sealed cover "Tender documents downloaded from website".
- g) The Tenderer/s are required to pay non-refundable cost of tender document in the form prescribed in tender notice while submitting their offer. In case they fail to furnish the requisite cost of tender document in prescribed form, their offer shall be rejected. The cost of EMD shall not be merged with cost of tender form and shall be separately furnished.
- h) The Tenderer/s shall maintain the integrity of downloaded tender document and shall not make any change/addition/deletion/tampering, whatsoever, in the downloaded documents. The Tenderers offer shall be rejected and full earnest money shall be forfeited, in case it is detected after submission of offer, that they have made any modification in downloaded documents. In case such- modification is noticed even after award of contract, Railways is liable to terminate the contract on contractor's default. In addition, Railway reserves the right to take action against the firm as deemed fit, which may include Banning of Business.

- i) Dealings with the firm and the firm is also liable to be prosecuted as per the law. After award of work, agreement will be prepared based on the master copy of tender document available in the Railway's office. In case, any discrepancy is noted in tender document submitted by Tenderer, the Master document kept with Railway shall prevail and decision of Railway. Thereon shall be final and binding on Tenderer/Contractor.
- j) Tenderer/s shall print the tender document on good quality A4 size papers of thickness 75 GSM or above and printed document shall be clearly legible. The document shall be properly bound and page numbers shall be in serial order as mentioned in downloaded documents. The Tenderer/s shall not be reimbursed with the cost of stationery, printing and binding etc. Offer of Tenderer/s is liable to be rejected by Railway, if tender document is not printed or bound as per above instructions. Further Tenderer shall bear expenses of internet connection and telephone charges, if any for downloading of tender document.
- k) The Tenderer/s shall keep themselves updated about any modification in tender notice and tender document, issued by Railway through newspapers, website or E- mail or any other means and shall act accordingly. It is the responsibility of the Tenderer to check any correction or any modifications published subsequently in Website and the same shall be taken into account while submitting the tender. Tenderer offer is liable to be rejected if they have not enclosed all the corrections / corrigendum along with downloaded tender documents.
- l) The "Additional Conditions for Tender Document downloaded from Website" must be signed by the Tenderer and enclosed along with the Tender document failing which the tender is liable to be rejected.

The following declaration should be given by the Tenderer while submitting the tender.

**Declaration**

I/We have downloaded the tender document from the website [www.cr.indianrailways.gov.in](http://www.cr.indianrailways.gov.in) and / or <http://tenders.gov.in> . I/We have not tampered/modified the tender forms in any manner. In case the document is found to be tampered / modified, I/We understand that my/our tender is liable to be 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.

Contractor's Signature \_\_\_\_\_

Signed in the capacity of \_\_\_\_\_

Name: \_\_\_\_\_

(Rubber stamp should be affixed)

Date:

Place

**(B) ISSUE OF PHOTO IDENTITY CARDS BY CONTRACTORS:-**

The contractor is bound to issue Photo identity card to each and every person employed /deployed by him for execution of the contract work as per the prescribed format provided hereunder at his cost. Failure on the part of the contractor to issue Photo identity cards to their employees will be treated as breach of contract conditions and therefore will be dealt as per Clause No.62 (VII) of GCC.



**FORMAT**

Duly  
attested  
passport  
Photograph

(Signature of Contractor  
on the photograph with his seal)

1. IDENTITY CARD (SERIAL) NO: .....
2. NAME & ADDRESS .....  
OF THE CONTRACTOR:.....
3. NAME OF EMPLOYEE: .....
4. ADDRESS :.....
5. AGE:.....(DATE OF BIRTH:.....) SEX:.....
6. DATE OF ENTRY IN SERVICE:.....
7. DESIGNATION / NATURE OF WORK:.....
8. DEPARTMENT: .....
9. WORKS CONTRACT NO: .....DT:.....
10. DATE OF ISSUE OF IDENTITY CARD: .....
11. DESCRIPTION / NAME OF WORK:.....  
.....
12. VALIIDITY OF IDENTITY CARD: FROM / /200 TO / /200

( Signature /Thumb impression of  
Employee)

( Countersignature of the  
concerned Sr. Supervisor of  
Railway

**Conditions ( related with photo identity card):-**

1. The photo identity cards are required to be countersigned by Railway Authority.
2. It is mandatory on the part of every employee, deployed by the contractor to keep in his possession, the photo identity card, issued by the contractor through out the execution of the work. Failure to possess such identity will be treated as unauthorized entry in the Railway premises and such persons shall be liable for prosecution as per law.
3. The contractor to submit the list of the employees issued with the photo identity cards and deployed for execution of the particular contract, to the Engineers representative of Railways, at site before commencement of the work and also for any subsequent changes, if any, made during the execution of the work.
4. No claims whatsoever arising out of implementation of special conditions pertaining to issue of identity cards shall be admissible.

**SPECIAL CONDITIONS OF CONTRACT**

**1. COMPLETION PERIOD / CONTRACT PERIOD:-**

Five Years from the date of issue of LETTER OF ACCEPTANCE by Railways.

**2. COMMENCEMENT OF WORK:**

WITHIN FIFTEEN (15) DAYS (From the date of issue of Letter of Acceptance)  
(Refer GCC clause 19(2) "Execution of work")

**3. SUBMISSION OF PERFORMANCE GUARANTEE & EXECUTION OF AGREEMENT:**

Performance Bank Guarantee for value equivalent to 5% of contract value should be submitted within 30 days from the date of Letter of Acceptance (for details, refer GCC clause 16(3).

Execution of Works contract agreement within 30 days from the date of issue of Letter of Acceptance.

**4. EARNEST MONEY:-**

**Rs. 7,400/- (Rupees Seven thousand four hundred only)** shall be deposited by the tenderer as Earnest Money in any one of the forms as given at item 5(2) of Part I "Regulations for tenders and contracts at page no.4/5 of tender document/form, with the tender.

The earnest money should be drawn in favor of **FA & CAO Central Railway.**

**5. SECURITY DEPOSIT:-**

(a) Security deposit shall be 5% of the contract value and the same shall be recovered from on-account bills @ 10% of bill amount.

(a) Security deposit will be returned after physical completion of contracted work as certified by the competent authority.

(c) No interest is payable on cash deposit of earnest money or security deposit with the Railway.

(Please refer clause 16(1) & (2) of General conditions of contract)

**6. INDEMNITY BOND:**

No indemnity bond shall be required to be furnished by the contractor.

**7. PAYMENT TERMS:**

The contract payment will be made towards the end of each year after successful completion of AMC for that year

**NOTE :** Payment against the ordered work shall be made by Railways through NEFT wherever the facilities are available. For this purpose, the successful tenderer will require to furnish the details in the format at 8 [C] at page no.29.

**8. [A] CONTRACTORS CERTIFICATE:**

- a. *Certified that the measurement recorded on Page nos. \_\_\_\_\_ to \_\_\_\_\_ of Measurement book no. \_\_\_\_\_ are correct and acceptable to us.*
- b. *Also certified that the labour engaged by us have been paid wages not less than the wages paid for similar type of work in the neighborhood area as per relevant minimum wages act and all the labour engaged by us are covered under relevant social security scheme . (Form [B] shown at page no.21 to be filled in)*
- c. *We have no other claim for the work executed so far.*
- d. *We have no further dues from the Railways for the quantity billed.*

**[B] WAGES RECORD OF LABOURS – FORMAT**

[To be filled in]

1. **CONTRACTOR'S LICENSE NO** : \_\_\_\_\_
2. **THE HOURS OF WORK** : \_\_\_\_\_
3. **THE PERIOD OF WAGES** : \_\_\_\_\_
4. **THE DATE OF PAYMENT** : \_\_\_\_\_
5. **THE NAME AND ADDRESS OF  
THE INSPECTOR HAVING JURISDICTION:** \_\_\_\_\_
6. **THE DATE OF PAYMENT OF UNPAID  
WAGES** : \_\_\_\_\_
7. **WHETHER THE LABOURS ARE  
COVERED UNDER SOCIAL SECURITY  
SCHEME OF MINISTRY OF LABOUR  
VIZ. P.F., GRATUITY, ESI ETC.** : \_\_\_\_\_

**NOTE:** It is mandatory for the contractor furnish above information

**[C] NATIONAL ELECTRONIC FUND TRANSFER – FORMAT**  
**(to be filled in by the Contractor and submitted to this office)**

To,

**WAO PAREL**

**We wish to participate in the scheme for our bill payment through NEFT mechanism and submit the following details for the needful at your end.**

1. Name of firm : \_\_\_\_\_
2. Address with pincode: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. (A) Name of the Bank: \_\_\_\_\_  
(B) Name of the Branch : \_\_\_\_\_  
(C) Address & tele.no. : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (D) 9 digit code of Bank & Branch (as appearing in the MICR Cheque issued by the bank) : \_\_\_\_\_
4. Type of Account : \_\_\_\_\_  
(SB/Current/Cash Credit With 10,11 or 13)
5. Ledger Folio No. : \_\_\_\_\_
6. (As appearing in the cheque Book)
7. IFSC No. : \_\_\_\_\_

**We hereby declare that the particulars given above are correct. Original copy of cancelled cheque is enclosed herewith.**

**DA: As above.**

**Signature of authorized signatory**

**Name:  
Stamp and Seal of the firm**

9. **ESTIMATED COST OF WORK / SCHEDULED RATE:-**

The estimated cost of the entire work as per scope of work is **Rs. 3,70,000/-**.

10. **GOODS & SERVICES TAX:**

As applicable.

11. **WARRANTY:**

Not required for this Work.

**Signature of Tenderer(s)**

12. **TENDER CLOSING / OPENING:**

- i) Tender will be **closed at 11.00 hrs. on 22.08.2017**
- ii) Tender will be **opened at 11.15 hrs. on 22.08.2017**  
in the meeting room on the second floor of the office of the **Chief Workshop  
Manager, Locomotive Workshop Parel, Mumbai 400 012.**

Tenderers or their representatives may be present at the time of tender opening.

**Chief Workshop Manager, Parel**

Read and accepted

**Contractor's signature:** \_\_\_\_\_

Signed in the capacity of \_\_\_\_\_

**Name** \_\_\_\_\_

**(Rubber stamp should be affixed)**

Place:

Date:

## **SCOPE OF WORK & TECHNICAL SPECIFICATION**

### **1. SCOPE OF WORK:**

- (a) The AMC is for **05 YEARS** and is **NON COMPREHENSIVE**.
- (b) AMC covers the servicing of Abrasive Cut Off Machine.
- (c) The service Contract will consist of minimum of **12 (TWELVE) VISITS PER YEAR**.
- (d) Contract visits should include the following:
  - (i) General servicing of entire machine & check up.
  - (ii) Cleaning & servicing of tank, slides.
  - (iii) Checking of clamping vice & repairing, if needed.
  - (iv) Checking of coolant flow & rectification, if needed.
  - (v) Servicing of housing assembly.
  - (vi) Replacement of bearings, whenever found damaged.
  - (vii) Complete overhauling.
  - (viii) Servicing of pump.
  - (ix) Replacement of coolant jets & pipes, whenever found damaged.
  - (x) Replacement of coolant.

### **2. CONDITIONS OF CONTRACT:**

- (a) . The Contractor will aim for ensuring an up keeping of the Abrasive Cut-Off Machine for 100% performance.
- (b) . CMS- Section Incharge of C & M Laboratory, C.Rly. Parel will issue a letter certifying attendance and the work done by the contractor.
- (c) . Contractor will bring all the necessary instruments and the tools required in the service.
- (d) . Railways will be responsible for the following things:
  - i. Providing free prompt and reasonable access for the contractor's staff to observe the operation of the Abrasive Cut-Off Machine.
  - ii. Deputing necessary supervision as may be required in connection with the service offered by the contractor.
  - iii. Providing all the above facilities promptly on the request of visiting contractor's staff.
- (e) . The Contractor will exercise reasonable precautions at all times for safety of their employees at the worksite. The contractor may from time to time conduct safety audits to ensure that the safe condition exists and make recommendations to the Railway concerning the same.
- (f) . No variation or alteration of the contract shall be binding on the Railway unless such variations of alterations are endorsed on the agreement or areas governed by the officer duly authorized for the purpose.
- (g) . The Contractor will be responsible for the good conduct, behaviour and safety of the labours from the time they enter into the premises of the Parel Workshop.

### **3. PAYMENT OF CONTRACT:**

The contract payment will be made towards the end of each year after successful completion of AMC for that year.

## TENDER SCHEDULE

Name of work: Annual Maintenance Contract (AMC) for “Abrasive Cut-Off Machine”

S.No.	Description of Item	Quantity Year (1)	Estimated Rate per year (Rs.) (2)	Total Estimated Amount (Rs.) (3)=(1) X (2)
1	Annual Maintenance Contract (AMC) for “Abrasive Cut-Off Machine” as per scope of work and special and general conditions of contract	5		
	TOTAL Estimated amount (Rs.)			
	Total estimated amount in words (Rs.):			

**Note :**

*Rate shall be quoted all inclusive.*

**(Signature of tenderer)  
Rubber stamp to be affixed**

Place:  
Date:

*Contractor*

*CWM/Parel*



**PART II**

**STANDARD GENERAL CONDITIONS OF CONTRACT FOR WORKS**

**DEFINITIONS AND INTERPRETATION**

1. (1) **Definition:** In these General conditions of contract, the following terms shall have the meaning assigned here under except where the context otherwise requires:-
- a) **"Railway"** shall mean the President of the Republic of India or the Administrative Officers of the Railway or of the Successor Railway authorized to deal with any matters, which these presents are concerned on his behalf.
  - b) **"General Manager"** shall mean the officer in charge of the General Superintendence and Control of the Railway and shall also include the General Manager (Construction) and shall mean and include their successors, of the successors, of the successor Railway.
  - c) **"Divisional Railway Manager"** shall mean the Administrative Officer in charge of a Division of Central Railway for the time being and shall mean and include the Divisional Railway Manager of the successor Railway.
  - d) **"Chief Workshop Manager"** shall mean the officer incharge of the Mechanical / Electrical Engineering Department of Central Railway (Parel workshop) and shall mean and include the Successor Railway.
  - e) **"Engineer"** shall mean the Executive Engineer in executive charge of the works and shall include the superior officers of the Mechanical / Electrical Engineering Department of i.e. Dy. Chief Mechanical engineer and shall mean include the Engineers of the Successor Railway.
  - f) **"Works Manager"** shall be the Executive Officer of the contract work and shall mean and include execution officer of the successor Railway.
  - g) **"Engineer's Representative"** shall mean the Assistant Works Manager / Assistant Electrical Engineer / Assistant Plant Engineer /Assistant Inspection Officer in direct charge of the works and shall include any Senior Section Engineer/ Section Engineer/ Junior Engineer of Mechanical / Electrical Engineering Department appointed by the Central Railway and shall mean and include the Engineer's Representative of the Successor Railway.
  - h) **"Contract"** shall mean and include the Agreement of Work Order, the accepted schedule of rates of the Schedule or Rates of Central Railway modified by the tender percentage for items of works quantified, or not quantified, the General Conditions of Contract, the special conditions of contracts if any, the drawing, the specifications, the special specifications, if any, and tender forms, if any.
  - i) **"Works"** shall mean the works to be executed in accordance with the Contract.
  - j) **"Specifications"** shall mean the standard specifications for materials and works of Central Railway as specified in part III of the Works Hand Book issued under the authority of the Chief Engineer or as amplified, added to or superseded by special specifications, if any.
  - k) **"Schedule of Rules/ Sanctioned cost of the Central Railway"** shall mean the schedule of Rates/ sanctioned cost issued under the authority of the Chief workshop manager from time to time and case to case.

- l) **"Drawing"** shall mean the maps, drawings, plans and tracings or prints/ sketches there of annexed to the contract and shall include any modifications of such drawings and further drawings as may be issued by the Engineer from time to time.
- m) **"Constructional Plant"** shall mean all appliances or things of whatsoever nature required for the execution, completion or maintenance of the works or temporary works ( as hereinafter defined) but does not include materials or other things intended to form or forming part of the permanent work
- n) **"Temporary works"** shall mean all temporary works of every kind required for the execution completion and /or maintenance of the works.
- o) **"Site"** shall mean the lands and other places on, under, in or through which the works are to be carried out and any other lands or places provided by the Railway for the purpose of the contract.
- p) **"Period of Maintenance"** shall mean the specified period of maintenance from the date of completion of the works as certified by the Engineer.

(2) **Singular and Plural:** - Words importing the singular number shall also include the plural and vice versa, where the context requires.

(3) **Headings & marginal headings:** - The headings and marginal headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or the contract.

### GENERAL OBLIGATIONS

2. (1) **Execution Co-relation and intent of contract Documents:** - The contract documents be signed in triplicate by the Railway and the Contractor The contract documents are complementary, and what is called for by anyone shall be as binding as if called for by all, the intention of the documents is to include all labour and materials, equipments and transportation necessary for the proper execution of work. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the Railway to the contractors unless distinctly specified in the contract documents. Materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.
- (2) If a work is transferred from the jurisdiction of one Railway to another Railway or to a Project authority or vice versa while contract is in subsistence, the contract shall be binding on the Contractor and the Successor Railway/Project in the same manner & take effect in all respects as if the Contractor and the Successor Railway/Project were parties thereto from the inception and the corresponding officer or the competent authority in the Successor Railway/Project will exercise the same powers and enjoy the same authority as conferred to the Predecessor Railway/Project under the original contract/agreement entered into
- (3) If for administrative or other reasons the contract is transferred to the Successor Railway the contract shall not with standing any things contained herein contrary there to, be binding on the Contractor and the Successor Railway in the same manner and take effect in all respects as if the Contractor and the Successor Railway had been parties thereto from the date of this contract.

3. (1) **Law governing the contract:** - The contract shall be governed by the law for the time being in force in the Republic of India
- (2) **Compliance to regulations and bye-laws:** - The Contractor shall conform to the provision of any statute relating to the works and regulations and bye-laws of any local authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so confirming give to the Engineer notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation until he has received instructions from the Engineer in respect thereof. The Contractor shall be bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.
4. **Communications to be in writing:** - All notices, communications, reference and complaints made by the Railway or the Engineer or the Engineer's Representative or the Contractor interse concerning the works shall be in writing and no notice, communication, reference or complaint not in writing shall be recognized.
5. **Service of Notices on Contractors:** The Contractor shall furnish to the Engineer the name, designation and address of his authorized agent and all complains, notice, communications and references shall be deemed to have been duly given to the Contractor if delivered to the Contractor or his authorised agent or left at or posted to the addressed so given and shall be deemed have been so given in the case of posting on day on which they would have reached such address in the ordinary course of post or on the day on which they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the Contractor to the Engineer.
6. **Occupation and use of land :-** No land belonging to or in the possession of the Railway shall be occupied by the Contractor without the permission of the Railway, The Contractor shall not use, or allow to be used, the site for any purposes other than that of executing the works.
7. **Assignment or subletting of contract:** - The Contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein any manner what sever without the special permission in writing of the Railway. Any breach of this condition shall entitle Railway to rescind the contract under clause 62 of these conditions and also render the contractor liable for payment to the Railway in respect of any loss or damage arising or ensuring from such cancellation, Provided always that execution of the details of the work by petty contractor under the direct and personal supervision of the Contractor or his agent shall not be deemed to be sub-letting under this clause. The permitted subletting of work by the Contractor shall not establish any contractual relationship between the sub-contractor and the Railway and shall not relieve the Contractor of any responsibility under the Contract.
8. **Assistance by the Railway for the Stores to be obtained by the Contractor :-** Owing to difficulty in obtaining certain materials (including Tools & Plant) in the market, the Railway may have agreed without any liability therefore to endeavor to obtain or assist the Contractor in obtaining the required quantities of such materials as may be specified in the Tender. In the event of delay of failure in obtaining the required quantities of the aforesaid material the Contractor shall not be deemed absolved of his own responsibility and shall keep in touch with, the day to day position regarding their availability and accordingly adjust progress of

works including employment of labour and the Railway shall not in any way be liable for the supply of materials or for the non supply thereof for any reasons whatsoever nor for any loss or damage arising in consequence of such delay or non supply.

9. **Railway Passes:** - No free Railway passes shall be issued by the Rly to the contractor or any of his employee/worker.
10. **Carriage of materials:** - No forwarding orders shall be issued by the Railway for the conveyance of Contractor's materials, tools and plant by Rail which may be required for use in the works and the contractor shall pay full freight charges at public tariff rates therefore.
11. **Use of ballast trains :-** The Railway may agree to allow the Contractor, the use of the ballast or material trains under such conditions as shall be specially prescribed, provided that the Contractor shall pay for the use thereof charges calculated at public tariff rates on the marked carrying capacity of each vehicle subject to specified minimum charge per day or part of day and provided further that the Contractor shall indemnify the Railway against any claims or damages arising out of the use or misuse thereof and against any liabilities under the Workmen's Compensation Act. 1923 or any statutory amendments thereto.
12. **Representation on Works:** - The Contractor shall, when he is not personally present on the site of the works place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Engineer and orders given by the Engineer or the Engineer's representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting himself, the Contractor shall furnish the name and address of his agent the purpose of this clause and failure on the part of the Contractor to comply with this provision at any time will entitle the Railway to rescind the contract under clause 62 of these conditions.
13. **Relics and Treasures:** - All gold, silver, oil and other minerals of any description and all precious stones, coins, treasures relics antiquities and other similar things which shall be found in or upon the site shall be the property of the Railway and the Contractor shall duly preserve the same to the satisfaction of the Railway and shall from time to time deliver the same person or persons as the Railway may appoint to receive the same.
14. **Excavated material :-** The Contractor shall not sell or otherwise dispose of or remove for the purpose of this contract, the sand, stone, clay ballast, 'earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the works or any building or produced upon the site at the time of delivery of the possession thereof Railway but all the substances, materials, buildings and produce shall be the property of the Railway provided that the Contractor may, with the permission of the Engineer, use the same for the purpose of the works either free of cost or pay the cost of the same at such rates as may be determined by the Engineer.
15. **Indemnity by Contractors:** - The Contractor shall indemnify and save harmless the Railway from and against all actions, suit proceedings losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the Railways by reason of any act or omission of the Contractor, his agents or employees, in the execution of the works or in his guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained and whether or not any damage shall have been sustained.
16. **(1) Security Deposit:** - The Earnest Money deposited by the Contractor with his tender will be retained by the Railways as part of security for the due and faithful fulfilment of the contract by the contractor. The balance to make up the security deposit, the rates for which are given below, may be deposited by the Contractor in cash or may be recovered

by percentage deduction from the Contractor's "on account" bills. Provided also that in case of defaulting contractor the Railway may retain any amount due for payment to the Contractor on the pending "on account bills" so that the amounts so retained may not exceed 10% of the total value of the contract.

**16.(2) Recovery Of Security Deposit:** Unless otherwise specified in the special conditions, if any, the rates for deposit of security amount by contractors will be as under:-

- a) Security Deposit for each work should be 5% of the contract value.
- b) The rate of recovery should be at the rate of 10% of the bill amount till the full SD is recovered.
- c) Security Deposit will be recovered only from the running bills of the contract and no other mode of collecting SD such as SD in the form of instruments like BG, FD etc. shall be accepted towards Security Deposit.

Security Deposit shall be returned to the contractor after the expiry of the maintenance period in all the cases other than Note (i) mentioned below and after passing the final bill based on No Claim Certificate with the approval of the Competent Authority. The Competent Authority shall normally be the authority who is competent to sign the contract. If this Competent Authority is of the rank lower than JA Grade, then a JA Grade Officer (concerned with the work) should issue the certificate. The certificate, inter alia, should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the contractor and that there is no due from the contractor to Railways against the contract concerned. Before releasing the SD, an unconditional and unequivocal 'No Claim Certificate' from the contractor concerned should be obtained.

**Note -**

- (i) After the work is physically completed, Security Deposit recovered from the running bills of a contractor can be returned to him, if he so desires, in lieu of FDR/irrevocable Bank Guarantee for equivalent amount to be submitted by him.
- (ii) In case of contracts of value Rs. 50 crore and above, irrevocable Bank Guarantee can also be accepted as a mode of obtaining security deposit.

**16.(3)** No interest will be payable upon the Earnest Money and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub-Clause (1) of this clause will be payable with interest accrued thereon.

**16.(4) Performance Guarantee**

The procedure for obtaining Performance Guarantee is outlined below :

- (a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter Of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days, i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work.
- (b) The successful bidder shall submit the Performance Guarantee (PG) in any of the following forms, amounting to 5% of the contract value:
  - (i) A deposit of Cash;
  - (ii) Irrevocable Bank Guarantee;
  - (iii) Government Securities including State Loan Bonds at 5% below the market value;

- (iv) Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds. These forms of Performance Guarantee could be either of the State Bank of India or of any of the Nationalized Banks;
- (v) Guarantee Bonds executed or Deposits Receipts tendered by all Scheduled Banks;
- (vi) A Deposit in the Post Office Saving Bank;
- (vii) A Deposit in the National Savings Certificates;
- (viii) Twelve years National Defence Certificates;
- (ix) Ten years Defence Deposits;
- (x) National Defence Bonds and
- (xi) Unit Trust Certificates at 5% below market value or at the face value whichever is less. Also, FDR in favour of FA&CAO (free from any encumbrance) may be accepted.

**Note** - The instruments as listed above will also be acceptable for Guarantees in case of Mobilization Advance.

(c) The Performance Guarantee shall be submitted by the successful bidder after the Letter Of Acceptance (LOA) has been issued, but before signing of the contract agreement. This P.G. shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of P.G. extended to cover such extended time for completion of work plus 60 days.

(d) The value of PG to be submitted by the contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the contractor.

(e) The Performance Guarantee (PG) shall be released after physical completion of the work based on 'Completion Certificate' issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period and after passing the final bill based on 'No Claim Certificate' from the contractor.

(f) Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & cost of the failed contractor. The failed contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor 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.

(g) The engineer shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of :

(i) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.

(ii) Failure by the contractor to pay President of India any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Engineer.

(iii) The Contract being determined or rescinded under provision of the GCC, the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the President of India.

{Ref. : Item-I to Railway Board's letter no. 2007/CE.I/CT/18 Pt.XII, dated 31.12.2010}

**17. Force Majeure Clause :-** If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reason of any war, hostility, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, explosions, epidemics, strikes, lockouts or acts of God (hereinafter, referred to events) provided, notice of the happening of any such event is given by either party to the other within 30 days from the date of occurrence thereof, neither party shall by reason of such event, be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non-performance or delay in performance, and works under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Engineer as to whether the works have been so resumed or not shall be final and conclusive, PROVIDED FURTHER that if the performance in whole or in part of any obligation under this contract is prevented or delayed by

*Contractor* *CWM/Parel*

reason of any such event for a period exceeding 120 days, either party may at its option terminate the contract by giving notice to the other party.

**17-A Extension Of Time In Contracts** : Subject to any requirement in the contract as to completion of any portions or portions of the works before completion of the whole, the contractor shall fully and finally complete the whole of the works comprised in the contract (with such modifications as may be directed under conditions of this contract) by the date entered in the contract or extended date in terms of the following clauses:

(i) **Extension Due To Modification** : If any modifications have been ordered which in the opinion of the Engineer have materially increased the magnitude of the work, then such extension of the contracted date of completion may be granted as shall appear to the Engineer to be reasonable in the circumstances, provided moreover that the Contractor shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the works.

(ii) **Extension For Delay Not Due To Railway Or Contractor** : If in the opinion of the Engineer, the progress of work has any time been delayed by any act or neglect of Railway's employees or by other contractor employed by the Railway under Sub- Clause (4) of Clause 20 of these Conditions or in executing the work not forming part of the contract but on which contractor's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighbouring owners or public authority arising otherwise through the Contractor's own default etc. or by the delay authorized by the Engineer pending arbitration or in consequences of the contractor not having received in due time necessary instructions from the Railway for which he shall have specially applied in writing to the Engineer or his authorized representative then upon happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer within 15 days of such happening, but shall nevertheless make constantly his best endeavours to bring down or make good the delay and shall do all that may be reasonably required of him to the satisfaction of the Engineer to proceed with the works. The contractor may also indicate the period for which the work is likely to be delayed and shall be bound to ask for necessary extension of time. The Engineer on receipt of such request from the contractor shall consider the same and shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period of time, the same rates, terms and conditions of contract being applicable as if such extended period of time was originally provided in the original contract itself.

(iii) **Extension For Delay Due To Railways** : In the event of any failure or delay by the Railway to hand over the Contractor possession of the lands necessary for the execution of the works or to give the necessary notice to commence the works or to provide the necessary drawings or instructions or any other delay caused by the Railway due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the contract or alter the character thereof or entitle the contractor to damages or compensation therefor, but in any such case, the Railway may grant such extension or extensions of the completion date as may be considered reasonable

**17-B Extension Of Time For Delay Due To Contractor:** - The time for the execution of the work or part of the works specified in the contract Documents 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. If the contractor fails to complete the works within the time as specified in the contract for the reasons other than the reasons specified in clause 17 and 17 -A, the Railway may, if satisfied that the works can be completed by the contractor within reasonable short time thereafter, allow the contractor for further extension of time (Proforma Annex. I) as the Engineer may decide. On such extension the Railway will be entitled without prejudice to any their right and remedy available on that behalf, to recover from the contractor as agreed damages and not by way of penalty a sum equivalent to 1/2 of 1% of the contract value of the works for each week or part of the week.

For the purpose of this clause, the contract value of the works shall be taken as value of work as per contract agreement including any supplementary work order/contract

agreement issued. Provided also, that the total amount of liquidated damages under this condition, shall not exceed the under noted percentage value or of the total value of the item or groups of items of work for which a separate distinct completion period is specified in the contract.

(i) For contract value up to Rs. 2 lakhs - 10% of the total value of the contract.

(ii) For contracts valued above Rs. 2 Lakhs- 10% of the first Rs 2 lakhs and the 5% of balance.

Further, competent authority while granting extension to the currency of contract under Clause 17 (B) of GCC may also consider levy of token penalty, as deemed fit based on the merit of the case.

Provided further, that if the Railway is not satisfied that the works can be completed by the contractor and in the event of failure on the part of the contractor to complete the work within further extension of time allowed as aforesaid, the Railway shall be entitled without prejudice to any other right or remedy available in that behalf, to appropriate the contractor's security deposit rescind the contract under clause 62 of these conditions, whether or not actual damage is caused by such default.

**18. (1) Illegal Gratification :-** Any bribe, commission, gift or advantage given, promised offered by or on behalf to the Contractor or his partner, agent or servant or anyone on his behalf, to any officer or employee of the Railway, or to any person on his behalf in relation to obtaining or execution of this or any other contract with the Railway shall, in addition to any criminal liability which he may incur, subject the contractor to the rescission of the contract and all other contracts with the Railway and to the payment of any loss or damage resulting from such decision and the Railway shall be entitled to deduct the amounts so payable from any moneys due to the Contractor(s) under this contract or any other contracts with the Railway.

**18 (2)** The Contractor shall not lend or borrow from or have or enter into any monetary dealings or transactions either directly or indirectly with any employee of the Railway and if he shall do so, the Railway shall be entitled forthwith to rescind the contract and all other contracts with the Railway. Any question or dispute as to the commission or any such offence or compensation payable to the Railway under this clause shall be settled by the General Manager of the Railway, in such a manner as he shall consider fit and sufficient and his decision shall be final and conclusive. In event of rescission of the contract under this clause, the Contractor will not be paid any compensation whatsoever except payments for the work done upto the date of rescission.

### **EXECUTION OF WORKS**

**19. (1) Contractor's understanding :-** It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered the character of equipment and facilities needed preliminary to and during the progress of the works, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the works under the contract.

**19 (2) Commencement of works :-** The Contractor shall commence the works within 15 days after the receipt by him of an order in writing to this effect from the Engineer and shall proceed with the same with due expedition and without delay.



**19 (3) Accepted program of work:** - The Contractor who has been awarded the work shall as soon as possible but not later than 30 days after the date of receipt of the acceptance letter in respect of contracts with initial completion period of two years or less or not later than 90 days for other contracts have to submit the detailed program of work indicating the time schedule of various items of works in the form of Bar Chart/PERT/CPM. He shall also submit the details of organization (in terms of labour and supervisors) plant and machinery that he intends to utilize (from time to time) for execution of the work within stipulated date of completion. The program of work amended as necessary by discussions with the Engineer, shall be treated as the agreed program of the work for the purpose of this contract and the contractor shall endeavour to fulfil this program of work. The progress of work will be watched according and the liquidated damages will be with reference to the overall completion date. Nothing stated herein shall preclude the contractor in achieving earlier completion of item or whole of the works than indicated in the program.

**19(4) Setting out of works:** - The Contractor shall be responsible for the correct setting out of all works in relation to original points, lines and levels of reference at his cost. The Contractor shall execute the work true to alignment, grade, levels and dimensions as shown in the drawing and as directed by the Engineer's representative and shall check these at frequent intervals. The Contractor shall provide all facilities like labour and instruments and shall co-operate with the Engineer's representative to check all alignment, grades, levels and dimensions. If, at any time, during the progress of the works any error shall appear or arise in any part of the work, the Contractor, on being required so to do by the Engineer's representative shall, at his own cost rectify such errors, to the satisfaction of the Engineer's representative. Such checking shall not absolve the Contractor of his own responsibility of maintaining accuracy in the work, The Contractor shall carefully protect and preserve all bench marks, sight rails, pegs and other things used in setting out the work.

**20. (1) Compliance to Engineers Instructions :-**The Engineer shall direct the order in which the several parts of the works shall be executed and the Contractor shall execute without delay all orders given by the Engineer from time to time but the Contractor shall not be relieved thereby from responsibility for the due performance of the works in all respects.

**20 (2) Alterations to be authorized :-** No alterations in or additions to or omissions or abandonment of any part of the works shall be deemed authorized, except under instructions from the Engineer, and the Contractor shall be responsible to obtain such instructions in each and every case in writing from the Engineer.

**20(3) Extra works:** - Should works over and above those included in the contract require to be executed at the site, the contractor shall have no right to be entrusted with the execution of such works which may be carried out by another contractor or contractors or by other means at the option of the Railway.

**20(4) Separate contracts in connection with works:** - The Railway shall have the right to let other contracts in connection with the works. The Contractor shall afford other contractors reasonable opportunity for the storage of their materials and the execution of their works and shall properly connect and coordinate his work with theirs. If any part of the Contractors work depends for proper execution or result upon the work of another contractor(s), the Contractor shall inspect and promptly report to the Engineer any defects in such works that render it unsuitable for such proper execution and results. The Contractor's failure so-to Inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution of his work.

- 21. Instruction of Engineer's Representative :-** Any instructions or approval given by the Engineer's representative to Contractor in connection with the works shall bind the Contractor as through it had been given by the Engineer provided always as follows :-
- (a) Failure of the Engineer's representative to disapprove any work or materials shall not prejudice the power of the Engineer thereafter to disapprove such work or material and to order the removal or breaking up thereof .
  - (b) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's representative, he shall be entitled to refer the matter to the Engineer who shall there upon confirm or vary such decision.
- 22. (1) Adherence to specifications and drawings:** - The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If the Contractor performs any works in a manner contrary to the specifications or drawings or any of them and without such reference to the Engineer he shall bear all the costs arising or ensuing there from and shall be responsible for all loss to the Railway.
- 22 (2) Drawings and specifications of the works:** - The Contractor shall keep one copy of Drawings and Specifications at the site, in good order, and such contract documents as may be necessary, available to the Engineer or the Engineer's Representative.
- 22 (3) Ownership of drawings and specifications:** - All Drawings and Specifications and copies thereof furnished by the Railway to the Contractor are deemed to be the property of the Railway. They shall not be used on other works and with the exception of the signed contract set, shall be returned by the Contractor to the Railway on completion of the work or termination of the Contract
- 22 (4) Compliance with Contractor's request for details:** - The Engineer shall furnish with reasonable promptness, after receipt by him of the Contractor's request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such drawings and instructions shall be consistent with the Contract Documents and reasonably there from.
- 22 (5) Meaning and intent of specification and drawings :-** If any ambiguity arises as to the meaning and intent of any portion of the Specifications and Drawings or as to execution or quality of any work or material, or as to the measurements of the works the decision of the Engineer thereon shall be final subject to the appeal (within 7 days of such decision being intimated to the Contractor) to the Chief Engineer who shall have the power to correct any errors, omissions, or discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.
- 23. Working during night:** -
- The Contractor shall not carry out any work between sun-set and sun-rise without the previous permission of the Engineer.
- 24. Damage to Railway property or private life and property:-**
- The Contractor shall be responsible for all risk to the work and for trespass and shall make good at his on expense all loss or damage whether to the works themselves or to any other property of the Railway or the lives, persons or property of others from whatsoever cause in connection with the works until they are taken over by the Railway and this although all reasonable and proper precautions may have been taken by the Contractor, and in case the Railway shall be called upon to make good any costs, loss or damages, or to pay any compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof to any person or persons sustaining damages as

aforesaid by reason of any act, or any negligence or omissions on the part of the Contractor the amount of any costs or charges including costs and charges in connection with legal proceedings, which the Railway may incur in reference thereto, shall be charged to the Contractor. The Railway shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action or default of the Contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Contractor, as aforesaid, any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the Contractor.

**25. Sheds, Storehouses and Yards:-**

The Contractor shall at his own expense provide himself with sheds, storehouses and yards in such situations and in such numbers as in the opinion of the Engineer is requisite for carrying on the works and the Contractor shall keep at each such sheds, store-houses and yards a sufficient quantity of materials and plant in stock as not to delay the carrying out of the works with due expedition and the Engineer and the Engineer's representative shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plant which the Engineer may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds, store houses or yards by the Contractor. The Contractor shall at his own expenses provide and maintain suitable mortar mills, soaking vats or any other equipment necessary for the execution of the works.

**26. Provision Of Efficient And Competent Staff At Work Sites By The Contractor :**

**26.1** The Contractor shall place and keep on the works at all times efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound & proper manner and shall employ only such supervisors, workmen & labourers in or about the execution of any of these works as are careful and skilled in the various trades.

**26.2** The Contractor shall at once remove from the works any agents, permitted subcontractor, supervisor, workman or labourer who shall be objected to by the Engineer and if and whenever required by the Engineer, he shall submit a correct return showing the names of all staff and workmen employed by him.

**26.3** In the event of the Engineer being of the opinion that the Contractor is not employing on the works a sufficient number of staff and workmen as is necessary for proper completion of the works within the time prescribed, the Contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Engineer within seven days of being so required and failure on the part of the Contractor to comply with such instructions will entitle the Railway to rescind the contract under Clause 62 of these conditions.

**26A. Deployment Of Qualified Engineers At Work Sites By The Contractor :**

**26A.1** The contractor shall also employ Qualified Graduate Engineer or Qualified Diploma Holder Engineer, based on value of contract, as may be prescribed by the Ministry of Railways through separate instructions from time to time.

**26A.2** In case the contractor fails to employ the Engineer, as aforesaid in Para 26A.1, he shall be liable to pay penalty at the rates, as may be prescribed by the Ministry of Railways through separate instructions from time to time for the default period for the provisions, as contained in Para 26A.1.

**26A.3** No. of qualified engineers required to be deployed by the Contractor for various activities contained in the works contract shall be specified in the tender documents as 'special condition of contract' by the tender inviting authority."

{Authority : Railway Board's letter no. 2012/CE-I/CT/O/20, New Delhi, Dated 10.05.2013}

**27. (1) Workmanship and testing :-** The whole of the works and/or supply of materials specified and provided in the contract or that may be necessary to be done in order to form

and complete any part thereof shall be executed in the best and most substantial workman like manner with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the works and to the entire satisfaction of the Engineer according to the instructions and directions which the Contractors may from time to time receive from the Engineer. The materials may be subjected to tests by means of such machines, instruments and appliances as the Engineer may direct and wholly at the expense of the Contractor.

**27 (2) Removal of improper work and materials:** -The Engineer or the Engineer's representative shall be entitled to order from time to time:-

- (a) The removal from the site within the time specified in the order of any materials which in his opinion are not in accordance with the specifications or drawings.
- (b) The substitution of proper and suitable material, and
- (c) the removal and proper re-execution, notwithstanding any previous tests thereof or "on account" payments therefore, of any work which in respect of materials or workmanship is not in his opinion in accordance with the specifications and in case of default on the part of the Contractor in carrying out such order the Railway shall be entitled to rescind the contract under Clause 62 of these conditions.

**28. Facilities for Inspection:-**

The Contractor shall afford the Engineer and the Engineer's Representative every facility for entering in and upon every portion of the work at all hours for the purpose of inspection or otherwise and shall provide all labour, materials, planks, ladders pumps, appliances and things of every kind required for the purpose and the Engineer and the Engineer's Representative shall at all times have free access to every part of the works and to all places at which materials for the works are stored or being prepared.

**29. Examination of work before covering up:-** The Contractor shall give 7 days notice to the Engineer or the Engineer's Representative whenever any work or materials are intended to be covered up in the earth, in bodies or walls or otherwise to be placed beyond the reach of measurements in order that the work may be inspected or that correct dimensions may be taken before being so covered, placed beyond the reach of measurement in default whereof, the same shall at the option of the Engineer or the Engineer's Representative be uncovered and measured at the Contractor's expense or no allowance shall be made such work or materials.

**30. Temporary Works:**

All temporary works necessary for the proper execution of the works shall be provided and maintained by the Contractor and subject to the consent of the Engineer shall be removed by him at his expenses when they are no longer required and in such manner as the Engineer shall direct. In the event of failure on the part of the Contractor to remove the temporary works, the Engineer will cause them to be removed and cost as increased by supervision and other incidental charges shall be recovered from the Contractor. If temporary huts are provided by the Contractor on the Railway land for labour engaged by him for the execution of works, the contractor shall arrange for handing over vacant possession of the said land after the work is completed if the contractor's labour refuse to vacate, and have to be by the Railway, necessary expenses incurred by the Railway in connection therewith shall be borne by the Contractor.

**31. (1) Contractor to supply water for works:**

*Contractor*

*CWM/Parel*

Unless otherwise provided in the Contract, the Contractor shall be responsible for the arrangements to obtain supply of water necessary for the works.

**31(2) Water supply from Railway System:**

The Railway may supply to the Contractor part or whole of the quantity of the water required for the execution of works from the Railway's existing water supply system at or near the site of works on specified terms and conditions and at such charges as shall be determined by the Railway and payable by the Contractor, provided that the Contractor shall arrange, at his own expense, to effect the connections and lay additional pipe lines and accessories on the site and that the Contractor shall not be entitled to any compensation for interruption or failure of the water supply.

**31(3) Water supply by Railway Transport:**

In the event of the Railway arranging supply of water to the Contractor at or near the site of works by traveling water tanks or other means, the freight and other charges incurred thereby, including demurrage charges that may be levied, shall be paid by the Contractor in addition to the charges referred to in sub-clause (2) of the clause provided that the contractor shall not be entitled to any compensation for interruption or failure of the water supply.

**31 (4) (a). Contractor to arrange supply of Electric power for works-**

Unless otherwise provided in the contract, the Contractor shall be responsible for arrangements to obtain supply of Electric Power for the works.

**(b). Electric supply from the Railway system:**

The Railway may supply to the contractor part or whole of the electric power wherever available and possible, required for execution of works from the Railway's existing electric supply systems at or near the site of works on specified terms and conditions and such charges as shall be determined by the railway and payable by the Contractor provided the cost of arranging necessary connection to the Railway's Electric Supply systems, and laying of underground/overhead conductor, circuit protection, electric power meters, transmission structure, shall be borne by the Contractor and that the contractor shall not be entitled to any compensation for interruption or failure of the electric supply system.

**32. Property in materials and plant :**

The materials and plant brought by the Contractor on the site or on the land occupied by the Contractor in connection with the works and intended to be used for the execution thereof shall immediately, they are brought upon the site the said land, be deemed to be the property of the Railway. Such of them as during the progress of the works are rejected by the Engineer under Clause 25 of these conditions or are declared by him not to be needed for the execution of the works or such as on the grant of the certificate of completion remain unused shall immediately on such rejection, declaration or grant cease to be deemed the property of the Railway and the Contractor may then (but not before) remove them from the site or the said land. This clause shall not in any way diminish the liability the Contractor nor shall the Railway be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, injured or destroyed by fire, tempest or otherwise.

**33. (1) Tools, Plant and Materials Supplied by Railway:**

The Contractor shall take all reasonable care of all tools, plant and materials or other property whether of a like description not belonging to the Railway and committed to his

charge for the purpose of the works and shall be responsible for all damage or loss caused by him, his agents, permitted sub-contractor or his workmen or others while they are in his charge. The Contractors shall sign accountable receipts for tools, plants and materials made over to him by the Engineer and on completion of the works shall hand over the unused balance of the same to the Engineer In good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done thereto.

**33(2) Hire of Railway's Plant:**

The Railway may hire to the Contractor such plant as concrete mixers, compressors and portable engines for use during execution of the works on such terms as may be specified in the special conditions or in a separate agreement for Hire of Plant.

**34. (1) Precaution during progress of works:** - During the execution of work, unless otherwise specified the Contractor shall at his own cost provide the materials for and execute all shoring, timbering and strutting works as is necessary for the stability and safety of all structures, excavations and works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or property.

**34 (2) Roads and Water courses :-** Existing roads or' water courses shall not be blocked cut through, altered, diverted or obstructed in any way by the Contractor, except with the permission of the Engineer. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or his agent or his staff shall be recoverable from the Contractor ,by deduction from any sums which may become due to him in terms of contract, or otherwise according to law.

**34(3) Provision of access to premises:** - During progress of work in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the works and shall erect and maintain at his own cost barriers, Lights and other safeguards as prescribed by the Engineer, for the regulation of the traffic, and provide watchmen necessary to prevent accidents. The works shall in such cases be executed night and day if so ordered by the Engineer and with such vigor so that the traffic may be impeded for as short a time as, possible.

**34 (4) Safety of Public:** - The Contractor shall be responsible to take all precautions to ensure the safety of the public whether on public or Railway property and shall post such look out men as may in the opinion of the Engineer be required to comply with regulations appertaining to the work.

**35. Use of Explosives:** - Explosives shall not be used on the works or on the site by the Contractor without the permission of the Engineer and then only in the manner and to the extent to which such permission is given. Where explosives are required for the works, they shall be stored in a special magazine to be provided by and at the cost of the Contractor in accordance with the Explosive Rules. The Contractor shall obtain the necessary license for the storage and the use of explosives and all operations in which or for which explosives are employed shall be at the sole risk and responsibility of the Contractor and the Contractor shall indemnify the Railway in respect thereof.

**36. (1) Suspension of works:** - The Contractor shall on the order of the Engineer suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall during such suspension properly protect and

secure the work so far as is necessary in the opinion of the Engineer. If such suspension is:-

- (a) Provided for in the contract, or
- (b) Necessary for the proper execution of the works or by the reason of weather conditions or by some default on the part of the Contractor, and or
- (c) Necessary for the safety of the works or any part thereof.

**36(2)** The Contractor shall not be entitled to the extra costs, if any, incurred by him during the period of suspension of the works, but in the event of any suspension ordered by the Engineer for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Contractor shall be entitled to such extension of time for completion of the works as the Engineer may consider proper having regard to the period or periods of such suspensions and to such compensations as the Engineer may consider reasonable in respect of salaries or wages paid by the Contractor to his employees during the periods of such suspension.

**36 (3) Suspension lasting more than 3 months :-** If the progress of the works or any part thereof is suspended on the order of the Engineer for more than three months at a time, the Contractor may serve a written notice on the Engineer requiring permission within 15 days from the receipt thereof to proceed with the works or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by further written notice so served may, but is not bound to, elect to treat the suspension where it affects part only of the works as an omission of such part or where it affects the whole of the works, as an abandonment of the contract by the Railway.

**37. Rates for items of works :-** The rates entered in the accepted Schedule of Rates of the Contract are intended to provide for works duly and properly completed in accordance with the general and special (if any) conditions of the contract and the specifications and drawings together with such enlargements, extensions, diminutions, reductions, alterations or additions as may be ordered in terms of Clause 42 of these conditions and without prejudice to the generality thereof and shall be deemed to include and cover superintendence and labour, supply, including full freight, of materials, stores, patterns, profiles, moulds, fittings, centering, scaffolding, shoring props, timber, machinery, barracks, tackle, roads, pegs, posts, tools and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contract to be supplied to the Contractor by the Railway, the erection, maintenance and removal of all temporary works and buildings, all watching, lighting, bailing, pumping and draining, all prevention of or compensation for trespass, all barriers and arrangements for the safety of the public or of employees during the execution of works, all sanitary and medical arrangements for labour camps as may be prescribed by the Railway, the setting of all work and of the construction, repair and upkeep of all centre lines, bench marks and level pegs thereon, site clearance, all fees duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all material supplied for the work or other duties of expenses for which the Contractor may become liable or may be put to under any provision of law for the purpose of or in connection with the execution of the contract, and all such other incidental charges or contingencies as may have been specially provided for in the specifications.

**38. Demurrage and Wharfage dues :-** Demurrage charges calculated in accordance with the scale enforce for the time being on the Railway and incurred by the Contractor failing to load or unload any goods of materials within the time allowed by the Railway for loading as also wharfage charges, of materials not removed in time as also charges due on

consignments booked by or to him shall be paid by the Contractor, failing which such charges shall be debited to the Contractor's account in the hands of the Railway and shall be deducted from any sums which may become due to him in terms of the contracts.

**39. (1) Rates for extra items of works :-**

Any item of work carried out by the Contractor on the instructions of the Engineer which is not included in the accepted schedules of rates shall be executed at the rates set forth in the "Schedule of Rates Central Railway" modified by the tender percentage and such items are not contained in the latter, at the rate agreed upon between the Engineer and the Contractor before the execution of such items of work and the Contractors shall be bound to notify the Engineer at least seven days before the necessity arises for the execution of such items of works that the accepted schedule of rates does not include rate or rates for the extra work involved. The rates payable for such items shall be decided at the meeting to be held between the Engineer and Contractor, in as short a period as possible after the need for the special item has come to the notice. In case the Contractor fails to attend the meeting after being notified to do so or in the event of no settlement being arrived at, the Railway shall be entitled to execute the extra works by other means and the Contractor shall have no claim for loss or damage that may result from such procedure.

- 39 (2)** Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates as determined and agreed upon as lastly hereunto fore mentioned, then and in such a case the Contractor shall only be entitled to be paid in respect of the work carried out or expenditure incurred by him prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Engineer. However if the Contractor is not satisfied with the decision of the Engineer in this respect he may appeal to the Chief Engineer within 30 days of getting the decision of the Engineer, supported by analysis of the rates claimed. The Chief Engineer's decision after hearing both the parties in the matter would be final and binding on the Contractor and the Railway.

**40. (1) Handing over of works:**

The Contractor shall be bound to hand over the works executed under the contract to the Railway complete in all respects to the satisfaction of the Engineer. The Engineer shall determine the date on which the work is considered to have been completed, in support of which his certificate shall be regarded as sufficient evidence for all purposes. The Engineer shall determine from time to time, the date on which any particular section of the work shall have been completed, and the contractor shall be bound to observe any such determination of the Engineer.

**40 (2) Clearance of site on completion:**

On completion of the works, the Contractor shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer. No final payment in settlement of the accounts for the works shall be paid, held to be due or shall be made to the Contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him, and such clearance may be made by the Engineer at the expense of the Contractor in the event of his failure to comply with his provision within 7 days after receiving notice to that effect. Should it become necessary for the Engineer to have the site cleared at the expenses of the Contractor, the Railway shall not be held liable for any loss or damage to such of the Contractor's property as may be on the site and due to such removal there



from which removal may be effected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Engineer.

### **VARIATIONS IN EXTENT OF CONTRACT**

**41. Modification To Contract To Be In Writing :** In the event of any of the provisions of the contract requiring to be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the Railway and the Contractor and no work shall proceed under such modifications until this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Railway unless and until the same is incorporated in a formal instrument and signed by the Railway and the Contractor, and till then the Railway shall have the right to repudiate such arrangements.

**42. (1) Powers of modification to contract :-** The Engineer on behalf of the Railway shall be entitled by order in writing to enlarge or extend, diminish or reduce the works or make any alterations in their design, character position, site, quantities, dimensions or in the method of their execution or in the combination and use of materials for the execution thereof or to order any additional work to be done or any works not to be done and the contractor will not be entitled to any compensation for any increase/reduction in the quantities of work but will be paid only for the actual amount of work done and for approved materials supplied against a specific order.

**42 (2) (i)** Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity of each individual item of the contract would be upto 25% of the quantity originally contracted, except in case of foundation work. The contractor shall be bound to carry out the work at the agreed rates and shall not be entitled to any claim or any compensation whatsoever upto the limit of 25% variation in quantity of individual item of works.

(ii) In case of earthwork, the variation limit of 25% shall apply to the gross quantity of earth work and variation in the quantities of individual classifications of soil shall not be subject to this limit.

(iii) In case of foundation work, no variation limit shall apply and the work shall be carried out by the contractor on agreed rates irrespective of any variation.

**42(3) Valuation Of Variations :** The enlargements, extensions, diminution, reduction, alterations or additions referred to in Sub-Clause (2) of this Clause shall in no degree affect the validity of the contract; but shall be performed by the Contractor as provided therein and be subject to the same conditions, stipulations and obligations as if they had been originally and expressly included and provided for in the Specifications and Drawings and the amounts to be paid therefor shall be calculated in accordance with the accepted Schedule of Rates. Any extra items/quantities of work falling outside the purview of the provisions of Sub-Clause (2) above shall be paid for at the rates determined under Clause-39 of these Conditions.

**42.(4) Variations In Quantities During Execution Of Works Contracts :** The procedure detailed below shall be adopted for dealing with variations in quantities during execution of works contracts:

1. Individual NS items in contracts shall be operated with variation of plus or minus 25% and payment would be made as per the agreement rate. For this, no finance concurrence would be required.

2. In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, the same shall be got executed by floating a fresh tender. If floating a fresh tender for operating that item is considered not practicable, quantity of that item may be operated in excess of 125% of the agreement quantity subject to the following conditions:

(a) Operation of an item by more than 125% of the agreement quantity needs the approval of an officer of the rank not less than S.A. Grade;

(i) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;

(ii) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;

(iii) Variation in quantities of individual items beyond 150% will be prohibited and would be permitted only in exceptional unavoidable circumstances with the concurrence of associate finance and shall be paid at 96% of the rate awarded for that item in that particular tender.

(b) The variation in quantities as per the above formula will apply only to the Individual items of the contract and not on the overall contract value.

(c) Execution of quantities beyond 150% of the overall agreemental value should not be permitted and, if found necessary, should be only through fresh tenders or by negotiating with existing contractor, with prior personal concurrence of FA&CAO /FA&CAO(C) and approval of General Manager.

3. In cases where decrease is involved during execution of contract :

(a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.

(b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of an officer not less than rank of S.A. Grade may be taken, after obtaining 'No Claim Certificate' from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.

(c) It should be certified that the work proposed to be reduced will not be required in the same work.

4. The limit for varying quantities for minor value items shall be 100% (as against 25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1 % of the total original agreement value.

5. No such quantity variation limit shall apply for foundation items.

6. As far as SOR items are concerned, the limit of 25% would apply to the value of SOR schedule as a whole and not on individual SOR items. However, in case of NS items, the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate (single percentage rate or individual item rate)

7. For the tenders accepted at Zonal Railways level, variations in the quantities will be approved by the authority in whose powers revised value of the agreement lies.

8. For tenders accepted by General Manager, variations upto 125% of the original agreement value may be accepted by General Manager.

9. For tenders accepted by Board Members and Railway Ministers, variations upto 110% of the original agreement value may be accepted by General Manager.

10. The aspect of vitiation of tender with respect to variation in quantities should be checked and avoided. In case of vitiation of the tender (both for increase as well as decrease of value of contract agreement), sanction of the competent authority as per single tender should be obtained.

{Authority : (1) Item-9 to Railway Board's letter no. 2007/CE-I/CT/18, Dated 28.09.07 and

(2) Item-2 to Railway Board's letter no. 2007/CE.I/CT/18/Pt.XII, Dated 31.12.10}

### CLAIMS

**43. (1) Monthly Statement of Claims:** - The Contractor shall prepare and furnish to the Engineer once in every month an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Engineer which he has executed during the preceding month and no claim for payment for and such work will be considered which has not been included in such particulars.

**43(2) Signing of "No Claim" Certificate:** - The Contractor shall not be entitled to make any claim whatsoever against the Railway under or by virtue of or arising out of this contract, nor shall the Railway entertain or consider any such claim, if made by the Contractor, after he shall have signed a "No Claim" Certificate in favour of the Railway in such form as shall be required by the Railway after the works are finally measured up. The Contractor shall be debarred from disputing the correctness of the items covered by "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

### MEASUREMENTS, CERTIFICATES AND PAYMENTS

**44. Quantities in schedule annexed to Contract:** - The quantities set out in the accepted schedule of rates with items of works quantified are the estimated quantities of the works

and they shall not be taken as the actual and correct quantities of the work to be executed by the Contractor in fulfillment of his obligations under the contract.

45. **Measurement of works:** The Contractor shall be paid for the works at the rates in the accepted schedule of rates and for extra works at rates determined under Clause 39 of these conditions on the measurements taken by the Engineer or the Engineer's representative in accordance with the rules prescribed for the purpose by the Railway. The quantities for items the unit of which in the accepted schedule of rates is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one for Items the unit of which in the accepted schedule of rates is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time and at such intervals as in the opinion of the Engineer shall be proper having regard to the progress of works. The date and time on which "on account" or final measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Engineer or the Engineer's representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements. Failing the Contractor's attendance the work may be measured up in his absence and such measurements shall, notwithstanding such absence, be binding upon the Contractor whether or not shall have signed the measurement books provided always that any objection made by him to measurement shall be duly investigated and considered in the manner set out below :-

- (a) It shall be open to the Contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Engineer or the Engineer's representative in the presence of the Contractor or in his absence after due notice has been given to him in consequence of objection made by the Contractor shall be final and binding on the Contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and classification
- (b) If an objection raised by the Contractor is found by the Engineer to be incorrect the Contractor shall be liable to pay the actual expenses incurred in measurements.

46. (1) **"On-Account" Payments:** - The Contractor shall be entitled to be paid from time to time by way of "On Account" payment only for such works as in the opinion of the Engineer he has executed in terms of the contract. All payments due on the Engineer's or the Engineer's Representative's certificates of measurements shall be subject to any deductions which may be made under these presents and shall further be subject to unless otherwise required by Clause 16 of these conditions, a retention of ten percent by way of security deposits, until the amount of security deposit by way of retained earnest money and such retentions shall amount to 10% of the total value of the contract provided always that the Engineer may by any certificate make any correction or modification in any previous certificate which shall have been issued by him and that the Engineer may withhold any certificate if the works or any part thereof are not being carried out to his satisfaction.

- 46(2) **Rounding off amounts :-**The total amount due on each certificate shall be rounded off to the nearest rupee i.e. sums less than 50 paise shall be omitted and sums of 50 paise and more upto Re. 1/- will be reckoned as Re. 1/-

- 46(3) **On Account Payments not prejudicial to final settlement :** "On-Account" payments made to the Contractor shall be without prejudice to the final making up of the

accounts (except where measurements are specifically noted in the Measurement Book as "Final Measurements" and as such have been signed by the Contractor) and shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts of any particular quantity of work having been executed nor of the manner of its execution being satisfactory.

**46(4) Manner of payment:** - Unless otherwise, specified payments to the Contractor will be made by cheque but no cheque will be issued for amount less than Rs. 100/-

**46A. Price Variation Clause (PVC) :**

**46A.1 Applicability :** Price Variation Clause (PVC) shall be applicable only for tenders of value as prescribed by the Ministry of Railways through instructions/circulars issued from time to time and irrespective of the contract completion period. Materials supplied free of cost by Railway to the contractors shall fall outside the purview of Price Variation Clause. If, in any case, accepted offer includes some specific payment to be made to consultants or some materials supplied by Railway free or at fixed rate, such payments shall be excluded from the gross value of the work for the purpose of payment/recovery of price variation.

**46A.2 Base Month :** The Base Month for 'Price Variation Clause' shall be taken as month of opening of tender including extensions, if any, unless otherwise stated elsewhere. The quarter for applicability of PVC shall commence from the month following the month of opening of tender. The Price Variation shall be based on the average Price Index of the quarter under consideration.

**46A.3 Validity :** Rates accepted by Railway Administration shall hold good till completion of work and no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc. except that payment/recovery for overall market situation shall be made as per Price Variation Clause given hereunder.

**46A.4** Adjustment for variation in prices of material, labour, fuel, explosives, detonators, steel, concreting, ferrous, non-ferrous, insulators, zinc and cement shall be determined in the manner prescribed.

**46A.5** Components of various items in a contract on which variation in prices be admissible, shall be Material, Labour, Fuel, Explosives, Detonators, Steel, Cement & Lime, Concreting, Ferrous, Non-ferrous, Insulator, Zinc, Erection etc. However, for fixed components, no price variation shall be admissible.

**46A.6** The percentages of labour component, material component, fuel component etc. in various types of Engineering Works shall be as under :

<b>Component</b>	<b>Percentage</b>	<b>Component</b>	<b>Percentage</b>
<b>(A) Earthwork Contracts :</b>			
Labour Component	50%	Other Material Components	15%
Fuel Component	20%	Fixed Component *	15%
<b>(B) Ballast and Quarry Products Contracts :</b>			
Labour Component	55%	Other Material Components	15%
Fuel Component	15%	Fixed Component *	15%
<b>(C) Tunnelling Contracts :</b>			
Labour Component	45%	Detonators Component	5%
Fuel Component	15%	Other Material Components	5%
<b>(D) Other Works Contracts :</b>			

Labour Component	30%	Fuel Component	15%
Material Component	40%	Fixed Component *	15%

\* It shall not be considered for any price variation.

**46A.7 Formulae :** The Amount of variation in prices in several components (labour material etc.) shall be worked out by the following formulae :

$$(i) L = \frac{W \times (L_Q - L_B)}{L_B} \times \frac{L_C}{100}$$

$$(ii) M = \frac{W \times (M_Q - M_B)}{M_B} \times \frac{M_C}{100}$$

$$(iii) F = \frac{W \times (F_Q - F_B)}{F_B} \times \frac{F_C}{100}$$

$$(iv) E = \frac{W \times (E_Q - E_B)}{E_B} \times \frac{E_C}{100}$$

$$(v) D = \frac{W \times (D_Q - D_B)}{D_B} \times \frac{D_C}{100}$$

$$(vi) S = S_W \times (S_Q - S_B)$$

$$(vii) C = C_V \times (C_Q - C_B) / C_B$$

For Railway Electrification Works :

$$(viii) T = [(C_S - C_O) / C_O \times 0.4136] \times T_C$$

$$(ix) R = [(R_T - R_O) / R_O + (Z_T - Z_O) / Z_O \times 0.06] \times R_C$$

$$(x) N = [(P_T - P_O) / P_O] \times N_C$$

$$(xi) Z = [(Z_T - Z_O) / Z_O] \times Z_C$$

$$(xii) I = [(I_T - I_O) / I_T] \times 85$$

Where,

- L Amount of price variation in Labour  
M Amount of price variation in Materials  
F Amount of price variation in Fuel  
E Amount of price variation in Explosives  
D Amount of price variation in Detonators  
S Amount of price variation in Steel  
C Amount of price variation in Cement  
T Amount of price variation in Concreting  
R Amount of price variation in Ferrous Items  
N Amount of price variation in Non-Ferrous Items  
Z Amount of price variation in Zinc  
I Amount of price variation in Insulator  
L<sub>C</sub> % of Labour Component  
M<sub>C</sub> % of Material Component  
F<sub>C</sub> % of Fuel Component  
E<sub>C</sub> % of Explosive Component  
D<sub>C</sub> % of Detonators Component  
T<sub>C</sub> % of Concreting Component  
R<sub>C</sub> % of Ferrous Component  
N<sub>C</sub> % of Non-Ferrous Component  
Z<sub>C</sub> % of Zinc Component  
W Gross value of work done by contractor as per on-account bill(s), excluding cost of materials supplied by Railway at fixed price, minus the price values of cement and steel. This will also exclude specific payment, if any, to be made to the consultants engaged by contractors (such payment shall be indicated in the contractor's offer)  
L<sub>B</sub> Consumer Price Index Number for Industrial Workers - All India : Published in

Contractor

CWM/Parel

	R.B.I. Bulletin for the base period
L <sub>Q</sub>	Consumer Price Index Number for Industrial Workers - All India : Published in R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration
M <sub>B</sub>	Index Number of Wholesale Prices – By Groups and Sub-Groups : All commodities – as published in the R.B.I. Bulletin for the base period
M <sub>Q</sub>	Index Number of Wholesale Prices – By Groups and Sub-Groups : All commodities – as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration
F <sub>B</sub>	Index Number of Wholesale Prices – By Groups and Sub-Groups for Fuel and Power as published in the R.B.I. Bulletin for the base period
F <sub>Q</sub>	Index Number of Wholesale Prices – By Groups and Sub-Groups for Fuel and Power as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration
E <sub>B</sub>	Cost of explosives, as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the base period
E <sub>Q</sub>	Cost of explosives, as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the average price index of the 3 months of the quarter under consideration
D <sub>B</sub>	Cost of detonators, as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of detonators are made by the contractor for the base period
D <sub>Q</sub>	Cost of detonators, as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of detonators are made by the contractor for the average price index of the 3 months of the quarter under consideration Sw Weight of steel in tonne, supplied by the contractor as per the 'on-account' bill for the month under consideration
S <sub>Q</sub>	SAIL's (Steel Authority of India Limited) ex-works price plus Excise Duty thereof (in rupees per tonne) for the relevant category of steel supplied by the contractor, as prevailing on the first day of the month in which the steel was purchased by the contractor (or) as prevailing on the first day of the month in which steel was brought to the site by the contractor, whichever is lower In case, there is no notification by SAIL for the month under consideration, the price of steel, as notified in the last available month shall be taken
S <sub>B</sub>	SAIL's ex-works price plus Excise Duty thereof (in Rs. per tonne) for the relevant category of steel supplied by the contractor as prevailing on the first day of the month in which the tender was opened In case, there is no notification by SAIL for the month under consideration, the price of steel, as notified in the last available month shall be taken
C <sub>v</sub>	Value of Cement supplied by Contractor as per on account bill in the quarter under consideration
C <sub>B</sub>	Index No. of Wholesale Price of sub-group (of Cement & Lime) as published in RBI Bulletin for the base period
C <sub>Q</sub>	Index No. of Wholesale Price of sub-group (of Cement & Lime) as published in RBI Bulletin for the average price index of the 3 months of the quarter under consideration
C <sub>s</sub>	RBI wholesale price index for cement & lime for the month which is six months prior to date of casting of foundation
C <sub>o</sub>	RBI wholesale price index for cement & lime for the month which is one month prior to date of opening of tender
R <sub>T</sub>	IEEMA price index for Iron & Steel for the month which is two months prior to date of inspection of material.
R <sub>o</sub>	IEEMA price index for Iron & Steel for the month which is one month prior to date of opening of tender.
P <sub>T</sub>	IEEMA price for Copper wire bar for the month which is two months prior to date of inspection of material.
P <sub>o</sub>	IEEMA price for Copper wire bar for the month which is one month prior to date of opening of tender.
Z <sub>T</sub>	IEEMA price for Zinc for the month which is two months prior to date of inspection of material
Z <sub>o</sub>	IEEMA price for Zinc for the month which is one month prior to date of opening of tender

- I<sub>T</sub> RBI wholesale price index for Structural Clay Products for the month which is two months prior to date of inspection of material
- I<sub>o</sub> RBI wholesale price index for Structural Clay Products for the month which is one month prior to date of opening of tender.  
{Authority : Railway Board's letters no. 85/W-I/CT/7 Pt.I, Dated 18.07.2012 and no. 2007/CE-I/CT/18/Pt.13, Dated 02.05.2014}.

**46A.8** The demands for escalation of cost shall be allowed on the basis of provisional indices made available by Reserve Bank of India. Any adjustment needed to be done based on the finally published indices shall be made as and when they become available.

**46A.9** Relevant categories of steel for the purpose of operating Price Variation formula, as mentioned in this Clause, based on SAIL's ex-works price plus Excise Duty thereof, shall be as under :

SL	Category Of Steel Supplied In Railway Work	Category Of Steel Produced By SAIL Whose Ex-Works Price Plus Excise Duty Would Be Adopted To Determine Price Variation
1	Reinforcement bars and other rounds	TMT 8mm IS 1786 Fe 415/Fe 500
2	All types and sizes of angles	Angle 65 x 65 x 6 mm IS 2062 E250A SK
3	All types and sizes of plates	PM Plates above 10-20 mm IS 2062 E250A SK
4	All types and sizes of channels and joists	Channels 200 x 75 mm IS 2062 E250A SK
5	Any other section of steel not covered in the above categories and excluding HTS	Average of price for the 3 categories covered under SL 1, 2 & 3 above

**46A.10 Price Variation During Extended Period Of Contract**

The price adjustment as worked out above, i.e. either increase or decrease shall be applicable upto the stipulated date of completion of work including the extended period of completion where such extension has been granted under Clause 17-A of the Standard General Conditions of Contract. However, where extension of time has been granted due to contractor's failure under Clause 17-B of the Standard General Conditions of Contract, price adjustment shall be done as follows :

(a) In case the indices increase above the indices applicable to the last month of original completion period or the extended period under Clause 17-A, the price adjustment for the period of extension granted under Clause 17-B shall be limited to the amount payable as per the Indices applicable to the last month of the original completion period or the extended period under Clause 17-A of the Standard General Conditions of Contract; as the case may be.

(b) In case the indices fall below the indices applicable to the last month of original/extended period of completion under Clause 17-A, as the case may be; then the lower indices shall be adopted for the price adjustment for the period of extension under Clause 17-B of the Standard General Conditions of Contract.

{Authority : Railway Board's letters no. 2007/CE-I/CT/18/Pt.19, Dated 14.12.12}

- 47. Maintenance of works :-** The Contractor shall at all during the progress and continuance of the works and also for the period of maintenance specified in the Tender Form after the date of passing of the certificate of completion by the Engineer or any other earlier date subsequent to the completion of the works that may be fixed by the Engineer be responsible for and effectively maintain and uphold in good substantial, sound and perfect condition all and every part of the works and shall make good from time to time and at all times as often as the Engineer shall require, any damage or defect that may during the above period arise in or be discovered or be in any way connected with the works, provided that such damage or defect is not directly caused by errors in the contract documents, act of providence or insurrection or civil riot, and the Contractor shall be liable for and shall pay and make good to the Railway or other persons legally entitled thereto whenever required by the Engineer so to do, all losses, damages, costs and expenses they or any of them may incur or be put or be liable to by reasons or in consequence of the operations of the Contractor or of his failure in any respect.
- 48. (1) Certificate of completion of works :-** As soon as in the opinion of the Engineer the works shall have been substantially completed and shall have satisfactorily passed any final test or tests that may be prescribed, the Engineer shall issue a Certificate of Completion in respect of the works and the period of maintenance of the works shall commence from the date of such certificate provided that the Engineer may issue such a certificate with respect to any part of the works before the completion of the whole of the works or with respect to any substantial part of the works which has been both completed to the satisfaction of the Engineer and occupied or used by the Railway and when any such certificate is given in respect of part of the works such part shall be considered as completed and the period of maintenance of such part shall commence from the date of such certificate.
- 48 (2) Contractor not absolved by completion Certificate :-** The Certificate of completion in respect of the works referred to in sub-clause (1) of this clause shall not absolve the Contractor from his liability to make good any defects imperfections, shrinkages or faults which may appear during the period of maintenance specified in the tender arising in the opinion of the Engineer from materials or workmanship not in accordance with the drawings or specifications or instruction of the Engineer, which defects, imperfections, shrinkages or faults shall upon the direction in writing of the Engineer be amended and made good by the Contractor at his own cost and in case of default on the part of Contractor the Engineer may employ labour and materials or appoint another Contractor to amend and make good such defects, imperfections, shrinkages and faults and all expenses consequent thereon and incidental thereto shall be borne by the Contractor and shall be recoverable from any moneys due to him under the contract.
- 49. Approval only by Maintenance Certificate:** -No certificate other than maintenance certificate referred to in Clause 50 of the conditions shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the contract or any part thereof or of the accuracy of any claim or demand made by the Contractor or of additional varied work having been ordered by the Engineer nor shall any other certificate conclude or prejudice any of the powers of the Engineer.
- 50. (1) Maintenance Certificate :-** The Contract shall not be considered as completed until a Maintenance Certificate shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as



soon thereafter as any works ordered during such period pursuant to sub clause (2) Clause 48 of these conditions shall have been completed to the satisfaction of the Engineer and full effect shall be given to this Clause notwithstanding the taking possession of or using the works or any part thereof by the Railway.

**50 (2) Cessation of Railway's Liability:** - The Railway shall not be liable to the Contractor for any matter arising out to or in connection with the contract of the execution of the works unless the Contractor shall have made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.

**50 (3) Unfulfilled Obligations :-** Notwithstanding the issue of the Maintenance Certificate the Contractor and (subject to sub-clause (2) of this clause) the Railway shall remain liable for the fulfilment of any obligation incurred under the provision of the contract prior to the issue of the maintenance Certificate which remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligations the contract shall be deemed to remain in force between the parties thereto.

**51. (1) Final Payment :-** On the Engineer's certificate of completion in respect of the works adjustment shall be made and the balance of account based on the Engineer or the Engineer's representative's certified measurements of the total quantity of work executed by the Contractor upto the date of completion and on the accepted schedule or rates and for extra works on rates determined under Clause 39 of these conditions shall be paid to the Contractor subject always to any deduction which may be made under these presents and further subject to the Contractor having delivered to the Engineer either a full account in detail of all claims he may have on the Railway in respect of the works or having delivered "No Claim" Certificate and the Engineer having after the receipt of such account given a certificate in writing that such claims are correct, that the whole of the works to be done under the provisions of the Contracts have been completed, that they have been inspected by him since their completion and found to be in good and substantial order, that all properties, works and things, removed, disturbed or injured in consequence of the works have been properly replaced and made good and all expenses and demands incurred by or made upon the Railway for or in the respect of damage or loss by from or In consequence of the works, have been satisfied agreeably and inconformity with the contract.

**51 (2) Post Payment Audit :-** It is an agreed term of contract that the Railway reserves to itself the right to carry out a post-payment audit and or technical examination of the works and the final bill including all supporting vouchers, abstracts, etc., and to make a claim on the contractor for the refund any excess amount paid to him if as a result of such examination any over-payment to him is discovered to have been made in respect of any works done or alleged to have been done by him under the contract.

**51-A. Production of vouchers etc. by the Contractor:-**

(i) For a contract of more than one crore of rupees, the contractor shall, whenever required, produce or cause to be produced for examination by the Engineer any quotation, invoice, cost or other account, book of accounts, voucher, receipt, letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this contract or relevant for verifying or ascertaining cost of execution of this contract (the decision of the Engineer on the question of relevancy of any documents, information or return being final and binding on he parties). The contractor shall similarly produce vouchers etc., if required to prove to the Engineer, that materials supplied by him, are in accordance with the specifications laid down in the contract.

- (ii) If any portion of the work in a contract of value more than one crore of rupees be carried out by a sub-contractor or any subsidiary or allied firm or company (as per Clause 7 of the General Conditions of Contract), the Engineer shall have power to secure the books of such sub-contract or any subsidiary or allied firm or company, through the contractor, and such books shall be open to his inspection.
- (iii) The obligations imposed by sub clause (i) and (ii) above is without prejudice to the obligations of the contractor under any statute rules or orders binding on the contractor.

**52. Withholding and lien in respect of sums claimed: -**

Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the Railway shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the contractor and for the purpose aforesaid, the Railway shall be entitled to withhold the said cash security deposit or the security if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor, the Railway shall be entitled to withhold and have a lien to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time thereafter may become payable to the contractor under the same contract or any other contract with this or any other Railway or any Department of the Central Government pending finalization or adjudication of any such claim. It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under the contract is determined by the arbitrator (if the contract is governed by the arbitration clause) or by the competent court as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor. For the purpose of this clause, where the contractor is, a partnership firm or a limited company, the Railway shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/limited company, as the case may be whether in his individual capacity or otherwise.

**52-A. Lien in respect of claims in Other Contracts:-**

Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Railway, against any claim of this or any other Railway or any other Department of the Central Government in respect of payment of a sum of money arising out of *or* under any other contract made by the contractor with this or any other Department of the Central Government.

It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under any other contract is either mutually settled or determined by arbitration, if the other contract is governed by arbitration clause or by the competent court as the case may be and contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the contractor.

- 53. Signature on Receipts for Amounts: -** Every receipt for money which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if, signed in the partnership name by any one of the partners of a

Contractor's firm be a good and sufficient discharge to the Railway in respect of the moneys or security purported to be acknowledged thereby and in the event of death of any of the Contractor partners during the tendency of the contract it is hereby expressly agreed that every receipt by any one of the surviving Contractor partners shall if so signed as aforesaid be good and sufficient discharge as aforesaid provided that nothing in this clause contained shall be deemed to prejudice or effect any claim which the Railway may hereafter have against the legal representative of any contractor partner so dying for or in respect to any breach of any of the conditions of the contract, provided also that nothing in this clause contained shall be deemed to prejudice or effect the respective rights or obligations of the Contractor partners and of the legal representatives of any deceased Contractor partners inter-se.

### LABOUR

**54. Wages to Labour:** - The Contractor shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 (hereinafter referred to as the "said Act" and the Rules made there under in respect of any employees directly or through petty contractors or sub-contractors employed by him on road construction or in building operations or in stone breaking or stone crushing for the purpose of carrying out this contract.

If, in compliance with the terms of the contract, the Contractor supplied any labour to be used wholly or partly under the direct orders and control of the Railways whether in connection with any work being executed by the Contractor or otherwise for the purpose of the Railway such labour shall, for the purpose of this clause, still be deemed to be persons employed by the Contractor.

If any moneys shall, as a result of any claim or application made under the said Act be directed to be paid by the Railway, such money shall be deemed to be moneys payable to the Railway by the Contractor and on failure by the Contractor to repay the Railway any moneys paid by it as aforesaid within seven days after the same shall have been demanded, the Railways shall be entitled to recover the same from any moneys due or accruing to the contractor under this or any other Contract with the Railways.

**54 (A). Apprentices Act:** - The Contractor shall be responsible to ensure compliance with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued there under from time to time in respect of apprentices directly or through petty contractors or sub-contractors employed by him for the purpose of carrying out the Contract.

If the contractor directly or through petty contractors or sub-contractors fails to do so, his failure will be a breach of the contract and the Railway may, in its discretion, rescind the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation of the provisions of the Act

**Note:** The contractors are required to engage apprentices when the works undertaken by them last for a period of one year or more and/the cost of work is rupees one lakh or more.

**55. Provisions of payments of Wages Act:** -

The Contractor shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made there under in respect of all employees directly or through petty

contractors or sub-contractors employed by him in the works. If in compliance with the terms of the contract, the Contractor directly or through petty contractors or sub-contractors shall supply any labour to be used wholly or partly under the direct orders and control of the Engineer whether in connection with the works to be executed hereunder or otherwise for the purpose of the Engineer such labour shall never the less be deemed to comprise persons employed by the contractor and any moneys which may be ordered to be paid by the Engineer shall be deemed to be moneys payable by the Engineer on behalf of the Contractor and the Engineer may on failure of the Contractor to repay such money to the Railways deduct the same from any moneys due to the Contractor in terms of the contract. The Railway shall be entitled to deduct from any moneys due to the contractor (whether under this contract or any other contract) all moneys paid or payable by the Railway by way of compensation of aforesaid or for costs of expenses in connection with any claim thereto and the decision of the Engineer upon any question arising out of the effect or force of this clause shall be final and binding upon the Contractor.

**55-(A).Provisions of Contract labour (Regulation and Abolition) Act, 1970 –**

**55-A. (1)** The Contractor shall comply with the provision of the contract labour (Regulation and Abolition) Act, 1970 and the Contract labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, wherever applicable and shall also indemnify the Railway from and against any claims under the aforesaid Act and the Rules.

**55-A. (2)** The Contractor shall obtain a valid license under the aforesaid Act as modified from time to time before the commencement of the work and continue to have a valid license until the completion of the work. Any failure to fulfill the requirement shall attract the penal provision of the Contract arising out of the resultant non-execution of the work.

**55-A. (3)** The Contractor shall pay to the labour employed by him directly or through sub-contractors the wages as per provision of the aforesaid Act and the Rules wherever applicable. The Contractor shall notwithstanding the provisions of the contract to the contrary, cause to be paid the wages to labour indirectly engaged on the works including any engaged by sub- contractors in connection with the said work, as if the labour had been immediately employed by him.

**55-A. (4)** In respect of all labour directly or indirectly employed in the work for performance of the contractor's part of the contract, the Contractor shall comply with or cause to be complied with the provisions of the aforesaid Act and Rules wherever applicable.

**55-A. (5)** In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the Railway is obliged to pay any amount of wages to a workman employed by the Contractor or his sub contractor in execution of the work or to incur any expenditure on account of the Contingent, liability of the Railway due to the contractor's failure to fulfill his statutory obligations under the aforesaid Act or the rules the Railway will recover from the Contractor, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Railway under the section 20, sub-section (2) and section 2, sub-section (4) of the aforesaid Act, the Railway shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/or from any sum due by the Railway to the contractor whether under the contract or otherwise. The Railway shall not be bound to contest any claim made against it under sub-section (1) of section 20 and sub-section (4) of section 21 of the aforesaid Act except on the written request of the Contractor and upon his giving to the Railway full security for all costs for which the Railway might become liable in contesting such claim. The decision of the Railway regarding the amount actually recoverable from the contractor as stated above shall be final and binding on the Contractor.

**55-B. Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952 :**

The Contractor shall comply with the provisions of Para 30 & 36-B of the Employees Provident Fund Scheme, 1952; Para 3 & 4 of Employees' Pension Scheme, 1995; and Para 7 & 8 of Employees Deposit Linked Insurance Scheme, 1976; as modified from time to time through enactment of "Employees Provident Fund & Miscellaneous Provisions Act, 1952", wherever applicable and shall also indemnify the Railway from and against any claims under the aforesaid Act and the Rules.

{Authority : Railway Board's letter no. 2012/CE-I/CT/O/22, Dated 14.12.2012}

**55-C. Provisions of "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" and "The Building and Other Construction Workers' Welfare Cess Act, 1996" :**

The tenderers, for carrying out any construction work, must get themselves registered with the Registering Officer under Section-7 of the Building and Other Construction Workers Act, 1996 and rules made thereto by the concerned State Govt. and submit certificate of Registration, issued from the Registering Officer of the concerned State Govt. (Labour Dept.). As per this Act, the tenderer shall be levied a cess @1% of cost of construction work, which would be deducted from each bill. Cost of material, when supplied under a separate schedule item, shall be outside the purview of cess.

{Authority : Railway Board's letter no. 2008/CE-I/CT/6, Dated 29.11.2013}

**56. Reporting of Accidents to Labour:** - The Contractor shall be responsible for the safety of all employees directly or through petty contractors or sub-contractor employed by him on the works and shall report serious accidents to any of them however and wherever occurring on the works to the Engineer or the Engineer's Representative and shall make every arrangements to render all possible assistance.

**57. Provision of Workmen's Compensation Act:** - In every case in which by virtue of the provisions of Section 12 Sub-section (1) of the Workmen's Compensation Act 1923, Railway is obliged to pay compensation to a workman directly or through petty contractor or sub- contractor employed by the Contractor in executing the work, Railway will recover from the Contractor the amount of the compensation so paid, and, without prejudice to the rights of Railway under Section 12 Sub-section (2) of the said Act, Railway shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Railway to the Contractor whether under these conditions or otherwise, Railway shall not be bound to contest any claim made against it under Section 12 Sub-section (1) of the said Act except on the written request of the Contractor and upon his giving to Railway full security for all costs for which Railway might become liable in consequence of contesting such claim.

**57-A. Provision of Mines Act :-** The Contractor shall observe and perform all the provisions of the Mines Act, 1952 or any statutory modifications or re-enactment thereof for the time being in force and any rules and regulations made there under in respect of all the persons directly or through the petty contractors or sub-contractors employed by him under this contract and shall indemnify the Railway from and against any claims under the Mines Act, or the rules and regulations framed there under, by or on behalf of any persons employed by him or otherwise.

**58. Railway not to provide quarter for contractors:-** No quarter shall normally be provided by the Railway for the accommodation of the Contractor or any of his staff employed on the work. In exceptional cases where accommodation is provided to the contractor at the Railway's discretion, recoveries shall be made at such rates as may be

fixed by the Railway for the full rent of the buildings and equipments therein as well as charges for electric current, water supply and conservancy.

- 59. (1) Labour Camps.** :The Contractor shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of latrines, and urinals for his staff and a workmen, directly or through the petty contractors or sub-contractors and for temporary crèche ( Bal-mandir) where 50 or more women are employed at a time. Suitable sites on Railway land, if available may be allotted to the Contractor for the erection of labour camps , either free of charge or on such terms and conditions that may be prescribed by the Railway. All camp sites shall be maintained in clean and sanitary conditions by the Contractor at his own cost.
- 59.2) Compliance to rules for employment of labour:** The Contractor (s) shall conform to all laws, bye-laws rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through petty Contractors of Sub-Contractors on the works.
- 59. (3) Preservation of peace:** The Contractor shall take requisite precautions and use his best endeavours to prevent any riotous or unlawful behaviour by or amongst his workmen and other employed directly or through the petty contractors or sub-contractors on the works and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the works. In the event of the Railway requiring the maintenance of a special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the Contractor and if paid by the Railway shall be recoverable from the Contractor.
- 59. (4) Sanitary arrangements:** The Contractor shall obey all sanitary rules and carry out all sanitary measures that may from time to time be prescribed by the Railway medical Authority and permit inspection of all sanitary arrangements at all times by the Engineer, the Engineer's Representative or the Medical staff of Railway. Should the Contractor fail to make the adequate sanitary arrangements, these will be provided by the Railway and the cost therefore recovered from the Contractor.
- 59. (5) Outbreak of infectious disease:** The Contractor shall remove from his camp such labour and their families as refuse protective inoculation and vaccination when called upon to do so by the Engineer's or the Engineers Representative on the advice of the Railway Medical Authority. Should Cholera, plague, or other infectious disease break out, the Contractor shall burn the huts, beddings, clothes and other belongings of or used by the infected parties and promptly erect new huts on healthy sites as required by the Engineer, failing which within the time specified in the Engineer's requisition, the work may be done by the Railway and the cost therefore recovered from the Contractor.
- 59. (6) Treatment of Contractor's staff in Railway Hospitals:** The Contractor and his staff, other than labourers and their families requiring medical aid from the Railway Hospital and dispensaries will be treated as private patients and charged accordingly. The Contractors' and dispensaries will be treated as private patients and charged accordingly. The Contractor's and dispensaries will be treated as private patients and charged accordingly. The Contractors' labourers and their Families will be granted free treatment in Railway Hospitals and dispensaries where no other Hospitals or dispensaries are available provided the Contractor pays the cost of medicines, dressing and diet money according to the normal scale and additional charges for special examinations such as pathological and bacteriological examination, X-Ray , etc., and for surgical operation.

- 59. (7) Medical facilities at site:** The Contractor shall provide medical facilities at the site as may be prescribed by the Engineer on the advice of the Railway Medical Authority in relation to the strength of the Contractor's resident staff and workmen.
- 59. (8) Use of intoxicants:** - The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the Contractor or any of his employees shall be forbidden and the Contractor shall exercise his influence and authority to the utmost extent to secure strict compliance with this condition.
- 59. (9) Non-employment of female labour:** - The Contractor shall see that the employment of female labour in Cantonment areas, particularly in the neighborhood of soldier's barracks, should be avoided as far as possible.
- 59. (10) Restrictions on the employment of retired Engineers of Railway services within two years of their retirement :-** The Contractor shall not, if he is a retired Government Engineer of Gazetted rank, himself engage in or employ or associate a retired Government Engineer of Gazetted rank, who has not completed two years from the date of retirement, in connection with this contract in any manner whatsoever without obtaining prior permission of the President and if the Contractor is found to have contravened this provision it will constitute a breach of contract and administration will be entitled to terminate the contract at the risk and cost of the contractor and forfeit his security deposit.
- 60. (1) Non-employment of labourers below the age of 15 :-** The Contractor shall not employ children below the age of 15 as labourers directly or through petty contractors or sub-contractors for the execution of work.
- 60. (2) Medical Certificate of fitness for labour :-** It is agreed that the contractor shall not employ a person above 15 and below 19 years of age for the purpose of execution of work under the contract unless a medical certificate of fitness in the prescribed form (Proforma at Annexure II) granted to him by a certifying surgeon certifying that he is fit to work as an adult is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with him, while at work, a token giving a reference to such certificate. It is further agreed that the responsibility for having the adolescent examined medically at the time of appointment or periodically till he attains the age of 19 years shall devolve entirely on the contractor and all the expenses to be incurred on this account shall be borne by him and no fee shall be charged from the adolescent or his parent for such medical examination.
- 60. (3) Period of validity of medical fitness certificate:** - A certificate of fitness granted or renewed for the above said purposes shall be valid only for a period of one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if in his opinion the holder of it is, no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.
- 60. (4) Medical re-examination of labourer :-** Where any official appointed in this behalf by the Ministry of labour is of the opinion that any person employed in connection with the execution of any work under this contract in the age group 15 to 19 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the Contractor, or on the person nominated by him in this regard, a notice requiring that such persons shall be examined

by a certifying surgeon and such person shall not if the concerned official so directs, be employed or permitted to do any work under this contract unless he has been medically examined and certified that he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

**EXPLANATIONS:**

- (1) Only qualified medical practitioners can be appointed as "Certifying Surgeons" and the term "Qualified Medical Practitioners" means a person holding a qualification granted by an authority -specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII to 1916) or in the Schedule to the Indian Medical Council Act, 1933 (XXVII) of 1933.
- (2) The Certifying surgeon may be a medical officer in the service of State or Municipal Corporation.

**DETERMINATION OF CONTRACT**

61. (1) **Right of Railway to determine the contract:** The Railway shall be entitled to determine and terminate the contract at any time should, in the Railway's opinion, the cessation of work becomes necessary owing to paucity of funds or from any other cause whatever, in which case the value of approved materials at site and of work done to date by the Contractor will be paid for in full at the rate specified in the contract. Notice in writing from the Railway of such determination and the reasons therefore shall be conclusive evidence thereof.
61. (2) **Payment on determination of contract:** - Should the contract be determined under sub clause (1) of this clause and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the work, the Railways shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The Railway's decision on the necessity and propriety of such expenditure shall be final and conclusive.
61. (3) The Contractor shall have no claim to any payment of compensation or otherwise, howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of determination of contract.
62. (1) **Determination of contract owing to default of contractor:** - If the Contractor should:-
  - i) Becomes bankrupt or insolvent, or
  - ii) make an arrangement with of assignment in favour of his creditors, or agree to carry out the contract under a Committee of I inspection of his creditors, or
  - iii) being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or
  - iv) have an execution levied on his goods or property on the works, or
  - v) Assign the contract or any part thereof otherwise than as provided in Clause 7 of these conditions. or
  - vi) Abandon the contract. Or
  - vii) persistently disregard the instructions of the Engineer, or contravene any provision of the contract, or
  - viii) fail to adhere to the agreed program of work by a margin of 10% of the stipulated period, or
  - ix) fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected under Clause 25 and 27 of these conditions, or .
  - x) fail to take steps to employ competent or additional staff and labour as required under clause 26 of the conditions, or



- xi) fail to afford the Engineer or Engineer's representative proper facilities for inspecting the works or any part thereof as required under clause (28) of the conditions, or
- xii) promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of the Railway or to any person on his or on their behalf in relation to the execution of this, or any other contract with this Railway.
- xiii) (A) At any time after the tender relating to the contract has been signed and submitted by the Contractor, being a partnership firm admit as one of its partners or employ under it or being an incorporated company elect or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever any retired engineer of the gazetted rank or any other retired gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the Engineering Department of the Railways for the time being owned and administered by the President of India before the expiry of two years from the date of retirement from the said service of such Engineer or Officer unless such Engineer or Officer has obtained permission from the President of India or any officer duly authorized by him in this behalf to become a partner or a director or to take employment under the contract as the case may be, or
- (B) Fail to give at the time of submitting the said tender:-
  - a) The correct information as to the date of retirement of such retired engineer or retired officer from the said service, or as to whether any such retired engineer or retired officer was under the employment of the Contractor at the time of submitting the said tender, or
  - (b) The correct information as to such engineers or officers obtaining permission to take employment under the Contractor, or
  - (c) Being a partnership firm, the correct information as to, whether any of its partners was such a retired engineer or a retired officer, or
  - (d) Being in incorporated company, correct information as to whether any of its directors was such a retired engineer or a retired office, or
  - (e) being such a retired engineer or retired officer suppress and not disclose at the time of submitting the said tender the fact of his being such a retired engineer or a retired officer or make at the time of submitting the said tender a wrong statement in relation to his obtaining permission to take the contract or if the Contractor be partnership firm or an incorporated company to be a partner or director of such firm or company as the case may be or to seek employment under the Contractor.

Then and in any of the said clause, the Engineer on behalf of the Railway may serve the Contractor with a notice (Proforma at Annexure III) in writing to that effect and if the Contractor 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 any carry on the work or comply with such directions as aforesaid to the entire satisfaction of the Engineer, the Railway shall be entitled after giving 48 hours notice (Proforma at Annexure IV) in writing under the hand of the Engineer to rescind the contract as a whole or in parts (as may be specified in such notice) and after expiry of 48 hours' notice, a final termination notice (Proforma at Annexure-XI) should be issued

**62. (2) Right of Railway after rescission of contract owing to default of Contractor:-**

In the event of any or several of the courses, referred to in sub-clause (1) of this clause, being adopted:

- (a) the Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract and Contractor shall not be entitled to recover or be paid any sum for any work thereto for actually performed under the contract unless and until the engineer shall have certified the performance of such work and the value payable in respect thereof and the Contractor shall only be entitled to be paid he value so certified.
- (b) the Engineer or the Engineer's Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.
- (c) the Engineer shall as soon as may practicable after removal of the contractor fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may concenter fit to make or institute and shall certify what amount (if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the Contractor in respect of the work then actually done by him under the contract and what was the value of any unused, or partially used materials, any constructional plant and any temporary works upon the site. The legitimate amount due to the contractor after making necessary deductions and certified by the Engineers should be released expeditiously.

### **Settlement of Disputes**

**63. Matters finally determined by the Railway:** - All disputes and difference of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract shall be referred by the Contractor to the GM and the GM shall within 120 days after receipt of the Contractor's representation make and notify decision on all matters referred to by the contractor in writing provided that matter for which provision has been made in clauses 8, 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57 A, 61 (1 ), 61 (2) and 62(1) to xiii (B) of General Conditions of the contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' (matters not arbitrable) and decisions of the railway authority, thereon shall be final and binding on the contractor, provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause.

#### **64. (1): Demand of Arbitration:**

**64. (1) (i):** In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract or the respective rights and liabilities of the parties or any matter in question, dispute or difference on any account or as to the withholding by the

Railway of any certificate to which the contractor may claim to be entitled to, or if the Railway fails to make decision within 120 days, then and in any such case, but except in any of the “excepted matters” referred to in clause 63 of these conditions, the contractor, after 120 days but within 180 days of his presenting his final claim on disputed matters shall demand in writing that the dispute or difference be referred to arbitration.

**64. (1) (ii) (a)**

The demand for arbitration shall specify the matters which are in question or subject of the dispute or difference as also the amount of claim item wise. Only such dispute or difference in respect of which the demand has been made, together with counter claims or set off, given by the Railway, shall be referred to arbitration and other matters shall not be included in the reference.

**64. (1) (ii) (b)**

The parties may waive off the applicability of sub-section 12(5) of arbitration and Conciliation (Amendment) Act 2015, if they agree for such waiver in writing after dispute has arisen between them, in the format given under Annexure XII of these conditions.

**64. (1) (iii) (a)**

The arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.

**64. (1) (iii) (b)**

The claimant shall submit his claim stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of Arbitral Tribunal.

**64. (1) (iii) (c)**

The Railway shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal thereafter, unless otherwise extension has been granted by Tribunal.

**64. (1) (iii) (d)**

Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Head Quarters of the concerned Railway or any other place with written consent of both the parties.

**64. (1) (iv)**

No claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

**64. (1) (v)**

If the contractor(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Railways that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

**64. (2)**

**Obligation during pendency of Arbitration:** Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

**64. (3) Appointment of Arbitrator:**

**64. (3) (a): Appointment of Arbitrator where applicability of section 12 (5) of Arbitration and Conciliation Act has been waived off.**

**64. (3) (a) (i):** In case where the total value of all claims in question added together does not exceed Rs.1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of Railway not below JA Grade, nominated by the General Manager. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by GM.

**64. (3) (a) (ii):** In cases not covered by Clause 64 (3) (a) (i), the Arbitral Tribunal shall consist of a panel of three Gazetted Officers not below JA Grade or 2 Railway Gazetted Officers not below JA Grade and a retired Railway Officer, retired not below the rank of SAG Officer as the arbitrators. For this purpose, the Railway will send a panel of at least 4 names of Gazetted Railway Officers of one or more departments of the Railway which may also include the names of retired Railway Officers empanelled to work as Railway Arbitrator to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the GM.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as contractor's nominee and will also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the "Presiding Arbitrator" from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them is from Accounts Department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in SA grade of other departments of the Railway for the purpose of appointment of arbitrator.

**64. (3) (b): Appointment of Arbitrator where applicability of section 12 (5) of A & C Act has not been waived off:**

The Arbitral Tribunal shall consist of a Panel of three (3) retired Railway Officer, retired not below the rank of SAG Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officers empanelled to work as Railway Arbitrator duly indicating their retirement date to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the GM.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the contractor's nominee and will also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the preceding arbitrator from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them has served in the Accounts Department.

**64. (3) (c) (i):** If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/ are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the General Manager fails to act without undue delay, the General Manager shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier

arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

**64. (3) (c) (ii):**

(a) The arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. The proceedings shall normally be conducted on the basis of documents and written statements.

(b) Before proceeding into the merits of any dispute, the Arbitral Tribunal shall first decide and pass its orders over any plea submitted/objections raised by any party, if any regarding appointment of Arbitral Tribunal, validity of arbitration agreement, jurisdiction and scope of the Tribunal to deal with the dispute(s) submitted to arbitration, applicability of time 'limitation' to any dispute, any violation of agreed procedure regarding conduct of the arbitral proceedings or plea for interim measures of protection and record its orders in day to day proceedings. A copy of the proceedings duly signed by all the members of tribunal should be provided to both the parties.

**64. (3) (c) (iii) (i): Qualification of Arbitrator (s)**

**(a) Serving Gazetted Railway Officers of not below JA Grade level.**

**(b) Retired Railway Officers not below SA Grade level, three years after his date of retirement.**

**(c) Age of arbitrator at the appointment shall be below 70 years.**

(ii) An arbitrator may be appointed notwithstanding the total number of arbitration cases in which he has been appointed in the past.

(ii) While appointing arbitrator(s) under Sub-clause 64.(3)(a)(i), 64.(3)(a) (ii) & 64.(3) (b) above, due care shall be taken that he/they is /are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant (s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

**64. (3) (d) (i):** The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred there from.

**64. (3) (d) (ii):** A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.

**64. (3) (d) (iii):** A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

**64. (4):** In case of the Tribunal, comprising of three members, any ruling on award shall be made by majority of members of Tribunal. In the absence of such majority, the views of the Presiding Arbitrator shall prevail.

**64. (5):** Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

**64. (6) :**

**(a)** The cost of arbitration shall be borne by the respective parties. The cost shall interalia include fee of the arbitrator(s), as per the rates fixed by Railway Board from time to time and the fee shall be borne equally by both the parties, provided parties sign an agreement in the format given at Annexure II to these condition after/while referring these disputes to Arbitration. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.

**(b) (i):** Sole Arbitrator shall be entitled for 25% extra fee over the fee prescribed by Railway Board from time to time.

**(ii):** Arbitrator Tribunal shall be entitled to 50% extra fee if award is decided within six months.

**64. (7)**

Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and relevant para of General Conditions of Contract (GCC) and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this Clause.

**Annexure – XII to of GCC – agreement towards waiver under section 12 (5) and section 31-A(5) of Arbitration and conciliation (Amendment) Act and Certification by Arbitrators appointed under clause 63 & 64 of Indian Railways General Conditions of Contract (Modified) as per Railway Board's letter 20145/CE-1/CT/ARB/18 dated 11/11/2016 is also attached.**

Annexure – XII

**Agreement towards Waiver under Section 12 (5) and Section 31-A(5) of Arbitration and Conciliation (Amendment) Act**

I/we \_\_\_\_\_ (Name of agency/contractor) with reference to agreement No \_\_\_\_\_ raise disputes as to the construction and operation of this contract, or the respect rights and liabilities, withholding of certificate and demand arbitration in respect of following claims:

Brief of claim:

- (i) Claim 1 - Detailed at Annexure
- (ii) Claim 2 -
- (iii) Claim 3 –

I/we \_\_\_\_\_ (post of Engineer) with reference to agreement no \_\_\_\_\_ hereby raise disputes as to the construction and operation of this contract or the respective rights and liabilities, withholding of certificate and demand arbitration in respect of following claims:

*Contractor*

*CWM/Parel*

I/We \_\_\_\_\_ do/do not agree to waive off applicability of section 12 (5) of Arbitration and Conciliation (Amendment) Act.

Signature of Claimant \_\_\_\_\_ Signature of Respondent \_\_\_\_\_

Agreement under Section 31 (5)

I/we \_\_\_\_\_ (name of claimant) with reference to agreement no \_\_\_\_\_ No. \_\_\_\_\_ hereby waive off the applicability of sub section 31-A (2) to 31-A (4) of the Arbitration and Conciliation (Amendment) Act. We further agree that the cost of arbitration will be shared by the parties as per Clause 64 (6) of GCC.

Signature of Claimant \_\_\_\_\_ Signature of Respondent \_\_\_\_\_

\*Strike out whichever not applicable.

(Modified)

**Certification by Arbitrators appointed under Clause 63 & 64 of Indian Railways General Conditions of Contract**

1. Name :
2. Contact Details:
3. Prior experience (Including Experience with Arbitrations):
4. I do not have more than five on- going Arbitration cases with me.
5. I hereby certify that I have retired from Railway w.e.f. \_\_\_\_\_ and empanelled as railway Arbitrator as per 'The Arbitration and Conciliation Act – 1996'.
6. I have no any past or present relationship in relation to the subject matter in dispute, whether, financial, business, professional or other kind.

Or

*Contractor*

*CWM/Parel*

I have past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind. The list of such interest is as under;

7. I have no any past or present relationship in relation with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996.

Or

I have past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996. The details of such relationship or interests as under;

8. There are no concurrent Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months.

OR

There are Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months. The list of such circumstances is as under;

#### **JOINT VENTURE (JV) FIRMS IN WORKS TENDERS**

- 65. Participation Of Joint Venture (JV) Firms In Works Tender :** This Clause shall be applicable for works tenders of value as approved and communicated by Railway Board from time to time.
- 65.1** Separate identity/name shall be given to the Joint Venture Firm.
- 65.2** Number of members in a JV Firm shall not be more than three, if the work involves only one department (say Civil or S&T or Electrical or Mechanical) and shall not be more than five, if the work involves more than one department.
- 65.3** A member of JV Firm shall not be permitted to participate either in individual capacity or as a member of another JV Firm in the same tender.
- 65.4** The tender form shall be purchased and submitted only in the name of the JV Firm and not in the name of any constituent member.
- 65.5** Normally Earnest Money Deposit (EMD) shall be submitted only in the name of the JV Firm and not in the name of constituent member. However, in exceptional cases, EMD in the name of Lead Member can be accepted subject to submission of specific request letter from Lead Member stating the reasons for not submitting EMD in the name of JV Firm and giving written confirmation from JV members to the effect that EMD submitted by the Lead Member may be deemed as EMD submitted by JV Firm.
- 65.6** One of the members of the JV Firm shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV Firm and also, must have satisfactorily completed in the last three previous financial years and the current financial year upto the date of opening of the tender, one similar single work for a minimum value of 35% of



- advertised tender value. The other members shall have a share of not less than 20% each in case of JV Firms with upto three members and not less than 10% each in case of JV Firms with more than three members. In case of JV Firm with foreign member(s), the Lead Member has to be an Indian Firm with a minimum share of 51%.
- 65.7** A copy of Memorandum of Understanding (MoU) executed by the JV members shall be submitted by the JV Firm alongwith the tender. The complete details of the members of the JV Firm, their share and responsibility in the JV Firm etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU. (The MoU format for this purpose shall be finalized by the Railway in consultation with their Law Branch and shall be enclosed alongwith the tender).
- 65.8** Once the tender is submitted, the MoU shall not be modified / altered / terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- 65.9** Approval for change of constitution of JV Firm shall be at the sole discretion of the Employer (Railways). The constitution of the JV Firm shall not be allowed to be modified after submission of the tender bid by the JV Firm, except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV Firm. Failure to observe this requirement would render the offer invalid.
- 65.10** Similarly, after the contract is awarded, the constitution of JV Firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.
- 65.11** On award of contract to a JV Firm, a single Performance Guarantee shall be submitted by the JV Firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance etc. shall be accepted only in the name of the JV Firm and no splitting of guarantees amongst the members of the JV Firm shall be permitted.
- 65.12** On issue of LOA (Letter Of Acceptance), an agreement among the members of the JV Firm (to whom the work has been awarded) shall be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908. This JV Agreement shall be submitted by the JV Firm to the Railways before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This Joint Venture Agreement shall have, inter-alia, following Clauses :
- 65.12.1** Joint And Several Liability - Members of the JV Firm to which the contract is awarded, shall be jointly and severally liable to the Employer (Railways) for execution of the project in accordance with General and Special Conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the Railways during the course of execution of the contract or due to non-execution of the contract or part thereof.
- 65.12.2** Duration of the Joint Venture Agreement - It 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.
- 65.12.3** Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.

- 65.13** Authorized Member - Joint Venture members shall authorize one of the members on behalf of the Joint Venture Firm to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorised member of the JV Firm.
- 65.14** 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 (Railways) in respect of the said tender/contract.
- 65.15** Documents to be enclosed by the JV Firm alongwith the tender :
- 65.15.1** In case one or more of the members of the JV Firm is/are partnership firm(s), following documents shall be submitted :
- (a) Notary certified copy of the Partnership Deed,
  - (b) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original).
  - (c) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of the partnership firm to sign the JV Agreement on behalf of the partnership firm and create liability against the firm.
- 65.15.2** In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed :
- Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.
- 65.15.3** In case one or more members is/are limited companies, the following documents shall be submitted :
- (a) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.
  - (b) Copy of Memorandum and Articles of Association of the Company.
  - (c) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the para (a) above.
- 65.15.4** All the Members of JV shall certify that they 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.

*{Authority : Railway Board's letter no. 2002/CE-I/CT/37 JV Pt III, Dated 05/14.11.2013}*

**65.16** Credentials & Qualifying Criteria : Technical and financial eligibility of the JV Firm shall be adjudged based on satisfactory fulfillment of the following criteria :

**65.16.1** Technical Eligibility Criteria ('a' or 'b' mentioned hereunder) :

- (a) Either the JV Firm or Lead Member of the JV Firm must have satisfactorily completed in the last three previous financial years and the current financial year upto the date of opening of the tender, one similar single work for a minimum of 35% of advertised value of the tender.

**OR** (b) (i) In case of composite works (e.g. works involving more than one distinct component, such as Civil Engineering works, S&T works, Electrical works, OHE works etc. and in

*Contractor*

*CWM/Parel*

the case of major bridges – substructure, superstructure etc.), for each component, at least 35% of the value of any of such components individually for single similar nature of work should have been satisfactorily completed by the JV Firm or by any member of the JV Firm in the previous three financial years and the current financial year upto the date of opening of tender. The member satisfying technical eligibility criteria for the largest component of the work shall be the Lead Member and that Member shall have a majority (at least 51%) share of interest in the JV Firm.

- (ii) In such cases, what constitutes a component in a composite work shall be clearly pre-defined with estimated tender cost of it, as part of the tender documents without any ambiguity. Any work or set of works shall be considered to be a separate component, only when cost of the component is more than Rs. 2 crore each.
- (iii) However, as long as the JV Firm or any member of the JV Firm meets with the requirements, in one or more components of the work, and has completed a minimum of 35% of the advertised value of the tender for the same value of the component, and resultantly, all the members of the JV collectively, then meet the prescribed technical eligibility criteria, the JV shall stand technically qualified.

Note : Value of a completed work done by a Member in an earlier JV Firm shall be reckoned only to the extent of the concerned member's share in that JV Firm for the purpose of satisfying his/her compliance to the above mentioned technical eligibility criteria in the tender under consideration.

**65.16.2 Financial Eligibility Criteria** : The contractual payments received by the JV Firm or the arithmetic sum of contractual payments received by all the members of JV Firm in the previous three financial years and the current financial year upto the date of opening of tender shall be at least 150% of the estimated value of the work as mentioned in the tender.

Note : Contractual payment received by a Member in an earlier JV Firm shall be reckoned only to the extent of the concerned member's share in that JV Firm for the purpose of satisfying compliance of the above mentioned financial eligibility criteria in tender under consideration

{Authority : Railway Board's letter no. 2002/CE-I/CT/37, Dated 07.09.2011}

**Chief Workshop Manger, Parel**

**Read and accepted**

Contractor's Signature \_\_\_\_\_

Signed in the capacity of \_\_\_\_\_

Name: \_\_\_\_\_

(Rubber stamp should be affixed)

Date:

Place:

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